

Senate Resources & Environment Committee

Minutes
2010



MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: January 13, 2010

TIME: 1:30 p.m.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Schroeder, Senators Cameron, Pearce, Coiner, Brackett, Stennett, and Werk

MEMBERS ABSENT/ EXCUSED: Vice Chairman Bair and Senator Siddoway

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: The meeting was called to order by **Chairman Schroeder**.

ANNOUNCEMENTS: He announced that the meeting room has capabilities of providing live audio to the Internet and each chairman has the option to "opt in or out" and he has chosen to "opt in" so that Idaho citizens may have the opportunity to listen to the Senate Resources & Environment committee hearings. The Chairman advised the committee members to have their microphone on only when they are recognized; otherwise, their conversations will be broadcast.

INTRODUCTIONS: The **Chairman** welcomed **Senator Michelle Stennett**, who is substituting for her husband Senator Clint Stennett, while he is recuperating.

He also welcomed returning **Committee Secretary Juanita Budell**, and **Rachel Schiell** from Potlatch, Idaho, who is serving as **Page** for the Committee.

ASSIGNMENT OF RULES: **Vice Chairman Bair, Chair for the Rules Review**, made the following assignments. In his absence, Chairman Schroeder apprised the Committee and they are as follows:

Pending - Idaho Fish and Game Commission

Docket No. 13-0101-0901	Cameron
Docket No. 13-0103-0901	Bair
Docket No. 13-0104-0901	Cameron
Docket No. 13-0104-0902	Pearce
Docket No. 13-0106-0901	Pearce
Docket No. 13-0108-0902	Siddoway

Docket No. 13-0109-0901	Stennett
Docket No. 13-0110-0901	Brackett
Docket No. 13-0111-0901	Siddoway
Docket No. 13-0114-0901	Werk
Docket No. 13-0114-0902	Werk
Docket No. 13-0115-0901	Stennett
Docket No. 13-0116-0901	Coiner
Docket No, 13-0117-0901	Cameron

Pending - Department of Lands

Docket No. 20-0101-0901	Brackett
Docket No. 20-0314-0901	Brackett

Pending - Department of Parks and Recreation

Docket No. 26-0120-0901	Pearce
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Fee - Department of Lands

Docket No. 20-0304-0901	Coiner
Docket No. 20-0317-0901	Coiner

Fee - Outfitters and Guides Licensing Board

Docket No. 25-0101-0901	Siddoway
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Fee - Department of Parks and Recreation

Docket No. 26-0131-0901	Bair
Docket No. 26-0134-0901	Bair

COMMENTS: **Senator Pearce** inquired as to upcoming issues and speakers.

Chairman Schroeder stated that next Monday, January 18, Nate Fisher, Administrator for the Office of Species Conservation, will address several concerns. The Idaho Water Resource Board members will be in attendance on Wednesday, January 20, as well as Jake Howard, Executive Director for the Outfitters and Guides Licensing Board, presenting two RSs. Friday, January 22, several RSs will be introduced by the Idaho Fish and Game Department.

RS REMINDER: The Chairman advised members of the Committee to submit their RSs as soon as possible so that they may be placed on the agenda.

ADJOURN: The meeting was adjourned at 1:45 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: January 18, 2010

TIME: 1:30 p.m.

PLACE: Room WW55

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

MEMBERS ABSENT/ EXCUSED: None

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: The meeting was called to order at 1:30 p.m. by **Chairman Schroeder**.

MOTION: **Senator Brackett** made a **motion** for the approval of the minutes of January 13, 2010. The motion was **seconded** by **Senator Cameron**. The **motion passed** by unanimous voice vote.

ANNOUNCEMENTS: The agendas for Wednesday and Friday were announced by the Chairman. Wednesday, members of the Idaho Water Resource Board will be in attendance to update the committee on water issues. Friday, George Bacon and some of his staff from the Department of Lands will present the program. Also, several RSs will be introduced for printing on both days.

Chairman Schroeder also suggested that the Committee members bring their laptops to the meetings.

INTRODUCTIONS: The **Chairman** introduced **Mr. Nate Fisher, Administrator, Office of Species Conservation**, who, in turn introduced those assisting with today's program. They are: **Deputy Attorney General Clive Strong; Dr. Jim Unsworth, Idaho Fish and Game, Deputy Director of Programs; OSC Administrative Assistant Sara Pealy; Michael Edmondson, OSC Project Manager; Thomas Perry, OSC Legal Counsel; and Dustin Miller, Environmental Liaison for OSC.**

SPEAKER: **Mr. Fisher** said they will provide a species update regarding the "Endangered Species Act In Idaho" and there are five issues that will be discussed. In regards to the Act, as well as the various processes involved for the Act, he stated that there is a lot in common. The Species Act is a procedural system, but the challenges are the same. When the Federal Government does not stick to its promises, does not become a partner with the state, and fails to live up to its provisions within the Act,

Mr. Fisher said he finds it very frustrating as to how to proceed with decisions. Many times it moves into the legal realm and legal action is necessary. He has provided a copy of the Governor's letter to the Honorable Ken Salazar, Secretary of the Interior; the Honorable Thomas Strickland, Assistant Secretary for Fish, Wildlife and Parks; and the Honorable Sam Hamilton, Director, U.S. Fish and Wildlife Service that provides a 60-day Notice of Intent to Sue for Violations of Section 4 of the Endangered Species Act in Connection with: *Listing Lepidium popilliferum (Slickspot Peppergrass) as a Threatened Species Throughout its Range; Final Rule, 74 Fed. Reg. 52014 (October 8, 2009).*

Slickspot Peppergrass was the first issue Mr. Fisher addressed.

Following is a timeline of events:

- 2002: The U.S. Fish and Wildlife Service (USFWS) proposed to list Slickspot peppergrass as endangered.
- 2002: U.S. Air Force files Data Quality Act challenging the science behind the proposal to list.
- 2003: OSC in cooperation with BLM, IDFG, IDL, Idaho Army National Guard and several ranchers complete a Candidate Conservation Agreement (CCA) to preclude the need to list the species.
- 2004: Based on the efforts of the CCA, USFWS withdraws proposal to list.
- 2007: USFWS again concludes the species does not need ESA protection because populations are stable; efforts contained in the CCA; and substantial questions regarding the veracity of the data collected by the Guard.
- 2009: October 8, 2009 the Obama Administration repudiates the years of effort under the CCA and lists Slickspot peppergrass as a threatened species.
- 2009: November 17, 2009 Governor Otter and OSC files suit in Washington, D.C. challenging the decision to list the species.

Mr. Fisher said many questions were raised as to why Governor Otter and OSC would file a lawsuit in Washington D.C. challenging the decision. Many asked why a lawsuit would be filed regarding a plant in two counties in Idaho. At a Rangeland meeting, the Governor indicated that he believes the ruckus is all about the development of the rights of the state to develop a comprehensive Candidate Conservation Plan and said that he wanted the "mischief" stopped by the government.

Sage Grouse was addressed next by Mr. Fisher.

- 2005: USFWS determined that the species did not warrant listing.
- The Idaho judge reversed and remanded the "not warranted" decision back to USFWS.
- The judge ordered a decision to be made by the Federal Government late February 2010.
- Possible outcomes of such a decision include:
 - Not warranted.
 - Warranted but precluded.
 - Warranted in some parts of the range.

- Listed in its full range.

Mr. Fisher stated that there are 13 local working groups that are actively involved in sage grouse restoration and they have been in existence over ten years. OSC gets an annual appropriation and the majority of the funding goes towards implementing these projects. Sage grouse are in the 11 western states, with a strong population in Idaho.

Mr. Fisher spoke next about **Bull Trout**.

- January 14, 2010; USFWS proposed a revision to its 2005 designation of critical habitat for bull trout.
- New proposal designates approximately 22,679 miles of streams and 533,426 acres of lakes and reservoirs in Idaho, Oregon, Washington, Montana and Nevada as critical habitat for the fish.
- This translates into a total designation of 9,671 miles of streams and 197,915 acres of lakes and reservoirs in Idaho.
- Restrictions on land use activities near bull trout critical habitat on federal land can be expected.
- Approximately 58% of the proposed critical habitat water bodies occur on federal land.
- Federal agencies will be required to reconsult on federal activities to ensure they are not adversely modifying critical habitat, thereby opening the door for more lawsuits against these activities.
- Public Forum
 - Post Falls: 4 pm to 7 pm on the 11th.
- Public Forum followed by Public Hearing/Oral Testimony
 - Boise: 4pm to 6pm and 7 pm to 9 pm on the 25th.

The Service will be accepting comments on the proposed rule through March 15, 2010. Remember, this is one of the only places in the ESA where economic considerations play a role in the Fed's decision. The Office of Species Conservation will take the lead in coordinating comments for the State of Idaho.

Update on **Wolves** by Mr. Fisher.

- May 2009: Wolves delisted in Idaho and Montana.
- June 2009: Environmental plaintiffs file motion for preliminary injunction (P.I.)
 - Plaintiffs were asking the court to stop or enjoin the Federal government and states from implementing the delisting (hunting wolves) prior to a determination of the merits of the legal case.
- August 2009; Idaho begins first wolf hunting season.
- September 2009; Judge Malloy denies P.I. request allowing hunting season to continue; however, he had concerns over the state-by-state delisting.
- Currently in the merits phase of the litigation.
- Governor's Attorney/OSC's Attorney/Attorney General's Office jointly providing the court legal briefings on Idaho's position.
- All briefs are expected to be submitted to the court by the end of this month and oral arguments will likely be set for February 2010.

- Hunting season continues until March 31, 2010.

SPEAKER:

Next to speak was **Mr. Jim Unsworth**, addressing the issue of wolves. Inserted into the minutes is the Briefing Statement that he provided to the Committee: Also on file is a "Progress Report on Idaho Wolf Management" by Jon Rachael, State Wildlife Manager, IDFG.

WOLF MANAGEMENT

Background

In 1995 and 1996, 35 wolves were released in Idaho. Populations increased steadily through time and in 2002 the northern Rocky Mountain wolf population attained the recovery goal of 30 breeding pairs distributed throughout Idaho, Montana, and Wyoming for 3 consecutive years. In 2006 the Secretary of Interior and Governor of Idaho signed an MOA that transferred most management authorities previously held by USFWS to Idaho. In May 2009, wolves were delisted from the ESA in Idaho and Montana, and both states implemented a limited hunting this fall.

Wolf Monitoring

- IDFG and Nez Perce Tribe biologists conducting telemetry flights to monitor radio-collared wolves throughout the state.
- In 2008 there were an estimated 846 wolves in 88 packs. Following reproduction in Spring 2009, we estimated there were over 1,000 wolves in the state. By year-end IDFG and Nez Perce Tribe biologists had documented approximately 95 packs.
- 149 radio-marked wolves were monitored in Idaho during 2009.
- IDFG wildlife research crews continue to monitor wolves and elk in the Lolo and Sawtooth Elk Zones to document impacts of wolf predation. The annual capture and radio-marking operation is underway.

Wolf Hunting Season and Harvest

- Wolf hunts opened Sep. 1 in the Lolo and Sawtooth wolf management zones, Sep. 15 in the Middle Fork and Selway zones, and throughout the rest of the state on Oct. 1. (See Figure 1.)
- Zones close when individual zone harvest limits are met or Mar. 31 if harvest limits are not met. Statewide harvest limit is 220 wolves.
- In 2009 we sold 26,428 wolf tags (25,744 Resident, 684 Nonresident).
- Approximately 34% of resident elk hunters purchased a wolf tag, compared to 5% of nonresident elk hunters.
- Between Sep. 1 - Dec. 31, 135 wolves were taken by hunters. Additionally, 1 wolf was killed illegally during a closed season, 3 wolves were shot illegally or wounded and not recovered, and 1 was killed accidentally in a bobcat snare.
- As of January 5, harvest limits have been met in 5 wolf management zones: Upper Snake, McCall-Weiser, Dworshak-Elk City, Palouse-Hells Canyon, and Southern Mountains.
- Heaviest harvest occurred Oct. 10-12 when 16 wolves were taken by hunters over the 3-day weekend when deer season opened in most of the State.
- Harvest in 3 zones (Panhandle, Lolo, and Selway) is currently less than 50% of harvest limit. Hunter harvest under current season framework is least effective in remote, rugged, or heavily forested terrain.
- Compliance with 24 hour reporting and 5 day physical check has been

- high (only ~2 of 135 failed to meet requirements).
- 10 of 135 harvested wolves were wearing radio collars. Capturing and radio-collaring efforts will need to be increased to compensate for lost collars.

Control as of December 31, 2009

- Confirmed livestock depredations continued to increase in 2009 (2009 numbers are still preliminary).
- Confirmed depredations of cattle, sheep, and dogs:
 - 2003 was 140
 - 2004 was 199
 - 2005 was 207
 - 2006 was 282
 - 2007 was 278
 - 2008 was 333
 - 2009 was 385

Future Management Issues

- Litigation to return wolves to protection of ESA. The final round of briefings in the case will be filed by the end of January 2010. A hearing date for oral arguments has not been set, but is expected within a few months. It is uncertain if we will be able to have a hunt next season.
- Uncertainty of future federal funding for wolf depredation payments.
- IDFG research on radio-marked elk has confirmed wolf predation is the leading cause of mortality on elk in 2 elk zones that are not meeting management objectives.
- USFS has authorized IDFG to land a helicopter in designated wilderness to opportunistically dart, capture, and radio-collar wolves encountered incidental to elk population surveys scheduled for March 2010.

SPEAKER:

Mr. Fisher returned to the podium to talk about salmon issues and salmon recovery efforts in Idaho. He stated that OSC will speak directly to those issues and Mr. Clive Strong will provide information on the legal update.

In the Salmon and Clearwater Basins, he stated that they are working with private, state, and federal partners to recover salmon and steelhead and their focus is on the Clearwater, Lemhi, and Pahsimeroi Rivers. Iron Creek is a newly connected tributary to the Salmon River. It was funded by various sources. Jan and Clyde Phillips won the award of Governor Otter's "Conservationists of the Year".

There is an overall upward trend in Snake River Springs summer chinook adult return. Sockeye salmon show a rebound, also. Another recovery effort is Duck Creek. Over the last nine years, OSC has funded projects supporting the reconnect of Duck Creek. A target to be achieved there is a 43% increase in egg to smolt survival.

SPEAKER:

Mr. Clive Strong provided an update regarding litigation of the National Wildlife Federation v. National Marine Fisheries Service. A copy is inserted into the minutes.

National Wildlife Federation v. National Marine Fisheries Service
CV 01-640 (D. Or.)

The principal development in this case—which involves an Endangered Species Act challenge to 2008 biological opinion

issued by the National Marine Fisheries Service concerning operation of the Federal Columbia River Power System—since adjournment of the 2009 Legislation was completed by an internal review by the new Administration of the biological opinion. The review commenced in April 2009 and concluded in September 2009 when the new NOAA Fisheries Administrator, Dr. Jane Lubchenco, issued a letter to the Army Corps of Engineers, the Bonneville Power Administration and the Bureau of Reclamation stating that NMFS continued to believe that the biological opinion complies with the ESA. The central practical result of the internal review was the formulation of an “Adaptive Management Implementation Plan” that commits the three agencies to undertake or provide for certain additional actions that

- Immediately accelerate and enhance particular actions already provided for under the biological opinion;
- Enhance research, monitoring and evaluation to increase and improve the data and analytic tools available to gauge salmon and steelhead status and to inform responses, if the fish are declining;
- Establish new biological triggers that, when exceeded, will activate near-and long-term responses to address significant fish declines;
- Identify and establish the process for implementing those near-and long-term responses if a trigger is exceeded; and
- Include a wide range of specific rapid response and longer-term contingency actions, including the potential for John Day drawdown and lower Snake River dam breaching.

With respect to lower Snake River dam breaching, a science-driven study of dam breaching is included as a potential Long-term Contingency Action. By March 2010, the Corps of Engineers will develop a study plan regarding the scope, schedule and budget for the technical studies that would be needed. Within six months of a “significant decline trigger” being tripped for a Snake River species (excluding sockeye), the Corps would initiate those technical studies, but only if an all-H diagnosis is completed that concludes dam breaching is necessary to address and alleviate the biological trigger conditions for the applicable Snake River species. A “significant decline” is deemed to occur when the running four-year mean of natural-origin adult abundance falls below a 10% likelihood of occurrence based on historical data. The principle underlying the significant decline trigger is that these thresholds represent significant deviations from the biological expectations in the biological opinion. Congressional authorization to breach the dams would be necessary before that action could take place.

The Attorney General anticipates that the summary judgment process commenced in late 2008, but delayed pending completion of the Administration’s internal review, will conclude shortly and that a decision from the District Court on the biological opinion’s validity under the ESA will be issued later in the year.

Mr. Strong stated that there are three options to the outcome. One is to approve the biological opinion; the second option would be to remand the case back to the administrative agency for consideration; and third, to disapprove the biological opinion.

DISCUSSION:

Vice Chairman Bair asked Mr. Fisher what effect the grazing leases have on the critical habitat. **Mr. Fisher** replied that under the designation of "critical habitat", there could be further restrictions where there are streams and reservoirs.

Senator Pearce inquired if the count of wolves in remote areas has been improved. **Mr. Unsworth** indicated that progress has been made. They are hoping to mark some wolves in the Frank Church Wilderness this winter. One was marked there last Spring. **Senator Pearce** then asked about the chronic deprecating packs in the state and if anything is being done at this time. **Mr. Unsworth** said that a pack was removed in the Sawtooth country over the Thanksgiving break and they are watching a pack at White Bird.

Senator Pearce then asked about the tapeworm parasite that is showing up and inquired if it had been addressed in the environmental impact statement. **Mr. Unsworth** said that some of the parasites have been around a long time and are not new, but they are new to Idaho. He suggested that people be careful when working with the animals, especially coyotes. The parasite that has been highlighted recently is quite common north of the 45th Parallel. **Chairman Schroeder** said that he will get a copy of the article addressing the tapeworm parasite.

Senator Stennett asked for a point of clarity regarding the number of wolves for the next hunting season and the number of tags. **Mr. Unsworth** said they haven't done the estimates yet, but this year they had 95 packs (about 800 animals) and it is the Commission's decision as to what the harvest will be for next year. **Senator Stennett** inquired about the study on elk in the Lolo area. **Mr. Unsworth** stated that he would provide her with that information.

Another question from **Senator Stennett** was about bull trout and steelhead in the Pahsimeroi. **Mr. Fisher** said that those species come under the purview of the Endangered Species Act.

Senator Werk asked as to how much money has been spent on litigation efforts and if there will be requests to add to litigation accounts for an increase in funding for agencies associated with litigation. **Mr. Strong** said that a lot of the Endangered Species Act litigation does not require additional expense above the cost of the attorneys' cost.

Senator Pearce asked how the elk tag sales for this year compared with last year's. **Mr. Unsworth** replied that non-resident tag sales were down

about 25% this year, but resident sales were about the same. Non-resident deer tags were down about 30%. From the revenue standpoint, it is about \$1.2 million, which is down. A survey asked out-of-state hunters as to why they were not coming to Idaho. Some said the economy; others replied that it was because of the price increase; and the remainder said that it was the impact of wolves in some areas. **Senator Pearce** inquired as to what the Department is going to do. **Mr. Unsworth** said the Commission is looking at reducing the price of the deer tag for non-residents; however, the elk tag price is in line with the surrounding states. He said other states are having problems with non-resident hunters and their sales are down. Resident fishing license sales are up.

Senator Siddoway wanted an update on the status of the lawsuit that is before Judge Malloy concerning the wolves, including the reasons why we are allowed to go ahead with the hunt and the reasons why we feel we are still in jeopardy. **Mr. Strong** stated that they are in the process of completing the briefing and are anticipating the argument will occur sometime in February or March on the lawsuit in Montana. The reason why we could have a hunting season was because the federal government had issued a decision that they found the Idaho and Montana plans were sufficient for purposes of delisting under the Endangered Species Act. **Senator Siddoway** asked what evidence changed Judge Malloy's opinion from closing our season one year ago, to allowing us to hunt this year? **Mr. Strong's** answer was (1) the ability to have seasons that were established by Montana and Idaho were adequate and consistent with the federal government; (2) the federal government supported the delisting; and (3) the full administrative record was before the Judge this time. **Senator Siddoway** then said the proposals were basically the same this year as last year, and wanted to know what changed - was it physical evidence or increased collaring/counting or something else? **Mr. Strong** replied that one year ago, the Judge did not have the benefit of the full administrative record, and this year, there was more evidence presented which was enough to get past the preliminary injunction. The federal government did not have all the information compiled one year ago. **Mr. Unsworth** said one difference might be that last year, Wyoming was in. This year, they were out.

Chairman Schroeder posed a hypothetical question. He asked what the time table will be if the wolves happen to be listed again. **Mr. Strong** said that he is unable to give a good answer. The **Chairman** then asked Mr. Strong if he views wolves as the issue that is going to attract the money that is used for this litigation, or is there another issue that might diffuse the dollars? **Mr. Strong** feels that it is not just a wolf issue.

Senator Brackett inquired about the interest of out-of-state hunters regarding wolves. **Mr. Unsworth** said that 640 non-resident tags were sold and 25,744 resident tags sold. He feels next year's numbers might be up, as they are considering a multi-species tag in some zones. **Senator Brackett** asked if the projection count for next year is similar to this year's. **Mr. Unsworth** replied that it probably will be; however, they will look at specific zones if the harvest is to be increased.

A question asked was if there are documented wolves in the Cascades. **Mr. Unsworth** replied that there have been wolves documented in the South Cascades, around Bend, Oregon. There are wolves in Eastern Oregon, as well as two packs in Washington.

Chairman Schroeder's question was regarding the possibility of Judge Redden taking over the management of the Columbia River. He asked what has happened and what have we learned from that in managing these other issues? **Mr. Strong** said there was a shift from some of the plaintiffs over to the defendants side of the table and there were two reasons for that. One, a level of diminishing return on litigation and, two, EPA money was made available for implementation.

Discussed next was the ecto parasite found on wolves. A big component for the hunters is the trophy aspect and parasites do damage to the fur. The value of Spring wolf hides is little, the same as for June bears.

Mr. Unsworth was asked what the weight of a large male wolf in Idaho is and the reply was 115-130 pounds.

Senator Brackett inquired about the management of bull trout and critical habitat. **Mr. Fisher** replied that it probably would be on federal lands and restrictions would be to protect those resources that are needed.

ADJOURN: **Chairman Schroeder** adjourned the meeting at 3 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

- DATE:** January 20, 2010
- TIME:** 1:30 p.m.
- PLACE:** Room WW55
- MEMBERS PRESENT:** Chairman Schroeder, Vice Chairman Bair, Senators Cameron, Coiner, Brackett, Stennett, and Werk
- MEMBERS ABSENT/ EXCUSED:** Senators Pearce and Siddoway
- 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 meeting to order at 1:30 p.m. He stated that the first order of business would be to take care of the two RSs on the agenda.
- MOTION: RS 19197** **Vice Chairman Bair** made a **motion** to print RS 19197. The motion was **seconded** by **Senator Cameron**. The motion **passed** by unanimous voice vote.
- MOTION: RS 19220** **Vice Chairman Bair** made a **motion** to print RS 19220. The motion was **seconded** by **Senator Cameron**. The motion **passed** by unanimous voice vote.
- WELCOME:** The **Chairman** welcomed the **Idaho Water Resource Board members and Mr. Hal Anderson, Division Administrator of Planning & Technical Services for the Idaho Department of Water Resources (IDWR)**. Board members are **Jerry Rigby; Terry Uhling, Chairman; Robert Graham; Leonard Beck; Gary Chamberlain, Vice Chairman; Charles "Chuck" Cuddy; Vince Alberti; and Roger Chase**.
- SPEAKER:** **Mr. Anderson** stated that the Chairman had requested some background information that describes the possibilities and issues of the Board and also some of the things that the Board will be working on in the coming year, as well as future issues. He provided a handout that contained an overview of the IWRB, what their roles and responsibilities are, and program activities.
- Following is some of the information in the handout:
- "In addition to formulating and implementing the state water plan and comprehensive basin plans, which includes authorities to designate natural and protected rivers, the Board also provides financial assistance for water development and conservation projects. The Board has two

accounts, water management and revolving development that it makes loans and grants from. A third account, the Aquifer Planning and Management Fund, was added by the Idaho Legislature in 2008, Idaho Code 42-1780. This fund was established for technical studies, facilitation services, hydrologic monitoring, measurement, Comprehensive Aquifer Planning, and Planning Programs across the state. The Board can also issue debt in the form of revenue bonds, where the proceeds are loaned to the entity requesting the financial assistance. The loan repayments then are the revenue used to repay the debt service on the bonds. The Board also adopts rules for well construction, well driller licensing, injection wells, geothermal resources, mine tailings impoundments, safety of dams and stream channel alterations. The Idaho Water Supply Bank is also the Board's responsibility as well as implementing legislative mandates as was done in 1995 with managed aquifer recharge.

Additional authorities and funding were given to the Board to purchase the Bell Rapids high lift irrigation project water rights for the purpose of satisfying the terms of the Nez Perce Agreement and to provide a water source to help mitigate problems on the Eastern Snake River Plain. Most recently, the legislature appropriated funds and the Board acquired Pristine Springs, an aquiculture and ranching operation near Twin Falls, Idaho. This purchase included valuable water rights which were later sold to the city of Twin Falls and to ground water users who were at risk of being required to stop pumping. The Water Board is made up of eight members, appointed by the Governor to a four-year term. No more than four can be from the same political party and to insure representation of water users across the state, one member is appointed from each of four districts and no more than three can be from any one district. Typically, the Board meets every six to eight weeks and often has special telephonic meetings to address specific issues that need immediate action. The Board has set up subcommittees to work on specific tasks or programs. For example, the Board recently established a new subcommittee to evaluate minimum stream flow activities in South Central Idaho. In summary, the Board is really about water resource development and planning. The Idaho Department of Water Resources Director supports the Board, as needed, and assigns staff to help carry out its powers and duties."

SPEAKER:

Mr. Terry Uhling, Chairman of the Board, spoke next. He said that it is a challenging time for the Board. They are under the budget of the Water Resource Department and budgetary constraints seem to be getting tighter and tighter. They have many critical issues dealing with water and they are committed to working through the CAMP process, and hopefully, will reach a resolution for water users and the state to move forward in a productive way. They are planning for the future and there are more demands on the limited water resource. He said what that means to storage planning and allocation planning are some very serious questions for the Board.

**QUESTIONS
FROM THE
COMMITTEE:**

Senator Werk inquired if the Rules submitted by IDWR are reviewed by the Board. **Chairman Uhling** replied that it depends upon the Rule if the Board reviews it. **Mr. Anderson** said that IDWR and the Board each

have responsibilities for certain Rules. There are about 10-12 different operations that the Board adopts rules for and those are the only ones they review.

Senator Cameron said his question is budget-related. He wanted to know how they accomplished zero-based budgeting and also, regarding the Governor's four percent holdback, the Board had a 7.5 percent reduction. **Mr. Anderson** said they used the zero-based budget to help prioritize programs. They eliminated the public information program, even though it was an important program. Vacancies are being filled by moving less critical positions of employees to critical positions. Regarding the fund shift, IDWR worked with the Board to prioritize activities associated with the Comprehensive Aqua Management Planning Process (CAMP), particularly technical studies that could be eliminated or have done in-house. Because of that, there was a savings of \$500,000 which was returned to the Legislature to help satisfy the holdback.

Senator Cameron then inquired about the stream channel alteration. **Mr. Anderson** said they have lost positions in the stream channel alteration program and only have two positions left in the agency. Because of duplications, the Corp of Engineers has some staffing that they have put on that program. All temporary positions have been eliminated, and a number of full-time positions have been eliminated also. What the Board does have available to them from the various programs, Mr. Anderson will be presenting the balances in the various accounts to the Board tomorrow and the following day. The real issue for the Board is credit, as it is so tight. **Chairman Uhling** said that they are taking prudent measures, but at the same time, they are trying to help where water is needed.

Mr. Anderson stated that in the Governor's recommendations, there was a million dollar request for CAMP, which is a matching fund requirement. The Board received payment on the loan from Pristine Springs. The funds are now available for that match, which was a big concern.

Senator Coiner stated that there is no legislative oversight on the Water Bank procedures, and from his perspective, he feels there should be. His concern is the potential for injury, as the procedures are currently written. The Senator then asked as to how often the procedures are reviewed.

Mr. Anderson replied that they are renewed every five years, and are not due for another four. **Senator Coiner** feels the time span is too long, especially if we are headed into another drought, and the potential is there for Junior Storage Right Holders to bear the brunt of other people's leases. Senator Coiner asked that this discussion be put on record. He also suggested that more discussion be held with the Board and/or the Department within the next week or two.

Senator Cameron asked what the definition of procedures are, and also, what legal statutory authority is the Department operating under to issue procedures versus rules? **Mr. Anderson** said the Board has adopted rules for the Idaho Water Supply Bank. In those rules, there is a provision for local committees to operate rental pools. The local committee for Water District 1 is the Committee of Nine. The Committee of Nine then adopts procedures and the rules spell out what needs to be included in

those procedures. The Committee then submits the procedures to the Board, then the Director of IDWR reviews them to make sure they are consistent with the rules, no injury associated with them. Mr. Anderson said he feels that is what Senator Coiner is concerned with. The Director submits the procedures to the Board as to approve or modify them. **Senator Cameron** said the procedure itself would not necessarily create injury or inequity to anybody - it simply is following the precursor of mechanism by which the water district is implementing the rules. **Mr. Anderson** stated that the procedures, by their nature, would not cause injury, but someone could take exception to that. **Mr. Rigby** added that he has been involved with these procedures. The rules give substantial latitude to local committees to make the procedures and they have caused impacts. He said that impacts were always borne, and solely borne, by the Juniors. As a result of that being wrong, procedures were adopted, which he feels Senator Coiner is addressing. Mr. Rigby stated that he is talking about impact versus injury. **Senator Cameron** said that his concern, regardless of impacts - or right or wrong - as legislators, they guard the right and authority very jealously to be able to review the rules and make sure constituents are protected against state agency rules. **Mr. Rigby** said the stakeholders, the ones with the rights, sets forth the procedures, then reviewed by the Director, then the Board.

Senator Brackett inquired as to how important is it for the state to come up with their share of money (\$1 million) for the CAMP process.

Chairman Uhling said they are working within the committee to get the funding commitments and mechanisms available. **Mr. Anderson** stated that he feels the state contribution is critical. They recharged 125,000 acre feet of water last year, costing nearly \$500,000 and there are on-going implementation committee meetings. The CAMP plan has been approved and they need money to accomplish the objectives of the plan. He said that if they are successful in getting legislation through this year of a fee-based approach for the water user component, the CAMP has a 60-40 breakout. If the legislation passes, the earliest that they will receive water user fees is 2011.

Chairman Schroeder said he would like for each Board member to take a few minutes to let the Committee know what they have been doing, or if they have some concerns or messages

First to speak was **Vice Chairman Chamberlain**. He said that he is Chairman of the subcommittee for the State Water Plan and they are moving forward. It will be presented to this Committee January, 2011. The Attorney General's office is working on it now. The CAMP process needs to move forward and it means much to the state. Most water users feel it is in the best interest of the state - recharge, conversions, and building storage facilities. As far as his area, they are continuing to receive water rights to take care of the endangered species there.

Mr. Rigby thanked the Committee and the Legislature for the work they do and the support they provide. Helping to resolve the SRVA is a vital

role for the Board. Right now, the Showman Issue is a big issue in Basin 27.

Mr. Cuddy commented on the new facilities, saying they were very nice. The Rathdrum Prairie Aquifer meeting was held in December and the committee has been kept small (18 members), based on being efficient. Facilitators were chosen by Water Resources. His task is to keep a close eye on things. **Chairman Schroeder** asked Mr. Cuddy how the mining industry is going to be involved in the adjudication process there. **Mr. Cuddy** replied that the mining industry has expressed an interest and he has relayed those thoughts to the facilitators. He understood that Hecla Mining was contacted, but did not express an interest. Since then, there have been others interested. Tomorrow, he will ask the Board if they want to re-address that situation to see if they want to expand the committee to include an interest in that regard. The Ag people have also expressed a concern. They will be considered also.

Mr. Alberti serves on two committees for the Board - the State Water Plan and the Minimum Stream Flow for the Big Wood River. There were several requests from the reach below Bellevue to transfer water upstream, both from ground water and surface water. The Board has a minimum stream flow right there and whether that would injure the Board's water right. Three committee meetings were held, the first two were to let the area folks express their concerns as to what was happening and why they needed it. Water was needed for landscaping uses on the large homes in the Sun Valley area. The committee solicited assistance of the Attorney General's office and the recommendation they received from the AG's office was that they had a good/valid water right. The recommendation was accepted by the Board, and they need to protect it, but the need is still there for the water in the Sun Valley area.

Senator Stennett inquired about transfer value. **Mr. Alberti** said there will be a hearing on that and it will be determined as to what the percentage will be. **Senator Stennett** then asked about making the watershed more efficient. **Mr. Alberti** said the gauge is at Hailey and there is a need for better gauging. They hope, in time, there will be better gauging.

Mr. Chase was the last Board member to speak. He feels the CAMP process is very critical to everyone. Funding is always an issue, as well as lack of staff. Urban issues also concern him.

Chairman Schroeder said he wanted to talk about incidental recharge and asked, "How do we work through this?" **Mr. Rigby** said that incidental recharge will always be an issue, but it is important in keeping the aquifer healthy. The **Chairman** stated that at a previous meeting, there was a constituent that opposed paying people for any water that went into the ground. Are there constitutional questions? Have there been court cases where that has been addressed? **Mr. Rigby** said that he would answer the question, but first wanted to pose a question and

that was, "Do we want to encourage the continuation of a healthy aquifer by causing any excess water that is not necessarily needed for consumptive use of plants to then go into the aquifer to be used in an orderly fashion down the road?" He said absolutely! Therefore, he is in favor of encouraging recharge. He said it is a question as to when is it incidental or when is it something you have actively participated in to ensure that there is something additional going in. One who puts water into a recharge site with legally diverted water, they should be compensated for it. On the other side, why be paid when you are already putting water in? Mr. Rigby said that he feels they have put together a very good CAMP group. They are committed and are people who are stakeholders themselves and there is a solution to this; however, it won't be loved by everyone.

Senator Coiner asked how the Board, in its state water plan, is dealing with appropriated and unappropriated waters. **Mr. Anderson** said there are recommendations currently being crafted. The plan is looking at strategic ways of being able to manage Idaho's water resources. With the policies and recommendations that will be coming from the state plan, most issues have been identified and modified or changed. The policies and recommendations that come from the plan are issues that have been identified in the previous plans. The plan was last adopted in 1996.

Chairman Schroeder thanked the Board and Mr. Anderson for their attendance and participation in today's meeting, as well as their commitment to the CAMP process. He stated that this Committee looks forward to working with the Board in the future, even though there will be tough economic times.

ADJOURN: The meeting was adjourned at 3 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

- DATE:** January 22, 2010
- TIME:** 1:30 p.m.
- PLACE:** Room WW55
- MEMBERS PRESENT:** Chairman Schroeder, Vice Chairman Bair, Senators Cameron, Pearce, Coiner, Brackett, Stennett, and Werk
- MEMBERS ABSENT/ EXCUSED:** Senator Siddoway
- 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:** The meeting was called to order at 1:30 p.m. by **Chairman Schroeder**. He provided the Committee with a handout "Echinococcus granulosus in Gray Wolves and Ungulates in Idaho and Montana, USA by William J. Foreyt, Washington State University. This article was referred to in the Committee meeting of January 18.
- ANNOUNCEMENTS:** **Vice Chairman Bair** announced that Pending Rules for the Fish and Game Department will be heard next Monday, January 25. The remaining Pending Rules and Fee Rules for other agencies will be heard Wednesday, January 27, except for the grazing rule, which will be heard at a later date.
- REQUEST:** **Vice Chairman Bair** asked for **unanimous consent** to send the following RSs to print: RS 19120C1, RS 19121, RS 19123, RS 19125, RS 19126, and RS 19285. There was **no objection** to the unanimous consent request.
- WELCOME:** **Chairman Schroeder** welcomed **Mr. George Bacon, Executive Division Director, Department of Lands**, who will be addressing the Committee with a PowerPoint presentation on "Endowment Land Management". Mr. Bacon then introduced **staff members Kathy Opp, Deputy Director, and David Groeschl, Division Administrator of Forestry & Fire**. Also in attendance were several members of the **Citizens Committee**, formed by the State Board Land Commissioners, to review how real estate transactions can be improved. They are **Robert Phillips, President, Hawkins Companies; Bryant Forrester, President, Urban Concepts; and Jack Harty, President, Harty Capital**.
- SPEAKER:** **Director Bacon** said the primary mission of the Department of Lands is to manage endowment land assets. He said many people do not know about the endowment lands and how they are managed for schools and

other institutions. They work closely with the Endowment Lands Investment Board and IDL delivers day-to-day management on 2.4 million acres of endowment land. Both are governed by the State Board of Land Commissioners which is comprised of the Governor, the Secretary of State, the Attorney General, the Superintendent of Public Instruction, and the State Controller. He then turned the meeting over to Ms. Opp.

SPEAKER:

As the slides of the PowerPoint presentation were shown, **Ms. Opp** provided the dialogue. Following are some of her remarks.

“The purpose of the endowment lands is very clearly defined in the state constitution and represents the implementation of the trust agreement established by federal law in the Idaho Admissions Bill. The Department of Lands manages these grant lands, also called endowment trust lands.

Originally, each state was given 1/36 of the land in the territory as school lands – specifically section 16 in each township. By the time Idaho was admitted as a state, two sections of land were given. The concept of an endowment is that these assets will be around forever, providing income to beneficiaries now and into the future. The management goal is narrow, as clearly defined by our mission found in article 9, section 8 of Idaho’s Constitution.

We are to manage the lands, “in such manner as shall secure the maximum long-term financial return to the institution to which granted.” This mandate is our over-arching consideration in trust land management.

Many people do not understand or appreciate this trust relationship, or the clear focus of our land management. They particularly get confused when they compare the state’s mission to the way federal land is managed.

Federal lands fall under a variety of policies that promote the attainment of maximum benefits for the public. In sharp contrast, Idaho’s endowment trust lands are to be managed solely to secure the maximum long term financial return to the beneficiary institutions. **Our lands are not managed for use by the general public; they are managed for public education and the other designated beneficiaries.**

The ownership pattern of endowment land holdings across Idaho is very scattered and disjointed due to the original Public School land grants, the selection process for replacement, lieu and other endowment lands, and the selling or exchange of various lands.

The constitution clearly defines the land board as the Governor, the Secretary of State, the Attorney General, the Superintendent of Public Instruction, and the State Controller (added in 1910).

The goal of endowment management is to provide a perpetual stream of income - forever. The Asset Management Plan adopted by the land board in 2007 was put in place to protect the endowments and the attendant revenue streams in perpetuity. The goals are:

- Maximize financial returns over time

- Maintain or improve revenue generating capacity of land
- Provide a stable and perpetual distribution of income to the trust beneficiaries.

The first land grant was made under the Territorial Act of 1863. The Idaho Admission Bill reconfirmed the previous grants (in two Territorial Acts), and provided additional acres for the support of the State University (University of Idaho), plus lands for the support of seven additional institutions.

Public Schools (K-12) is the largest beneficiary, but there are nine endowments total and 14 legal beneficiaries. Each trust must stand on its own in terms of adequate reserves to buffer the highs and lows of revenue cycles and covering ongoing management costs (self sustaining).

Other facts:

- The Territorial Act of 1883 granted 46,080 acres for the support of the State University (University of Idaho).
- The Idaho Admission Bill provided an additional 50,000 acres for the support of the University of Idaho (the land grant university).
- Normal school is an archaic term for a teachers college. The original teachers college was located in Albion, Idaho outside of Burley. When that closed, the distribution was transferred to Idaho State University.
- Every county has an agriculture extension office and research station. These entities benefit in part from endowment operations, just like every school district.

Trust assets consist of 1) land that is managed for a variety of purposes to generate revenue, and 2) various financial investments. The value of the land owned by the trust is approximately \$2.3 billion. Timber harvest revenues generate about 85% of the annual land management revenue.

Lands are classified to:

- Develop custom plans and strategies for each asset class in order to optimize returns
- Benchmark the performance of each asset class against similar private and/or other state trust land programs
- Make informed decisions regarding optimal asset allocation, diversification and risk.

The Endowment Fund Investment Board determines and recommends the mix of financial investments, such as domestic or international equities versus fixed income instruments. They select and use fund managers to administer the moneys within the various market allocations. These investments generate on average about one-third the annual income for the trust. What is really important, is for the land board to look at the range of investments across all asset types, both land and financial. This variety of assets helps bring diversification to the portfolio and mitigates risk. Whole trust management was one of the key concepts behind endowment reform in 2000.

The Prudent Investor Act and the standard of care criteria, mentioned previously, also requires trustees to ensure a diversified portfolio to minimize risk.

Of the Endowment Assets, the percentage of residential real estate is 9%; commercial real estate is 1%; agriculture & rangeland is 24%; timberland is 34%; domestic equity is 16%; international equity is 5%; fixed income is 10%; and 2% cash.

The permanent assets of the trust are to remain inviolate, never to be spent to ensure a constant source of revenue in perpetuity. The roughly \$1 billion permanent fund balance was populated principally by timber sales revenue from statehood until the year 2000 (endowment reform). We only have a financial asset to invest because of the prudent land management.

Renewable income streams populate available reserves (Earnings Reserve Funds). The Earnings Reserve Funds then support the management costs of the trust and fund beneficiary distributions. Annually, the State Land Board evaluates and determines the adequacy of reserves and defines beneficiary distributions. Each trust must stand on its own based on the income associated with its particular land base and investment returns. There must be adequate reserves to withstand the ups and downs of the land based revenues and financial markets. If reserves are deemed more than adequate, the board may choose to transfer excess to the permanent fund, therefore building corpus. No general fund money is used to manage the assets.

Other facts: About 80% of the annual income is generated from land management activities and 20% is from the interest and dividends from financial instruments. The board can elect to transfer surplus Earnings Reserve Fund balances to the Permanent Fund.

The goal of trust management is to provide stable distributions. Since 2006, distributions have increased between 5% - 10% each year. Even in today's tough economy, we have been able to use the earnings reserve account as a buffer and provide an increase in beneficiary distributions.

The department works cooperatively with the Superintendent of Public Instruction to quantify the income provided by endowment operations and translate that to dollars and cents in every school district. While the percentage contribution to total Public School funding may seem small (less than 5%), the dollars are not. For example, in 2010 it is estimated that the endowments contributed:

- \$ 477,621 to the Minidoka Joint school district;
- \$1,086,503 to the Coeur d'Alene school district;
- \$1,080,996 to the Idaho Falls school district.

A copy of the most current year's distribution by school district has been provided to the Committee members for their review.

The land board approved an Asset Management Plan that was adopted in December 2007. This is a broad, overarching policy. Plans covering

each asset type are also necessary to provide strategic and tactical direction within a given market sector. We have developed (FAMP 2009) or are in the process of developing these specific plans for each program. These documents also assess risks and opportunities and define key performance indicators to measure results of management actions.

As the department began to implement the board's Asset Management Plan, it was quickly evident that certain aspects of the constitution and other existing statutes are not in keeping with modern business methods. Remember, we represent two-thirds the value of the trust. Therefore, it is incumbent upon us to do everything possible to endure flexibility to allow us to maximize the return to beneficiaries. This includes identifying new, complimentary products to sell, like biomass. We will talk more about that specific product later in this presentation.

In April 2009, the land board established the Endowment Land Transaction Advisory Committee. Given the nature of the requested review, the composition of the group is outside professionals whose principal business it is to act as banker, developer, broker, or capital organizer for real estate transactions. This group of volunteer citizens is similar to one established by Governor Kempthorne in 2001 - the Citizens Ad Hoc Advisory Committee. The distinction is that we are now 10 years into endowment reform (in 2000) and most to the recommendations of the first citizens committee have been implemented; including the establishment of the overarching Asset Management Plan which was recommended by the first citizens committee. We are now focused on refining our land and real estate business to achieve maximum results and those on par with private business. To do that, we needed a private business perspective".

Chairman Schroeder asked Ms. Opp what, if any, the current impediments are to developing some of the real estate sites. Ms. Opp deferred the question to one of her colleagues

SPEAKER: **Mr. Harty**, a member of the Citizens Advisory Committee, said that their charge was to review the Constitution and the Admission Bill regarding the mechanism for disposing of endowment lands. The land board's responsibility is to maximize the return for the beneficiaries, and the Committee's objective was to identify impediments to maximize the return. The method used by the Committee was to review the prior work, statutes, policies, and approaches taken in other states, i.e. Nevada, Utah, and elsewhere, to see how they were solving and addressing the problem. After drafting their recommendations, they tested them in a "real world" scenario. He then asked a colleague to discuss that procedure.

SPEAKER: **Mr. Phillips**, another member of the Citizens Advisory Committee, said specific to the Chairman's question, the committee found three major impediments under the current structure. The first was that all dispositions must be conducted by public (oral) auction. The second impediment is that sales of endowment land cannot exceed 320 acres. The limitation for University endowment is 160 acres. This is a competitive disadvantage for trust lands participation. The lack of diversification was the third impediment. There will be urbanization and

changes that take place and there is a need at opportunistic times to diversify that portfolio. He feels that IDL has done a good job of preserving the lands and the values that we have. One of the challenges is the uncertainty of land costs. Also, the lack of flexibility increases risks for potential buyers and depresses the prices for the endowment lands. They also found the lack of diversity increased more risk to the endowment lands.

SPEAKER:

Mr. Forrester, a member of the Citizens Advisory Committee, spoke next regarding the residential portion of the real estate transactions. Impediments are public auctions and the size of the acreage. In regard to size, they found that most always, land size is dictated by market forces. Transportation corridors, employment, cultural features and natural resources dictate the actual site selection and the actual size of the properties. Communities will need to be large enough to accommodate a diverse blend of commercial, public, and varied housing types. Smart growth principles favor "Planned Communities" which typically involve a minimum of 640 acres (current acreage cannot exceed 320). "Planned Communities" are large enough for developments to include public areas such as schools, parks and fire/police stations.

Director Bacon provided a summary of the presentation. He then complemented the businessmen who gave of their time with this report.

The land board's response to the committee report on August 2009 was:

- Accepted the report.
- Charged the Attorney General's staff to draft appropriate legislation with the objective of submitting the changes to the Legislature.
- Directed the department to initiate an informal outreach program.
- Use the results of the outreach to design land board policies that would provide management flexibility and ensure transparency of the decision-making process..

Director Bacon stated that a lot of the things that may need to be done may require constitutional amendments and they are laying the groundwork to see what might need to be done. **Chairman Schroeder** inquired as to the language change that they are proposing to the Constitution. **The Director** said that it is still being developed and they will not be bringing it forward right away.

Vice Chairman Bair said that the best long-term investment one can have is the land itself. It sounds like the land board and the volunteer committee may be leaning towards developing some land and perhaps selling or exchanging it. He said land, over time, appreciates. The Senator asked for an explanation. **Director Bacon** said that they are seeing new opportunities in Idaho that were never imagined 100 years ago. They are seeing land transitions, where the towns are growing out into the urban interface, and the traditional uses are ending. As an example, grazers are giving up their leases. There is a lot of land here in Treasure Valley that is producing no income because no one wants to use it for the official use. **Mr. Phillips** stated that it is not the intent to sell all the land, but to look at what could happen in the next 100 years.

Urbanization will take place and some of these parcels of land could become very valuable, bringing revenue in for public schools. The assets need to be protected, but also maximizing returns and there is a balance between those two things. The land board has a fiduciary responsibility to protect those assets. **Director Bacon** said if and when land is sold, they have five years to reinvest in buying better land and that is the intent of the land bank. **Chairman Schroeder** inquired as to the land that has been sold, how much of that money has been used to buy back other land. **Director Bacon** said that of the 3.6 million acres that were originally granted, about one million acres was sold early in the statehood; not much has been sold since. Since the Endowment Reform, two parcels have been sold and he asked Ms. Opp to speak to that. **Ms. Opp** said since the land bank was established, two small residential parcels were sold and they have about \$2.8 million now.

Senator Coiner asked about urban lands and leases. **The Director** said that they are looking at all options and location plays a big factor in the value. **Senator Coiner** then asked about the money due from Tamarack. **Director Bacon** stated that it doesn't look like the state will be paid as the property is in bankruptcy court and receivership.

Chairman Schroeder asked Director Bacon to explain the impediments of moving forward to develop the commercial areas that require constitutional change. The **Director** deferred the question to a colleague. **Mr. Phillips** said that it depends on the type of transaction and the land board needs flexibility to decide what is the best approach to maximize the revenues. The challenge, under the current structure, is discussions and negotiations cannot take place because the only process now is a public auction. **Chairman Schroeder** then inquired if there was an issue of disclosing some of their plans to scrutiny by their competitors. **Director Bacon** said that the land board is very sensitive to that issue. They want whatever changes take place to be open.

The **Chairman** said there are a variety of reasons that the state cannot get the amount of money that they should get for cabin leases and asked if that was the same problem with commercial property. **Director Bacon** said their goal is to design a system that is on par with the private market. **Chairman Schroeder** asked the Director, "How do we get there?" The reply was that he (the Director) would visit with the Chairman regarding that issue.

Senator Stennett inquired as to the percentage of land that could be sold. **Director Bacon** said it is less than one percent (1%). **Ms. Opp** said that it is around 2.5 million acres, less than one percent.

That concluded the questions for this part of the presentation.

SPEAKER:

Speaking next was **David Groeschl** on the subject of "**Potential Biomass Availability On Idaho Endowment Forest Lands**".

Following is information from the PowerPoint presentation:

Why is biomass a topic of discussion?

- As the nation searches for alternative fuels, forest biomass is emerging as a substitute for fossil fuels in the generation of power, heat and steam.
- What is the role of state trust lands as industry seeks long-term supply agreements to secure financing for bio-energy projects?

What is forest biomass?

- That portion of the tree that is not used or sold for other higher-valued commercial products (i.e. - sawlogs, poles, etc.).
- Includes smaller trees under six inches in diameter and the branches and top portions of larger trees.

Biomass from Trust Lands

- Residual biomass (slash) generated from timber sales and pre-commercial thinnings.
- Some slash (3-12 green tons/ac) left in the woods for soil building and stabilization purposes.
- Excess slash burned to reduce fire risk. Could be made available for biomass markets.
- Pre-commercial thinning slash difficult and cost prohibitive to remove without damaging young trees.

Considerations affecting biomass availability and removal:

- Transportation systems
- Logging systems (cable vs. tractor)
- Market outlets, prices and haul distances
- Other factors (seasonal, T&E species, etc.)

Making biomass available from state Trust Lands timber sales

- 60-100 timber sales annually
- About 180,000 green tons of residual biomass (70% of total generated)
- Amount currently sold - 6,615 green tons (~3.6%).

Contract mechanisms

- **Timber Sales:** 2-5 years duration/Biomass an optional product;
- **Direct Sales:** Up to 1 year duration/removing or chipping slash piles from a specific harvest area after completion of the sale;
- **Service Contracts:** Up to 2 year duration/Non-revenue activities;
- Exploring possible longer-term biomass sale contracts (5-15 years as allowed by Idaho Code 58-413).

Advantages of removing biomass during a commercial timber harvest:

- Eliminates need for second operation which reduces site and soil impacts.
- Many timber sale purchasers/subcontractors have the skills and equipment to efficiently handle, process, and transport biomass.
- Other forest products often carry the majority of the sale development, harvesting, processing, and transportation costs.
- Reduces slash abatement and smoke management issues.

USFS stewardship contracts not compatible with Endowment Mission

- Referred to as “Goods for Services” contracts - focus on forest restoration activities.
- Contracts may be up to 10 years and encumber thousands of acres.
- Removal of merchantable forest products (goods) helps cover costs for restoration activities (services).
- Additional funds are sometimes required to augment purchaser expenses.

Biomass product conclusions:

- Existing authorities (statutes & rules) efficient.
- Continue to make biomass available through existing timber sale program and contracting mechanisms.
- Explore viability of longer-term biomass sale contracts and commercial ground leases.
- Encourage potential biomass consumers to meet with IDL Forest Management Bureau.

Summary

- Prudent management has resulted in retention of two-thirds of the original land base and a strong financial corpus.
- The adoption of an Asset Management Plan ensures asset protection in perpetuity through management as a whole trust.
- The board accepted the recommendations of the Endowment Land Transaction Advisory Committee, understanding we can do better if given additional flexibility.
- Biomass is available today, as part of the larger IDL timber sales plan.

**QUESTIONS
FROM
COMMITTEE:**

Senator Werk stated that he didn't hear any solutions and asked about other alternatives. **Mr. Groeschl** said that they are meeting with interested parties (investors) in biomass facilities. They have been coordinating with the Department of Commerce, OER, and DEQ to look at this in a broad, interconnected sense. They have also talked with private landowners who could be suppliers, as well. He said there are difficulties, but there are also assurances, one being a consistent forest management program. The present value of biomass is very low.

Senator Pearce inquired as to the value of biomass. **Mr. Groeschl** said that the 6,600 tons that have been sold was at 3.7%. The market value today is anywhere from 20 cents to \$2 per ton and this is within an hour's haul distance to a facility. **Chairman Schroeder** asked about the cost per ton to administer the program. **Mr. Groeschl** said the cost per ton varies, depending on the location of the sale; however, they do not know what the cost is for just biomass. **Director Bacon** said the costs of biomass is negligible as they are administering that material along with their regular timber sales. When the material isn't removed, there is a cost to treat it; however, it only represents 4.5% of the total land mass of Idaho. The federal government owns 70% of the forests in Idaho. He stated that there is a problem unless all the private landowners are involved and they will not get involved unless they can make money.

ADJOURN:

There were no further questions. **Chairman Schroeder** adjourned the meeting at 2:45 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: January 25, 2010

TIME: 1:30 p.m.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Schroeder, Vice Chairman Bair, Senators Pearce, Coiner, Siddoway, Brackett, Stennett, and Werk

MEMBERS ABSENT/ EXCUSED: Senator Cameron

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 meeting to order at 1:30 p.m.

ANNOUNCEMENTS: He announced that Rules will be heard today and Wednesday. The Fish and Game Commissioners will be in attendance on Friday, the 29th, along with the hearing of Gubernatorial appointee Tony McDermott to that Commission.

RS 19399: The purpose of this legislation is to provide that predatory wildlife or unprotected wildlife, captured during control operations, can be released live on private lands in the county of origin or on private lands in adjacent counties to where they were captured with the consent of the private landowner.

MOTION: **Vice Chairman Bair** made a **motion** to send RS 19399 to print. **Senator Coiner seconded** the motion. The motion **passed** by unanimous voice vote.

Chairman Schroeder turned the meeting over to **Vice Chairman Bair** for the hearing of Rules.

RULES: **Ms. Sharon Kiefer, Assistant Director of Policy for the Department of Idaho Fish and Game**, presented the following pending rules which were **adopted** by the Committee:

- Docket No. 13-0101-0901
- Docket No. 13-0104-0901
- Docket No. 13-0104-0902
- Docket No. 13-0106-0901
- Docket No. 13-0108-0902
- Docket No. 13-0109-0901
- Docket No. 13-0110-0901
- Docket No. 13-0114-0901

Docket No. 13-0114-0902
Docket No. 13-0115-0901 (Siddoway & Bair voted no)
Docket No. 13-0116-0901
Docket No. 13-0117-0901

The Committee voted to **hold** the following rules:

Docket No. 13-0103-0901
Docket No. 13-0111-0901

**DOCKET NO.
13-0103-0901:**

During the discussion of **Docket No. 13-0103-0901**, **Senator Schroeder** said there is an issue regarding shotgun shell casings and he would not want a hunter to get cited for not finding one shell. Leaving a lot of casings is another matter.

Another issue was the field dressing of animals. **Senator Schroeder** suggested that an amendment could be written in the future that says “does not apply to animals that are harvested on site”. **Mr. Dallas Burkhalter**, legal counsel, said that could be addressed in a guideline to provide more specific guidance.

Vice Chairman Bair asked for information regarding the amount of property owned, or controlled, by the Department of Fish and Game. **Ms. Kiefer** said she would provide that information to him.

Senator Siddoway said his question regards paragraph r on page 14. It states: “to turn domestic livestock into, or allow said animals to graze or trail on or across Department lands, except riding and pack animals may be used in association with hunting and for recreational uses or as posted.” He said that in Fremont County, there are a lot of “checkerboard” lands and now it looks like access will be prohibited. **Ms. Kiefer** responded by saying the first part of that clause reads “unless specifically authorized by the Commission or under lease, permit, contract, or agreement issued by the Director, Regional Supervisor, or other authorized agents”. She said this is a clause in respect to individuals that may be using our lands without an IDFG agreement. **Senator Siddoway** then asked if there is a conflict with established trail rights on these lands. **Ms. Kiefer** said that to her knowledge, all trail passage is occurring by agreement; however, she stated that they would research the subject. **Senator Siddoway** then asked how she envisions the permits to allow the trailing, or grazing, across those lands. Would it be case-by-case, annual, or long-term basis? **Ms. Kiefer** said it would be worked out by the regional supervisor on a local level.

Vice Chairman Bair asked what was wrong about placing a geocache on managed lands? **Ms. Kiefer** said they want to know about it, as they have had some surprises, and they need to know what is going on. The **Vice Chairman** then asked about emergency landings on airstrips and the reply was that it is permitted and there would be no citations.

REQUEST:

Senator Schroeder asked for unanimous consent to hold Docket No. 13-0103-0901 for one week. There were no objections.

DOCKET NO.

One of the concerns with **Docket No. 13-0111-090**, was regarding leader

13-0111-0901: and line strength for steelhead. **Ms. Kiefer** said that for any type of fishing, there are no rules calling for certain strengths of line. **Senator Schroeder** inquired as to why the sliding sinker applies only to sturgeon (201.04). **Ms. Kiefer** said that their research, as well as interactions with anglers, demonstrates that the type of fishing for sturgeon is very different. The **Senator** also called attention to 201.04, line 4 on page 68snagging, hands, and netting..... On page 69, number 11, Use of Hands, he asked for an explanation. **Ms. Kiefer** said it is not their intent to be in conflict and she will check with the Fisheries Bureau to make sure the intent is consistent.

REQUEST: **Senator Schroeder** asked for unanimous consent to give Ms. Kiefer some time to take Docket No. 13-0111-0901 and review it with the Fisheries Bureau. There was no opposition to the request and **Chairman Bair** said the docket would be held until such time until the Committee is prepared to hear it again.

ADJOURN: **Vice Chairman Bair** turned the meeting back to **Chairman Schroeder**.

The **Chairman** then adjourned the meeting at 2:50 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: January 27, 2010

TIME: 1:30 p.m.

PLACE: Room WW55

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

MEMBERS ABSENT/ EXCUSED: None

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: **Vice Chairman Bair** called the meeting to order at 1:35 p.m. and said the remaining Rules will be heard.

He then asked **Director George Bacon, Idaho Department of Lands**, to speak.

DOCKET NO. 20-0101-0901: **Director Bacon** said this docket concerns the "Rules of Practice and Procedure Before the State Board of Land Commissioners." He considers the enclosed revisions a "clean-up" of the rules. They have updated addresses, phone numbers, web site information, and the like. In addition, they are no longer listing their field offices as official contact points for Land Board business because these locations do not always have access to current information on Land Board or rule-making matters. These changes are necessary to provide the public with proper and consistent formal access to the State Board of Land Commissioners.

MOTION: **Senator Coiner** made the **motion** to adopt Docket No. 20-0101-0901. The motion was **seconded** by **Senator Siddoway**. The motion **passed** by unanimous voice vote.

ANNOUNCEMENT: The rule pertaining to grazing will be heard next Wednesday. It will be a joint meeting with the House Resources and Conservation Committee and will be held in the Auditorium.

DOCKET NO. 26-0120-0901: **Mr. Dave Ricks, Deputy Director, Idaho Department of Parks and Recreation**, said this docket concerns firearms in the state parks. This rule clarifies language to allow customers to have their loaded firearms in state parks for legal hunting, or for exhibition, or at designated ranges as authorized by the Director.

MOTION: **Senator Pearce** made the motion to adopt Docket No. 26-0120-0901. The motion was **seconded** by **Senator Brackett**. The motion **passed** by

unanimous voice vote.

**DOCKET NO.
20-0304-0901:**

Director Bacon said this is a pending fee rule and is a continuation of an extensive rule-making that was undertaken last year. He stated that there were some needs to make some changes and also to identify some issues that were not resolved. He then deferred his time to **Eric Wilson, Navigable Waters/Minerals Program Manager for IDL.**

Mr. Wilson stated that this clarifies and corrects some of the rule changes in 2008. The issues include removing the actual fee amounts and allowing the Board to set the fees; allowing some boat lifts to be approved with an abbreviated permitting process; and providing for lake specific encroachment standards to assist with implementation of lake management plans. Parking requirements at commercial marinas will be one parking space per moorage only for privately owned slips with designated parking spaces. All other parking requirements will be one parking space per two moorages. Specifically prohibited was extra piling or hard covers due to the impacts on the near shore area. The process of inspecting float home sanitation, and bringing all float homes up to the sanitation standards was modified. The permitting procedure for certain kinds of boat lifts was also modified to correct an error in the printing of the proposed rule.

Mr. Wilson said the actual fee amounts would be removed from the rules and would be set by the Board subject to the maximum amounts in statute. This would allow, for instance, the Board to reduce the fees down to the approximate cost of processing applications for small waterlines. As a non-navigational encroachment, they are currently assessed a fee, required by the rules, that often exceeds the department's costs.

Senator Schroeder stated that if agencies adopt rules by reference, they need to provide the committee with a copy. In the past, the Legislature has been blamed in certain situations where rules were adopted by reference, and they were not provided with copies. He gave notice to all agencies that in the future, he would not vote in favor of a rule that was referenced, unless he was provided the documentation.

Senator Schroeder then questioned Assignment Fee Rule 065.02, asking why the agency wanted the board to set fees, when other agencies cannot. He feels this would be a double standard. **Director Bacon** replied that the land board would have the authority, not the agency. To make that change, it would have to be done at a public meeting.

Senator Siddoway inquired as to which bodies of water are connected to this issue. **Mr. Wilson** said Lake Coeur d'Alene, Pend Oreille, Priest, and Payette. There is just minor activity on other lakes. The question was raised as to the involved counties enforcing their building permits and codes. Mr. Wilson replied that the counties do not feel that they have jurisdiction over the state-owned beds of navigable lakes. He also stated that this rule only applies to navigable lakes that were in existence at statehood. **Senator Siddoway** feels that by adding rules and regulations for the whole state, when only a few specific lakes in the state are of concern, is objectionable. **Mr. Wilson** said their objective is to craft

standards that match the Division of Building and Safety, so that in the future, that agency will take the over-sight of that and then there will be only one set of state standards which everyone will need to follow.

Senator Cameron wanted to know what the Department is trying to accomplish with the floating toys issue. The response was to have the counties oversee activities that are behind the line of navigability and with no permanent anchors. If permanent structures are in the line of navigation, they will then need an encroachment permit.

Moorage/parking was discussed next. **Mr. Wilson** said that the intent is to have a base requirement of parking spaces per moorages.

Senator Coiner said that he just wanted to add that building codes and electrical codes are extremely important. Another potential problem in the North is the snow load. He feels it is good to have these requirements and stated that he agrees with the fee schedule.

Senator Stennett inquired as to who is liable for damage/risk/injury if a problem occurs. **Mr. Wilson** replied that liability is something they normally discuss with "submerged land leases", which is marinas where float homes are located. The **Senator** then asked who manages or oversees the leases. **Mr. Wilson** said they have specific liability language in those leases.

Senator Cameron wanted to know more about the fee rule. He said that it seems to him that a lot of subject matter is covered in this one rule.

Director Bacon explained that the previous rule-making had significant changes and the most significant one was the ability for commercial marinas to have a component of their operation be private. The state thought that was a good idea as commercial marinas provide public access and there is very little public access available. Because of escalating property values, this was an incentive for the owners to not close their marinas. Sometime in the 1970's, the Legislature adopted the Lake Protection Act and making the lakes belonging to everyone. For someone to build a float home is like private use on public land. This rule does cover a lot of issues, but it is because of the evolution of things.

Senator Schroeder asked **Mr. Dennis Stevenson, Administrative Rules Coordinator**, if this one section is now a fee rule or not a fee rule and what action would be appropriate. **Mr. Stevenson** replied that it is a fee rule and has to be approved; however, the pieces not wanted can be excised out.

MOTION: **Senator Schroeder** made a **motion** to adopt Docket No. 20-0304-0901 with the **exception of** 0.65.02 (found on page 24, Assignment Fee). The motion was seconded by **Senator Coiner**. The motion **passed** by majority vote. Voting no was Senator Siddoway.

DOCKET NO. 20-0317-0901: **Director Bacon** said this was a companion rule change to the previous one, except these rules involve the leasing of lake beds. There was no opposition to this rule.

MOTION: **Senator Schroeder** made a **motion** to adopt Docket No. 20-0317-0901

with the **exception of** 0.55.02. The motion was **seconded** by **Senator Cameron**. The motion **passed** by unanimous voice vote.

DOCKET NO. 26-0131-0901: **Mr. Troy Elmore, Manager of the Off Highway Vehicle Program for IDPR**, addressed this Rule. It would increase the price of an off-highway vehicle registration sticker by one dollar, which would fund County Sheriffs to enforce off-highway vehicle related law enforcement.

MOTION: **Senator Coiner** made the **motion** to adopt Docket No. 26-0131-0901. The motion was **seconded** by **Senator Cameron**. The motion **passed** by majority voice vote. Voting no was Senator Pearce.

DOCKET NO. 26-0134-0901: **Mr. Ricks** presented this rule. It is in regards to the invasive species sticker fee. Last year, the Parks Department collected the fees, then turned them over to the Agricultural Department to run the inspection stations and washing stations. This sticker is now incorporated into the boat registration sticker.

MOTION: **Senator Cameron** made the **motion** to adopt Docket No.26-0134-0901. The motion was **seconded** by **Senator Siddoway**. The motion **passed** by unanimous voice vote.

RS 19443: **Senator Schroeder** said this RS provides that the Director of the Department of Parks and Recreation shall be appointed by the Governor and that the Parks and Recreation Board shall be advisory. He said that he is introducing this bill and hopes they never have to pass it.

MOTION: **Senator Coiner** made the **motion** to send RS 19443 to print. **Senator Cameron seconded** the motion. The motion **passed** by unanimous voice vote.

Vice Chairman Bair turned the meeting back to **Chairman Schroeder**.

ADJOURN: **Chairman Schroeder** then adjourned the meeting at 2:40 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: January 29, 2010

TIME: 1:30 p.m.

PLACE: Room WW55

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

MEMBERS ABSENT/ EXCUSED: None

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 meeting to order at 1:30 p.m.

MOTION: **Senator Bair** made a **motion** for approval of the minutes of January 18, 2010. The motion was **seconded** by **Senator Werk**. The motion **passed** by unanimous voice vote.

MOTION: **Senator Brackett** made a **motion** for approval of the minutes of January 20, 2010. The motion was **seconded** by **Senator Bair**. The motion **passed** by unanimous voice vote.

GUBERNATORIAL APPOINTEE: **Mr. Anthony "Tony" McDermott**, Gubernatorial appointee for the **Idaho Fish and Game Commission** testified before the Committee. His term commenced June 30, 2009 and will expire June 30, 2013 and is the Commissioner representing the Panhandle Region. This is a re-appointment.

Commissioner McDermott is a semi-retired real estate broker who has been living in Sagle since 2000. He received his master's degree in public administration from Central Michigan University. He is a lifetime member of the Rocky Mountain Elk Foundation, the National Rifle Association and the North American Hunting Club.

Commissioner McDermott served in the military for 28 years. His career included two tours in Vietnam as a helicopter pilot. Most recently, he was chairman of the Military Science Department at the University of Montana in Missoula.

He said that he has been an avid outdoorsman all his life and is interested in wildlife, outdoor issues, and is looking forward to learning and contributing to make things better.

Commissioner McDermott stated that he would like to continue serving as a Commissioner because he has been deeply involved in some of the things that the Department has done during the past four years and would like to see fruition of some of the programs that are ongoing. He also said that it is rewarding for him to work with the professional people in the Department. Fish and wildlife issues are a passionate issue in every part of the state and it has been enjoyable for him to be involved in the process.

Following are some questions the Committee had concerns about:

Senator Siddoway said that when the Commission set the wolf quotas last year, he and another State Senator attended that meeting and watched the proceedings. He was disappointed that the Commission didn't select 485 wolves to be taken and asked Mr. McDermott to explain his rationale of preferring only 220 wolves. **Commissioner McDermott** said that he had read every document on wolves, including legal documentation, and attended the hearings in Judge Malloy's court. He feels that at the time (last August), he based his vote on trying to get a hunting season and voted for the lower number. He stated that he felt the Judge might not have permitted a hunting season if the numbers had been higher.

Senator Siddoway then asked Mr. McDermott about his area and if the wolf population is putting pressure on the ungulate population. **Commissioner McDermott** said the Panhandle Region has Units 1 through 9 and as of October of last year, there were currently 15 packs that was in excess of 150 wolves. Five of those packs are north of Sandpoint, with the largest concentration in Units 7 and 9, which are adjacent to Units 10 and 12 in Region 2. Units 10 and 12 are where the biggest wolf problems are. He feels the Lolo and Clearwater zones are the toughest, with the Sawtooth zone not far behind, followed by the Salmon Region. The ungulates are severely exposed in his region and he is very concerned.

Senator Siddoway asked the Commissioner for a synopsis of wolf hunters in his region. "Do they see the wolf as a trophy animal and want to expand the population or do they see the animal as a predator and want the numbers reduced?" **Commissioner McDermott** said that a large percentage of the sportsmen in Region 1 view the wolf as a big game animal. The majority of Idahoans feel the wolf was forced upon them by the Federal Government; however, there is a small percentage (10%) in North Idaho that would like to eliminate every wolf in the state. About 5% in North Idaho would like there to be no hunting of wolves. Most citizens in North Idaho want wolves controlled.

Senator Siddoway said that it seems to him that when predators were added to these areas, the prey base of those predators were going to be in jeopardy and that would take away hunting opportunities from the people who like to hunt elk, moose, and deer in those areas. If you hire a government agency to hunt the wolves, it seems that would be double-dipping on hunting opportunities and he asked for an explanation.

Commissioner McDermott said that wolves in Idaho are not a predator;

they were introduced as a big game animal by some previous agreement between the U.S. Wildlife Service and the Nez Perce Tribe. **Senator Siddoway** explained that he was not talking about the wolf's legal classification. **Commissioner McDermott** then said there is no doubt the wolf is a predator and is at the top of the food chain predator. He agrees that wolves are a problem and are taking as many elk as sportsmen are in the state (12,000). **Senator Siddoway** said that it seems to him that we should have taken the larger number (485) and asked Mr. McDermott if he felt intimidated by the Judge and the court? **Commissioner McDermott** replied that he was not intimidated, but was concerned that if the higher number was selected, the Judge might stop Idaho from having a hunting season.

One last question from **Senator Siddoway** was about the aggressiveness for removing whole packs when they prey upon livestock. The Committee was told last year (by the Commission and the Director) that the Department would be aggressive in removing whole packs when they prey upon livestock, and he said, from personal experience, that has not happened. The Senator is a sheep rancher, so there is a conflict of interest, but in the six counties that he serves in, he has many neighbors and constituents that have continual problems with wolf depredation. When the Department has the ultimate say on how many wolves can be taken after a depredation incident, the ranchers are told one wolf will be taken, maybe two wolves in a tough instance. Very seldom is a whole pack taken out and he asked where the Commission stands on this issue. **Commissioner McDermott** said that he has not talked with other Commissioners about their stand for the coming year, but he would state where he stands on this issue. He stated that he totally supports taking out entire wolf packs, given the number of wolves that are out there.

Senator Stennett then inquired about the documented study in the Lolo Region on elk. **Commissioner McDermott** said that he would personally provide that documented study to her.

Senator Pearce feels that we have been pushed around by the Federal Government and have allowed small groups to influence the policy and destroy the game herds with the influence that they have placed on the policy. He asked at what point do we stand up to them and tell them to leave us alone? The Senator said the whole picture has begun to take a real warped view. **Commissioner McDermott** stated that he feels they are getting close to that point. In two months, Judge Malloy will make a legal decision and all the documentation is in. **Senator Pearce** suggested that they look at the entire policy and then react. He then asked if the wolf population was dropped to 500, how many years would it take to build back the Lolo elk herd, and the elk across the state of Idaho, back to what it was before 1994? **Commissioner McDermott** said it wouldn't take too long. Alaska has dealt with the wolf problem for 75 years. Four years ago in Unit 21a, they took out 28 wolves. The caribou population had dropped from 7,000 to 400. Eighteen months later, that herd had gone from two calves per 100 caribou to 47 per 100. After two more years, they took out 15 wolves. They have doubled that herd in five years. .

That concluded the questioning of Commissioner McDermott by the Committee.

Senator Werk inquired about the political balance of the Commission. Chairman Schroeder asked Ms. Bonnie Butler from the Governor's Office to provide that information.

Commissioner Wayne Wright said they had provided briefing statements for the Committee. They include: Idaho Pelican Management; IDFG Temporary Employee Consolidation Proposal; IDFG Farragut Range Improvement and Re-open Status; IDFG Nongame Funding; IDFG Nonresident Tag Sales and Fiscal Effect; Results of the Nonresident Survey; Bighorn Sheep; Idaho Watershed Initiative Pilot Program; Echinococcus granulosus in Idaho; IDFG New Fishing Water Development; Salmon and Steelhead Run and Fishery Status; Wolf Management; IDFG Motorized Vehicle Rule. Two brochures were also included in the packet. They are Idaho Wolf Hunting Seasons and Rules and Motorized Vehicle Rules For Hunters.

The Commissioner commended Director Groen for his leadership; Jim Lau for the budget process; and Sharon Kiefer for providing information in a direct and honest way.

Chairman Schroeder inquired about violations of shooting at decoys from the road during hunting season. **Commissioner Powers** said if there was a citation, it would be "shooting in an unsafe manner".

The **Chairman** then asked about the standards of having a gun in a vehicle during hunting season versus the standards of having a gun on an ATV (all terrain vehicle). He said there seems to be a difference because some people have been cited on an ATV and had not fired their weapon. **Commissioner Barowsky** said that if you are in a hunting unit and have a weapon with you during hunting season, then you are hunting. **Senator Cameron** stated that the issue that has been raised is based on current understanding that people are being cited if they are on an ATV, even if they are on a road or trail if they have a weapon with them, unless they are retrieving an animal or going to camp. The same standard is not held to people occupying a regular vehicle. When they stop, get out, and fire the weapon, then they are considered in the act of hunting. On an ATV, it is considered hunting from a vehicle, even if the weapon has not been fired. He said that he had two concerns. First, he feels that Fish and Game should not be involved in enforcing it as it is causing some adverse situations and second, two different standards are being used for regular vehicles and ATVs. Senator Cameron did state that there may be a legitimate reason; however, he doesn't understand it. **Commissioner Budge** said this is a very misunderstood issue, the off-road vehicle restriction rule. This only precludes hunting in a restricted area, that has been designated for the off-road vehicle restriction. There is no such restriction in any hunting unit north of the Salmon River. There are 29 units south of the Salmon River, with three more units to be approved this year. If the ATV is on an established roadway, the rules do not apply. It only applies if: (1) you are in a restricted area; (2) off an established

roadway; and (3) if you are hunting. However, these rules do not apply to: (1) a handicapped person; (2) someone who is not hunting; (3) does not apply when retrieving game; (4) packing camping equipment in or out of a restricted area; and (5) no application to any private lands. Commissioner Budge said that hunting is facts specific. The enforcement officer needs to look at it on a case-by-case basis and evaluate the facts objectively as to what is going on.

Commissioner Budge stated that in 2008, there were in excess of 6,000 citations for all violations statewide. Of those, about 2,000 were warnings. In 2008, there were 23 citations and 33 warnings for violating the off-road vehicle rule in the 29 zones. A violation can only occur if one is beyond an established roadway and a trail is not a designated roadway.

Senator Cameron said that he wanted to hear two things from Commissioner Budge and they are (1) that you are treating ATVs and four-wheel drive pickups in the same manner (and you are); and (2) the issue of what is defined as hunting. The Senator feels that issue is still a sticky point.

Vice Chairman Bair suggested that the language in Idaho Code 36-202 (j), "on the trail of", should be tightened up. **Commissioner Budge** said that they have looked at that to see if it can be improved upon. Public education is needed as there is a lot of misunderstanding. He also stated that the county prosecutor has to provide the burden of proof. **Vice Chairman Bair** stated that from what he hears from his constituents is that the Department is not very friendly to ATVs and suggested that they improve their public relations.

Vice Chairman Bair then inquired about the temporary employee consolidation proposal. **Commissioner Wright** said that they have had concerns regarding that and have addressed it. IDFG has a large number of temporary employees and have chosen to change 28 of those positions from temporary to full-time employment, which will be 14. He stated that the savings would be about \$210,000.

Chairman Schroeder said that he had before him a brochure that says, "What is an established roadway?" If you can drive on it, you cannot shoot game on it. Some roads were built for logging, but are no longer maintained; however, some people still try to drive on them. He asked **Commissioner Trevey** to explain established roadways. **Commissioner Trevey** said that for the national forests, the guiding document that designates the status of the roads and trails of the area, is contained in each of the individual National Forest Travel Management Plans. The Department "piggy-backs" on that in referencing roads and trails.

Senator Coiner asked about unused health benefits that are turned back into the general fund. **Commissioner Wheeler** said that his understanding of that issue is it is putting their federal funds at risk. The amount of money at stake is \$15 million. The funds come from Dingle-Johnson, with a February 12 deadline. He stated that it will be "who and how" that this matter will be interpreted.

Senator Pearce said that he just wanted to state that the Commissioners and Director Groen are doing an excellent job. He also feels that there are rules in place to take out an entire pack of problem wolves.

Chairman Schroeder said that the Constitution provides for the Legislative Branch to pass laws of this state and the Executive Branch executes what is passed. He thanked the Commission for meeting with the Committee each year and he views it as a partnership to help solve problems. The Chairman expressed appreciation to Director Groen, Sharon Kiefer, Jim Unsworth, and all the staff for their cooperation.

ADJOURN: The meeting was adjourned at 3:05 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: February 1, 2010

TIME: 1:30 p.m.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Schroeder, Vice Chairman Bair, Senators Cameron, Pearce, Coiner, Brackett, Stennett, and Werk

MEMBERS ABSENT/ EXCUSED: Senator Siddoway

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 meeting to order at 1:30 p.m.

ANNOUNCEMENTS: He announced that on Wednesday, February 3, there will be a joint meeting with the House Resources & Conservation Committee regarding the grazing rule. This meeting will be held in the auditorium (WW02).

Also, in the blue folders for the Committee, Ms. Bonnie Butler of the Governor's Office has provided the political information of the Idaho Fish and Game Commissioners that was recently requested by Senator Werk.

MOTION: **Senator Cameron** made the **motion** to approve the appointment of Tony McDermott to the Idaho Fish and Game Commission. The motion was **seconded** by **Senator Pearce**. The motion **passed** by unanimous voice vote. **Senator Keough** will be the floor **sponsor**.

The **Chairman** then turned the meeting over to **Vice Chairman Bair, Rules Chairman**.

DOCKET NO. 25-0101-0901: **Vice Chairman Bair** asked **Mr. Jake Howard, Executive Director for the Outfitters and Guides Licensing Board**, to explain Docket No. 25-0101-0901.

Mr. Howard said that rule 002 adds additional activities to the definition of Hazardous Excursions. They are guiding courses, rescue courses, fishing courses and dog sled rides.

Rule 000 adds the Board's website address.

Rule 015 eliminates the multiple license year opportunity. The removal of the fee associated with filing applications is found in 09 of that rule.

Rule 029 clarifies Outfitter bond cancellations.

Rule 053 clarifies the fee for controlled hunts and is a minor amendment fee which is designated in statute as a \$35.00 fee.

Rule 056 eliminates the ability of an outfitter to submit a cash bond to the Board.

Rule 064 clarifies the Executive Director's limited authority to grant or deny certain license applications or temporary authorization applications. It also removes the Director's ability to suspend or revoke licenses.

MOTION: After some discussion, **Senator Cameron** made the **motion** to adopt Docket No. 25-0101-0901, with the **exception** of the changes in rule 002, Definitions, item 20, Hazardous Excursions. The motion was **seconded** by **Senator Pearce**. The motion **passed** by unanimous voice vote.

REQUEST: **Vice Chairman Bair** said that a unanimous request is in order to ask that two Department of Land rules be reconsidered. **Senator Cameron** said that as an explanation as to why this is necessary, previously the Committee had approved rules that had excluded some fee adjustments. After passing the rules, there were two other locations where those fee adjustments were also included.

DOCKET NO. 20-0304-0901: **Senator Cameron** then asked for **unanimous consent to revisit** Docket No. 20-0304-0901 to be reconsidered. There were **no objections** to the request.

MOTION: **Senator Cameron** made the **motion** to adopt Docket No. 20-0304-0901 **except**, with the previous exceptions, and paragraph 020.07.e (page 20), including subsections I, ii, iii, iv and subsection 035.04 (page 23) and subsection 065.02 (page 24). The motion was **seconded** by **Senator Schroeder**. The motion **passed** by unanimous voice vote.

REQUEST: **Senator Cameron** then asked for **unanimous consent to revisit** Docket No. 20-0317-0901 to be reconsidered. There were **no objections** to the request.

DOCKET NO. 20-0317-0901:

MOTION: **Senator Cameron** made the **motion** to adopt Docket No. 20-0317-0901 **except** subsection 030.01 (page 29) and subsection 055.02 (page 31). The motion was **seconded** by **Senator Schroeder**. The motion **passed** by unanimous voice.

The **Vice Chairman** inquired of **Director Bacon** if the procedure was done correctly and he indicated it was. **Senator Cameron** complimented the Director for his guidance regarding these fee rules.

Vice Chairman Bair turned the meeting back to Chairman Schroeder.

Chairman Schroeder said next would be the hearing for Gubernatorial appointee, **Jean S. McDevitt, to the Park and Recreation Board**.

GUBERNATORIAL APPOINTEE:

Ms. McDevitt was reappointed to the Park and Recreation Board to serve a term commencing June 30, 2009 and expiring June 30, 2015. Following is the bio she submitted to the Committee:

EDUCATION:

1956-1958 Idaho State College, Pre-Dental Hygiene
1958-1960 University of Southern California, B.S. degree in Dental Hygiene

EMPLOYMENT HISTORY:

1960-1961 Private practice in Southern California
1960-1961 Part-time clinical instructor in dental hygiene at University of Southern California
1961-1967 Idaho State University Department of Dental Hygiene, Academic and Clinical instructor
1968-1997 Raised a family
1997-present Board member of Idaho State Parks and Recreation

ORGANIZATIONS:

PROFESSIONAL:

Alpha Tau Epsilon - Honorary Dental Fraternity
Past President of Idaho State Dental Hygiene Association
Past member of Ethics Committee of the national Dental Hygiene Association
Past Chairman of Legislative and Ethics Committee of the National Dental Hygiene Association
Idaho Department of Parks and Recreation board member and chairman

COMMUNITY:

Worked on various national, state and local political campaigns
Past member of Zonta International Service Organization
Member and Treasurer of Delphi investment club
I have been an active member of St. John's and St. Anthony Catholic Community. I served on the St. Anthony School Board for six years and was a member and chairman of the Parish Council. I also served as Altar server coordinator and trainer for five years. I designed and sewed costumes for various school productions.

HOBBIES:

My family, hunting, fishing, camping, reading, gardening, and knitting. I teach various knitting classes at the ISU Craft Shop and I also teach at a local yarn store and privately.

In Ms. McDevitt's testimony, she stated that this will be her third term and she has a passion for Idaho's parks. She feels that she brings a different perspective to the Board.

Senator Cameron stated that he feels Ms. McDevitt has proven to be an outstanding member of the Park and Recreation Board. He then asked her how she sees Director Merrill accomplishing the director's job. **Ms. McDevitt** replied that she sees Director Merrill as their "cheerleader", as

she is an advocate for the parks and Director Merrill developed parks in Eagle when there weren't any. She also has a passion for parks. Ms. McDevitt said the Board needs someone to be a liaison with the Governor and the Legislature and Director Merrill is that person. **Senator Cameron** commended Director Merrill for her leadership in helping to develop Eagle Island State Park. He then asked Ms. McDevitt if she is willing to work with Director Merrill to find public/private partnerships and other ways to make parks, to the extent possible, self-sufficient and at the same time, protected, and to move forward given the dire financial situations. **Ms. McDevitt** responded by saying, "Absolutely!"

Senator Werk inquired about corporate sponsorships, what that could mean to the parks, and also, how far would the Board go? **Ms. McDevitt** replied that she feels they could start with cooperative agreements; provide plaques for assistance; and have "Friends of the Parks Day". **Senator Werk** said the state has put one-time money into projects, but how will the state have the ability to repair the infrastructure, which is antiquated, without money from the general fund? **Ms. McDevitt** said the state has an obligation to be proud of its parks; however, the Parks Department has lost 57% of its budget in one year. Most of their revenue comes from camping. She said they provide sewer, water, and electricity and you can't make money if you don't spend money.

Chairman Schroeder stated that the Park and Recreation Board has spent a lot of time in executive session and asked what her understanding is of what can and cannot be discussed in executive sessions. **Ms. McDevitt** replied that her understanding is that they can discuss personnel issues, hiring and firing, evaluations, legislation pending, and the buying and selling of property. **Chairman Schroeder** asked if the decision to close Dworshak State Park was made behind closed doors? **Ms. McDevitt** stated "absolutely not!" **Chairman Schroeder** then requested that the Board re-open Dworshak State Park.

He said the Parks system sometimes is given pieces of property and sometimes costly to maintain. He asked what sideboards should be placed on accepting those parcels into the park system. **Ms. McDevitt** said that she is not sure that sideboards should be placed on properties given to the Park system. They can be placed on inventory and at some point in time, be traded for state land or something with potential for building and developing. The **Chairman** asked if she was telling him the Board is going to use due diligence to make sure that we don't get properties with strings attached. **Ms. McDevitt** said that is their intent.

Chairman Schroeder asked Ms. McDevitt what she would do differently today than what has been done in the past two years? **Ms. McDevitt** replied that she wouldn't do anything different, as she doesn't look back, only moves forward. She learns from what she has done, makes her a better person, and the park a better place. With positions being eliminated and/or vacated, the **Chairman** then asked why decisions were not made to cut back staff earlier? **Ms. McDevitt** said that they were thinking of cutting back by not filling positions and asked for the amount of revenues and income.

Chairman Schroeder requested Ms. McDevitt to articulate the core mission of the Department of Park and Recreation. **Ms. McDevitt** said it is to provide recreation and outdoor experiences that are unforgettable.

The **Chairman** thanked Ms. McDevitt for testifying before the Committee. He also stated that she said the Board will work with Director Merrill to do what is necessary so that the people of the State of Idaho will have a Department of Park and Recreation. He stated that the people have certainly let the Legislature know that is what they want. The Chairman said that he has every confidence that the Board will work together as a team, with the Director, to see us through these very tough economic times in an efficient manner.

The Committee will vote on this appointment at the next scheduled meeting.

The **Chairman** then invited **Mr. Dallas Burkhalter, Deputy Attorney General for the Department of Fish and Game**, to address the Committee regarding the release of names of sportsmen who have harvested a wolf.

SPEAKER:

A copy of Mr. Burkhalter's talk is inserted into the minutes.

Chairman Schroeder and Committee members:

Per your request, we have summarized a list of the sections of the Idaho Public Records Law applicable to requests for hunters' names. This is in response to several publicized circumstances where the names of successful wolf hunters have been used to ascertain additional personal information that was not provided by the department. In several cases this has resulted in negative contacts to the hunter. Most recently, successful wolf hunters' names were posted on a website that was advertised in a newspaper.

The Idaho Department of Fish and Game regularly responds to Public Record Requests, which seek the names of persons who have been issued fishing, hunting or trapping licenses. These requests come from a variety of sources (media, attorneys, sporting groups and other groups). The Department is not allowed to make any inquiry as to why the person wants the names or other information, other than to verify the identity of the requestor and ensure that the requested information is not used as a prohibited mailing or telephone list (Idaho Code Section 9-338 (4 and 5)).

There is a statutory presumption that all public records are open for inspection except as expressly provided by statute (Idaho Code Section 9-338(1)). The term 'public record' is defined to include 'any writing containing information relating to the conduct or administration of the public's business prepared, owned, used or retained by any state agency...(Idaho Code Section 9-337(13)). All personal records provided to a state agency pursuant to a statutory requirement for licensing are exempt from Public Records disclosure, other than names, business

address and business phone numbers (Idaho Code Section 9-340C(8)). Because of this exemption, IDFG does not release home addresses or home telephone numbers. However, the license buyer's name is public record. IDFG does not maintain email addresses for license buyers, and only maintains business addresses and business telephone numbers for commercial licenses (taxidermists, fur buyers, commercial fishing).

The Public Records Law does not exempt the names of juvenile license buyers from public record.

Additionally, state agencies are prohibited from distributing or selling for use as a mailing list or a telephone number list any list of persons without first securing permission from those persons on the list (Idaho Code Section 9-348). This prohibition is less applicable to license buyers because home addresses and telephone numbers are exempt from public record. However, IDFG does maintain lists of sportsmen's' groups, newsletter groups, and Email alert lists; these contacts are provided voluntarily.

That concluded Mr. Burkhalter's presentation.

DISCUSSION:

Vice Chairman Bair inquired if legislation could be drafted so that minors do not have to be subjected to providing information. **Mr. Burkhalter** said there could be amendments to the Public Records law that could identify that information regarding minors not be released or you could specifically address aspects of Fish and Game licenses, if that was the intent. **Vice Chairman Bair** inquired if those similar statutes would hold up in a court challenge? **Mr. Burkhalter** said his initial impression is that it would hold up, with defining a specific exemption under the Public Records Law and legislation would identify the reason for that exemption.

Chairman Schroeder stated that there are one or two House members that are working on legislation and the intent is to not allow the names of minors to be released. He finds it interesting that the person who released the names to the paper said he did not intend to harass anyone. But the Chairman noted that when this person's name was released, he said the intent was to harass him.

Mr. Burkhalter said that when you have a list of names which is provided under the Public Records Law for licensees, maybe 10 years ago, that was just a list of names. With current technology and the way the internet works, now you can just use "Google" to find people. The **Chairman** inquired if one went to Fish and Game headquarters, could one copy names and addresses? **Mr. Burkhalter** stated that according to the Public Records Law, one has the right to view the original document. Now that much of the business is done on-line, there are no original boxes of documents that one could look through.

The Public Records Law has a section specifically addressing mailing lists and telephone number lists. That part of the statute says that no state agency will sell, release, or give away an address list or telephone number list without the permission of everyone on those lists.

Senator Werk said that it seems to him that there are two things that are mixed up together. The issue of public records - what a person can access that they pay for; but the other is the use of the information from the public records that might harm someone. He inquired if there was statutory authority that covers legal or illegal activities. **Mr. Burkhalter** replied that there are a number of criminal statutes, such as stalking; electronic harassment; assault and battery; and destruction of property that could come into play for mis-use. The problem is public records versus free speech, and he asked, at what point does the violation occur? **Senator Werk** said there needs to be a sense of balance.

Due to time constraints, the discussion was closed.

**ANNOUNCE-
MENTS:**

Vice Chairman Bair announced that the grazing rule would be heard on Wednesday. There is a memorandum in each member's folder regarding questions raised relating to two rules of Fish and Game and they will be addressed next Monday.

He then turned the gavel back to Chairman Schroeder.

ADJOURN:

Chairman Schroeder adjourned the meeting at 2:55 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE HOUSE RESOURCES & CONSERVATION COMMITTEE

DATE: February 3, 2010

TIME: 1:30 p.m.

PLACE: Room WW02 Joint Meeting

MEMBERS PRESENT: Senate members present: Chairman Schroeder, Vice Chairman Bair, Senators Pearce, Coiner, Siddoway, Brackett, Stennett, and Werk

House members present: Chairman Stevenson, Vice Chairman Shepherd (8), Representatives Wood (35), Bell, Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Wood (27), Boyle, Hagedorn, Harwood, Saylor, Chavez, and King

MEMBERS ABSENT/ EXCUSED: Senator Cameron and Representative 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 & Environment Committee and the House Resources & Conservation Committee to order at 1:30 p.m. The purpose of this meeting is to hear the grazing rule (IDAPA 20- Department of Lands, 20.03.14 - Grazing Leases and Cropland Leases, Docket No. 20-0314-0901).

ANNOUNCEMENT: He announced that at the conclusion of this hearing, the House members will return to their committee room and the Senate members will remain in the auditorium to continue their respective meetings on this rule. The Chairman then turned the gavel over to **Representative Raybould** who chaired the House sub-committee regarding the grazing rule.

DOCKET NO. 20-0314-0901: **Chairman Raybould** said the rule that will be discussed today has been discussed a number of times in both Houses and he hopes that today, there will be a conclusion that will bring satisfaction to both the Department and the constituents. He then asked **Mr. George Bacon, Director of Department of Lands**, to update the Joint Committee on where we are at this time.

Inserted into the minutes is a copy of Director Bacon's comments.

SPEAKER: Mr. Chairman, members of the committees: I am **George Bacon**,

Director of the Department of Lands. Before you is a pending rule, Docket number 20-0314-0901, related to the leasing of state endowment lands. It begins on page 106 in your rule booklets.

These rules outline new procedures to govern lease applications and conflict auctions for grazing and other uses. The old process was resulting in administrative inefficiencies for the department, uncertainty for our lease applicants, and litigation for both of us. In June 2007, the State Board of Land Commissioners formed a subcommittee, consisting of the Governor and the Attorney General, to begin studying this problem.

The procedural changes outlined in this pending rule are a result of a long public process and negotiated rule making. These changes are necessary to establish transparency, fairness, and consistency in the lease application and auction process. In addition, these rules will allow the Department to reduce costs, thereby improving the overall performance of the various activities covered under these rules, such as our range land program.

Now, if it would please the committees, I would like to ask **Bob Brammer, Division Administrator for Lands, Minerals and Range**, to tell you more about this pending rule and the process used to develop it.

SPEAKER:

Mr. Chairmen, members of the committees, I am **Bob Brammer, Division Administrator for Lands, Minerals and Range with the Idaho Department of Lands**. Thank you for the opportunity to testify before you regarding pending rule, Docket number 20-0314-0901 which addresses the leasing of state endowment trust lands.

As Director Bacon explained, the Land Board formed the Grazing Subcommittee in 2007 to review the grazing lease application and conflict auction processes and develop recommendations for improvements in those processes. The subcommittee's review began with a solicitation of public comment on the current processes through a mass mailing to representatives of the endowment beneficiaries and endowment land lessees as well as a posting on the Department's website. Forty-nine written comments were received.

Based on these public comments and Department recommendations, the subcommittee developed a proposed lease application/conflict auction process and scheduled four public hearings across the state in August 2008 to gather public comment on the proposed process. During the 30 day comment period, 59 written comments were received.

Following revisions to the proposed process based on the comments

received, the subcommittee scheduled statewide video conference presentations of the proposal in March 2009 to again seek public comment. During a two week comment period, 37 written comments were received.

In May 2009, the Department presented a draft temporary rule and draft proposed rule to the Land Board for their consideration. Both rules proposed changes that would implement the new lease application and conflict auction processes previously approved by the Board. The Department's recommendations to seek approval of the temporary rule and to enter formal rulemaking were approved by the Board.

The temporary rule was approved by the Governor with an effective date of July 1, 2009. The Department contracted a hearing officer and held six public hearings in August 2009 to receive oral and written comments on the proposed rule. A total of sixteen oral comments and nine written comments were received.

I will now summarize the changes in the pending rule before you:

GENERAL:

1. The scope of the rules is expanded from grazing and cropland leases to grazing, farming, conservation, non-commercial recreation and communication sites.

I would like to point out that the additional uses covered by this rule are not new uses of endowment land. We have been issuing leases for these activities for many years but they have not been previously covered by administrative rule.

APPLICATIONS:

1. A grazing management proposal is no longer required with all grazing lease applications.
2. All applicants for conflicted leases - which occurs when we receive more than one application for the same land - are required to meet with the Department to review their proposed use and develop lease provisions specific to that use.
3. Prior to the meeting, each applicant will receive a list of criteria the Department will use to develop the lease provisions.
4. If mutually acceptable lease provisions cannot be developed,

the application will be rejected.

AUCTIONS:

1. Creditable improvements existing prior to July 1, 2009 will continue to be valued by the Department based on on-site inspections and replacement cost new calculations.
2. Creditable improvements authorized after July 1, 2009 will be valued based on the lessee's cost at the time of installation.

That concludes my summary and I would stand for any questions.

Chairman Raybould asked if there were any questions for either Mr. Brammer or Director Bacon. Following are some of the questions asked:

QUESTIONS:

Senator Siddoway asked Mr. Brammer if "delinquent in any payments" on page 111 included child care payments due to a divorce? **Mr. Brammer** said it is "department transactions" that is being referred to.

Senator Stennett inquired as to who can lease the land and how is stewardship applied? **Mr. Brammer** stated that anytime they receive a lease application, they go through a review process, then meet with the Department to discuss what the proposed use is, evaluate that into the context resource assessment that Lands has done that identifies the existing resources. They also give financial consideration to the proposed use. They also look to see if any of the uses are in a conflict situation, and if it can be made compatible, then multiple leases might be made on the same parcel to generate more revenue streams. **Senator Stennett** asked how often the criteria is monitored? **Mr. Brammer** said that it is handled on a case-by-case basis. They have 1.8 million acres under grazing leases, with a total of 2.5 million acres of endowment land, and prioritize the land with new uses as they come on and if they had concerns about performance issues.

Senator Pearce asked about conservation. **Mr. Brammer** said the conservation asset management plan was approved in 2007 and defines those areas with certain rights and restrictions that are imposed to protect habitat and water quality. **Senator Pearce** inquired as to how often the Department checks on those properties - yearly or every 10 years? **Mr. Brammer** said it is on a case-by-case basis, depending on the litigation. The development of the lease provisions and the new applications coming in, generally are in the context of conflict leases. On an average, annually there are about ten percent of our expiring leases that are conflicted. That means there are 10 or 12 leases that would go through the more detailed process that might result in higher levels of monitoring requirements.

Representative Wood said her question is regarding what the criteria is on improvement valuation. **Mr. Brammer** said they have added the term “improvement valuation” to replace the definition of “appraisal.” The Department is not certified to be appraisers and they felt this change was a more accurate definition.

Senator Siddoway inquired about the time frame for the lessee to go through the mitigation measures. He asked if it is seven or ten days before the auction. **Mr. Brammer** said it does have something to do with the auction, as a process must occur prior to an auction. He stated that once they know that they have conflict applications, meetings are scheduled with each applicant to go over the lease provisions. Sometimes it takes a meeting or two and that defines what the final meeting date is. Each applicant receives a lease from the Department so that they know exactly what they will be bidding on. They then have seven days to accept or not accept. There is a 20 day appeal period and no auction would be held until the appeals are resolved. **Senator Siddoway** asked who decides the appeal? **Mr. Brammer** said the appeals go to the Land Board and is decided on a case-by-case basis.

Representative King said the period for leases are 10 years. She then asked if the cost stays the same or are they changed every few years? **Mr. Brammer** stated that the grazing and farming rates are set by the Land Board. The commercial leases are treated differently under statute than the five uses that are identified in these rules. The grazing lease formula is recalculated every year because it is tied to market conditions.

TESTIMONY: Chairman Raybould said they would now hear testimony from members of the audience.

First to testify was **Carl Ellsworth, President of the Idaho Cattle Association.**

Mr. Ellsworth stated that he runs a family cow/calf operation in Leadore and is here to speak in opposition to the new rules as proposed. He stated that the ICA appreciates the efforts the Idaho Department of Lands has made to improve the rules and feel that they have in many areas, and with some deletions, the ICA would be in support of the new rules.

Following are the changes to the rules that ICA believes must be rejected in order for them to deviate from its position of opposition to the rules:

Page 111

010.12. Herd Stock

This term is referred to in section 070 and should remain in the

rules for continuity.

020.01. Eligible Applicant

It is important to ICA that the language "To be eligible for grazing or cropland leases, an applicant must intend to use the land for domestic livestock grazing or for cropping purposes and must certify such," remain in the rules. This will help protect against outside interests obtaining a grazing lease with the sole intent of removing livestock, such as was the case with Lazy Y Ranch. Although those groups can now apply for conservation leases, we are not confident that they will not try to circumvent the process again by applying for grazing leases.

Page 112

020.02.d. Management Proposal

ICA remains committed to the inclusion of grazing management plans as a useful tool to manage grazing leases and address any concerns that may exist.

Continuing the practice of requiring grazing management plans for grazing leases will not require too much additional staff time for the Department of Lands (IDL) because all existing grazing lessees already have a management plan in place.

The use of management plans may actually help with the development of the lease because it allows potential applicants and IDL the opportunity to thoroughly review the demographics and concerns of the lease parcel prior to signing a lease.

Numbering will need to be corrected so "Non-conflicted Applications" becomes 020.02.3.

Page 114

021. Rights Reserved to the Department

This entire section should be reinstated. IDL should specifically state all issues up front in the rules. This provides assurances to lessees that rights reserved by IDL will be applied consistently.

Page 116

040.01. Rental Rates

Grazing leases should continue to be based on the number of AUMs so that all grazing lessees are consistently subject to the same rates.

040.02. Special Uses

This change does not make clear when special use fees will be applied. For example, will fees not apply if the special use is not consistent with the primary use or not in writing?

Page 117

050.01. Non-Compliance

For reasons previously discussed, "management plan provisions" should remain in the rules.

Page 118

054. Cropland Lease Hardship Claims

It stands to reason that this section should remain in the rules so that cropland lessees understand what their options are when they suffer hardships. This provides assurances that all cropland lessees will be subject to the same guidelines.

Page 120

073. Grazing Management Plans

As explained above, grazing management plans are a useful tool. The inclusion of these plans will have no effect on non-grazing leases nor IDL's ability to address concerns within the lease. Additionally, these plans also exhibit our industry's commitment to good and sound grazing management of the land.

090. Trespass

This entire section should be re-instated with the exception of "02. Civil Action by a Lessee". Only this section should be eliminated - IDL should not be encouraging a conservation lessee to take civil action against trespass cattle.

Page 121

100.02 Maintenance

This change is redundant. It is addressed in section 102.

Page 122

102.01. Existing Improvement & 102.02

It is unnecessary to increase IDL's administrative costs by establishing two different sets of rules for improvement valuation and by requiring valuation of all approved improvements rather than just those subject to conflict auction.

The changes to 01. should be rejected and the entire paragraph 02. Should be rejected because they will create additional administrative time and are inefficient.

Page 125

111.02. Responsibility

IDL should not shift costs of noxious weed control solely on grazers, particularly if they are not responsible for the problem. IDL should not be able to rule themselves out of the responsibility

of weed control. This is not fair or transparent.

Additional Thoughts

In addition to these rules, we believe there are some other rule and policy changes that could be made by IDL to improve management of grazing leases and better fulfill IDL's responsibility to bring long-term revenue to the endowment. ICA would greatly appreciate the opportunity to review these issues with IDL, Land Board members, and legislators to ensure that meaningful change can be brought about in a manner that is agreed upon and is mutually beneficial.

In closing, I would like to say that regardless of the outcome on these proposed rules, there remains the need to continue to work together and improve the rules to enhance the management and the long-term return to the endowment lands.

Testifying in **support of the changes** suggested by Carl Ellsworth, President of ICA, were the following:

Charles Lyons
Jeff Lord
Doug Rutan
Wally Butler

That concluded the testimony. **Chairman Raybould** turned the gavel back to **Chairman Schroeder**.

ADJOURN FOR THE HOUSE:

Chairman Schroeder adjourned the meeting for the House members and recessed the meeting for the Senate members for ten minutes, at which time action will be taken on the grazing rule.

RECESS FOR THE SENATE:

Gary J. Schroeder, Chairman
Senate Resources

John "Bert" Stevenson, Chairman
House Resources

RECONVENE:

The **Chairman** reconvened the meeting at 2:40 p.m., then turned the gavel to Vice Chairman Bair, Chairman of the Rules Review.

Vice Chairman Bair then called on Chairman Schroeder for a motion.

MOTION:

Chairman Schroeder made a motion to get the issue on the table and provided a copy of the motion to the committee members. His motion

was as follows: I move we adopt Docket Number 20-0314-0901, excepting the following:

Paragraph 010.12 [Herd Stock defined], on page 111;
Paragraph 020.01 [Eligible Applicant defined], on page 111;
Paragraph 020.02.d [Management Proposal], on page 112 including 020.02d.i and 020.02.d,ii;
All of paragraph 021 [Rights Reserved to the Department], including 021.01 through 021.11 on pages 114 and 115;
Paragraph 040.01 [Rental Rates], on page 116;
Paragraph 040.02 [Special Uses], on page 116;
Paragraph 050.01 [Non-Compliance], on page 117;
All of paragraph 054 [Cropland Lease Hardship Claims], including 054.01, 054.02 and 054.02 "a" through "g", on pages 118 and 119;
All of paragraph 080 [Grazing Management Plans], including 080.01 and 080.02 on page 120;
Paragraph 081 through 089 [Reserved], inclusive on page 120;
All of paragraph 090 [Trespass], including 090.01 through 090.04 on pages 120 and 121;
Paragraph 100.02 [Maintenance], on page 121;
Paragraph 102.01 [Existing Improvements], on page 122;
Paragraph 102.02 [New Improvements], on page 123;
And paragraph 111.02 [Noxious Weed Control - Responsibility], on page 125.

The motion was **seconded** by **Senator Pearce**.

Chairman Schroeder said that motion includes the recommendations by the Idaho Cattle Association, with one exception. On the trespass section, they recommended that we not delete .02 on page 121. The Attorney General's Office advised that the whole section should be rejected.

Senator Siddoway said that he has some real reservations about what is about to be done. He would like to pursue a different remedy of what he perceives as the problems and will not be supporting the motion.

A roll call vote was requested by **Vice Chairman Bair**. Voting aye were Senators Werk, Stennett, Brackett, Coiner, Pearce, Schroeder, and Bair. Voting nay was Senator Siddoway. Senator Cameron was absent. The **motion passed** 7-1.

Vice Chairman Bair turned the gavel back to Chairman Schroeder.

ADJOURN:

With no further business to come before the committee, **Chairman Schroeder** adjourned the meeting at 2:55 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

- DATE:** February 8, 2010
- TIME:** 1:30 p.m.
- PLACE:** Room WW55
- MEMBERS PRESENT:** Chairman Schroeder, Vice Chairman Bair, Senators Cameron, Pearce, Coiner, Siddoway, Brackett, Stennett, and Werk
- MEMBERS ABSENT/ EXCUSED:** None
- 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 meeting to order at 1:35 p.m.
- MOTION:** **Vice Chairman Bair** made a **motion** for the approval of the minutes of January 22, 2010. The motion was **seconded** by **Senator Coiner**. The motion **passed** by unanimous voice vote.
- MOTION:** **Senator Brackett** made a **motion** for the approval of the minutes of January 25 and January 27, 2010. The motion was **seconded** by **Senator Bair**. The motion **passed** by unanimous voice vote.
- ANNOUNCEMENTS:** The **Chairman** said that originally, on Wednesday, the Clearwater Paper Group was going to be here; however, they have cancelled. There will still be a meeting in order to print some RSs.
- He then turned the gavel over to **Vice Chairman Bair**, as he (Chairman Schroeder) had a RS to present.
- RS 19490:** **Chairman Schroeder** explained that captured predatory wildlife or unprotected wildlife, captured during control operations, can be released live on private lands in the county of origin or on private lands in adjacent counties with the written consent of the private landowner. The inclusion of "the written consent of the landowner" was suggested by Senator Pearce.
- MOTION:** **Senator Pearce** made the **motion** to send RS 19490 to print. The motion was **seconded** by **Senator Coiner**. The motion **passed** by unanimous voice vote.
- Vice Chairman Bair** turned the gavel back to **Chairman Schroeder**.

MOTION: **Chairman Schroeder** stated that the next order of business would be to vote on the Gubernatorial re-appointment of Jean McDevitt to the Park and Recreation Board.

GUBERNATORIAL APPOINTMENT: **Senator Werk** made the **motion** to send the re-appointment of Jean McDevitt to the Park and Recreation Board to the floor with a do pass recommendation. The motion was **seconded** by **Senator Coiner**. The motion **passed** by unanimous voice vote. **Senator Bilyeu** will be the **floor sponsor** of Ms. McDevitt.

The **Chairman** returned the gavel to **Vice Chairman Bair**, Chairman of the Rules Review, to hear two rules of the Department of Fish and Game.

DOCKET NO. 13-0103-0901: **Vice Chairman Bair** said that discussion was started earlier on this rule and it was determined that more information was needed. He then invited **Ms. Sharon Kiefer, Assistant Director of Policy for the Idaho Department of Fish and Game**, to address the issue.

Ms. Kiefer said this rule is specific to the lands that the Department owns or controls. Inserted into the minutes is her written followup which she provided to all committee members.

Mr. Chairman: The following is information and clarifications requested from the committee.

1. Clarify Department "controlled" lands per Docket 13-0103-0901 Public Use of the Lands Owned or Controlled by the Department of Fish and Game. Lands controlled by the Department are those where the Department has specific agreement with the landowner/manager that lands will be managed consistent with Fish and Game lands. We have numerous types of leases, management agreements and easements — each is implemented based on the specific circumstance and provisions described in the cognizant document. The Department has fee title ownership to 210,000 acres. There are an additional 160,000 acres that may or may not be managed consistent with this docket based on the specific understandings of the lease, agreement, or easement (50,000 acres leased; 90,000 acres covered by various management agreements; 20,000 acres with easements).

2. Clarify use of Department lands for historical trailing. We are aware of historical and ongoing livestock trailing activity on Montpelier, Craig Mountain, and Sand Creek WMAs. There is movement of a sheep camp across the Portneuf WMA to access an allotment on US Forest ground. Trailing of sheep across Montpelier WMA is an ongoing practice in both spring and fall. The Regional Supervisors will be working on agreements with operators to continue these practices. The prohibition in 100.01.r (page 14 of Docket 13-0103-901) is directed at intentional livestock trespass where it is not an ongoing, recognized activity.

3. Provide public comments to the Commission about the Department land use rules in Docket 13-0103-0901 Public Use of the Lands Owned or

Controlled by the Department of Fish and Game. Inputs on the proposed changes were solicited via the Department's website and a statewide press release was also issued to inform people of the opportunity to comment on the proposed rule changes. There was also public input opportunity when the rules bulletin was published.

The Department received input about various aspects of the rules from 37 individuals, not all responders commented on all components of the rules.

There was no input relative to the Director delegating more authority to regional supervisors,

8 supported all recommended changes,

8 felt the Department was over-regulating the public,

1 supported defining designated roads closed unless posted as open and

7 did not support,

1 supported leaving manufactured blinds unattended for 1/2 hour (original proposal) and 4 did not support, 2 had alternative time recommendations. As a result of the input, the rule proposal was changed to not leaving manufactured blinds and tree stands overnight; this seemed to satisfy the concerns,

2 did not support permitting to use paint guns on Department lands,

3 did not support permitting to stash geo caches on Department lands,

1 was against requiring permitting for group use (larger than 15 people) and I suggested only non-family groups of this size should require permitting.

Senator Siddoway inquired about the historical uses and the established trail rights. **Ms. Kiefer** replied that the intent of the original rule was to work with livestock operators. The changes in the rule will make it easier for the ranchers as the use is no longer permitted by the director, but by the regional supervisor on a local level.

Vice Chairman Bair said there was much discussion about ATVs previously. Historically, the Fish and Game lands have been open unless posted as closed. Now, it will be changed to closed unless posted as open. There were no further questions regarding this issue.

Chairman Schroeder said that he wanted to make sure that no one will get a citation if they can't find a shotgun shell or because they gutted a

pheasant or deer while hunting. **Ms. Kiefer** said the intent is not to prohibit or restrict any common field practices on Fish and Game lands. Hunting species and leaving pieces, parts, and a few shotgun shells (that one cannot find) is a common practice. The intent of the rule is truly to deal with litter and dumping, which are not common practices affiliated with Fish and Game lands and their use. **Chairman Schroeder** requested that this conversation be recorded in the minutes, word-for-word.

Senator Stennett inquired about the placement of geo caches. **Ms. Kiefer** said that it must be authorized by one of the following: the Commission, Director, Regional Supervisor, or other authorized agent (land manager) or by lease, permit, contract, or agreement. She said that they have allowed a wide range of communication so that certain activities can move ahead.

MOTION: **Senator Siddoway** made the **motion** to approve Docket No. 13-0103-0901. The motion was **seconded** by **Senator Pearce**. The motion **passed** by unanimous voice vote.

DOCKET NO. 13-0111-0901 **Vice Chairman Bair** said this is the docket that Chairman Schroeder found an error, regarding catching fish by hand. On page 69 of the rules, the word should have been "unlawful" instead of "lawful". **Ms. Kiefer** said that if this subsection should be rejected, then it would revert back to the previous rule, which would read "use of hands - it is lawful to take bullfrogs and crayfish with hands."

MOTION: **Senator Siddoway** made the **motion** to adopt Docket No.13-0111-0901 except for section 201, subsection 11, use of hands. The motion was **seconded** by **Chairman Schroeder**. The motion **passed** by unanimous voice vote.

That concluded the Rules Review. **Vice Chairman Bair** turned the gavel back to Chairman Schroeder.

Chairman Schroeder thanked the Vice Chairman for all his hard work on the Rules. He then called on Mr. Jake Howard to present his two bills regarding the Outfitters and Guides Association.

S 1265: **Mr. Howard, Executive Director for the Outfitters and Guides Board**, said this bill is largely a housekeeping matter addressing language that contradicts other statutory responsibilities. There is a need for the Board to address territorial conflict between any and all outfitters, not just those providing big game operations.

MOTION: After some discussion, **Senator Coiner** made the **motion** to send S 1265 to the floor with a do pass recommendation. The motion was **seconded** by **Senator Stennett**. The motion **passed** by unanimous voice vote. **Senator Stennett** will be the floor **sponsor**.

S 1266: **Mr. Howard** presented S 1266 and said the purpose is to change the

language in Idaho Code 36-2102 (g) from “License year” which means “that period of time beginning on the date an outfitter’s or guide’s license is issued and ending on the anniversary of the date of issuance in the following year” to read “License year” means “that period of time beginning on the date an outfitter’s or guide’s license is issued and ending on March 31 the following year.”

The March 31 annual date provides in industry a consistent expiration date for re-licensing. The 400 outfitters and their approximately 350 designated agents will continue to have a seven month window in which they can re-license. Additionally, the March 31 annual date provides a consistent expiration date for the outfitters to submit annual use reports; bond and insurance information. It also is the beginning step for hunting outfitters to receive their allocated big game tag vouchers later in the year. These tags are provided at specific dates annually by the IDFG and then to the outfitters by the Board.

MOTION: **Senator Siddoway** made the **motion** to send S 1266 to the floor with a do pass recommendation. The motion was **seconded** by **Vice Chairman Bair**. The motion **passed** by unanimous voice vote. **Senator Stennett** will be the floor **sponsor**.

ADJOURN: With no further business to come before the committee, **Chairman Schroeder** adjourned the meeting at 2:20 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

- DATE:** February 10, 2010
- TIME:** 1:30 p.m.
- PLACE:** Room WW55
- MEMBERS PRESENT:** Chairman Schroeder, Vice Chairman Bair, Senators Cameron, Pearce, Siddoway, Brackett, Stennett, and Werk
- MEMBERS ABSENT/ EXCUSED:** Senator Coiner
- 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 meeting to order at 1:30 p.m., then turned the gavel over to **Vice Chairman Bair**.
- RS 19489C1:** The **Chairman** said the purpose of this RS is to authorize the Department of Fish and Game to provide that the department may require holders of fur buyer/taxidermy licenses to submit forms or records, as determined by the department, to the department relating to the purchase of black bears and cougars, skins, or parts thereof.
- MOTION:** **Senator Cameron** made a **motion** to print RS 19489C1. The motion was **seconded** by **Senator Werk**. The motion **passed** by unanimous voice vote.
- Vice Chairman Bair** returned the gavel to **Chairman Schroeder**.
- RS 19512:** **Chairman Schroeder** then called on **Ms. Suzanne Budge** to present this RS.
- Ms. Budge** said this proposal is an outgrowth of the work of Natural Resources Interim Committee. HCRI8, passed in 2009, requested that the interim committee study the impacts of the conversion of working ranches, farms and forests to other uses. The interim committee examined the need for new state policy initiatives to protect the values that such lands contribute to local economies, agricultural heritage, wildlife habitat, and recreational opportunities. As a result of these discussions, RS 19512 is proposed to establish the working lands fund in the state treasury. The purpose of this fund is to protect and enhance the benefits that working lands provide to all Idahoans. The fund is authorized to receive future legislative appropriations, private donations and other contributions. The fund shall be administered by the working lands fund committee composed of nine members appointed by the governor. The fund shall be

used to support grants that provide voluntary incentives to landowners and project sponsors for natural resources stewardship, protection and enhancements habitat and recreation opportunities. Such grants are intended to complement the land conservation and stewardship programs of state natural resources agencies by, among other things, assisting such agencies and public organizations in meeting match requirements.

MOTION: After a short discussion, **Senator Cameron** made the **motion** to send RS 19512 to print. The motion was **seconded** by **Vice Chairman Bair**. The motion **passed** by majority vote. Voting no was Senator Siddoway.

The Chairman stated that some minutes need approving.

MOTION: **Senator Siddoway** made a **motion** for the approval of the minutes of January 29, 2010. The motion was **seconded** by **Senator Brackett**. The motion **passed** by unanimous voice vote.

ADJOURN: **Chairman Schroeder** adjourned the meeting at 1:40 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

- DATE:** February 12, 2010
- TIME:** 1:30 p.m.
- PLACE:** Room WW55
- MEMBERS PRESENT:** Chairman Schroeder, Vice Chairman Bair, Senators Cameron, Pearce, Coiner, Siddoway, Brackett, Stennett, and Werk
- MEMBERS ABSENT/ EXCUSED:** None
- 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 meeting to order at 1:30 p.m.
- ANNOUNCEMENTS:** He stated that on Monday, the 15th, there will be six bills on the agenda, with four of them from the Department of Fish and Game. Wednesday, the 17th, there will be a Joint meeting with the House Resources and Conservation to hear a presentation sponsored by the Idaho Council on Industry and the Environment (ICIE).
- MOTION:** There were three RSs on the agenda. **Vice Chairman Bair** made a **motion** to send RS 19553, RS 19583, and RS 19629 to print. The motion was **seconded** by **Senator Siddoway**. The motion **passed** by unanimous voice vote.
- A short synopsis of the three RSs are as follows:
- RS 19553:** A Concurrent Resolution rejecting a certain final rule of the Idaho Department of Fish and Game relating to rules governing classification and protection of wildlife.
- RS 19583:** Amends section 38-1909, Idaho Code, to allow the Idaho Board of Scaling Practices to equally assess private timber owners and timber purchases.
- RS 19629:** Clarifies that accredited colleges and universities, including their employees and students, are exempt from licensure as guides or outfitters as long as they are providing outdoor experiences involving only employees and students of the college or university.
- Chairman Schroeder** said the next order of business would be a presentation on Bighorn Sheep Viability and asked **Mr. Andy Brunelle, USFS Capitol City Coordinator**, to introduce the panel.

The panel members were Ms. Suzanne Rainville, Forest Supervisor, Payette National Forest; Ms. Patty Soucek, Forest Planner, Payette National Forest; and assisted by Chans S. O'Brien, GIS Analyst.

SPEAKER:

First to speak was **Ms. Rainville**, using a PowerPoint presentation, and she referenced her talk to the slides. They are as follows:

BRIEFING OBJECTIVES

- History and Background
- Updated /Analyses and Models
- Updated Effects Analysis

BACKGROUND

- March 9, 2005, the Chief of the Forest Service reverses the 2003 Forest Plan decision as it pertains to bighorn sheep and its habitat
- Found not compliant with National Forest Management Act for bighorn sheep viability issues
- Found not likely compliant with Hells Canyon National Recreation Act
- Forest Plan direction remanded for bighorn sheep

APPEAL DIRECTION

- Regional Forester conduct bighorn sheep viability analysis in the Payette National Forest
- Ensure habitat is available for a viable population of bighorn sheep
- Support determination of compliance with Hells Canyon NRA Act, 36 CFR 219, 19,3 6 CFR 292.48
- Amend Forest Plan to add direction that insures bighorn sheep viability

VIABILITY - REQUIREMENT

- Fish and wildlife habitat shall be managed to maintain viable populations of existing native and desired non-native vertebrate species in the planning area (36 CFR 219.19)
- Guidance
 - Focus on habitats as a requisite for viability
 - Focus on vertebrate species
 - Focus on selected species: management indicator, listed species, sensitive species

VIABILITY - DEFINED

- Habitat must be provided to support, at least, a minimum number of reproductive individuals and that habitat must be well distributed so that those individuals can interact with others in the planning area. (36 CFR 219.19)

ANALYSIS FOUNDATION FOR ASSESSING VIABILITY

- Bighorn Sheep Habitat
 - Do we have it? How much do we have? Is it well distributed across the landscape? Is it connected?
- Bighorn Sheep Landscape Use
 - Where are they? How far do they foray? Are herds inter-

- connected?
- Domestic Sheep Allotment Use
Where are the allotments? When are they on the allotments? Where do they trail?

DRAFT SEIS

- Released Document - October 2008
- 5-month Comment Period
- 14,000+ Comments
- Content Analysis of the Comments

SPEAKER: **Ms. Patty Soucek** continued the presentation.

COMMENTS ON DSEIS

- Save Bighorn Sheep
- Save Domestic Sheep Grazing
- Keep risk for contact near zero
- Provide for Treaty Rights
- Use the Science
- Conduct Economic Analyses

PROCESS FOR UPDATE TO DRAFT SEIS

- Developed
 - Source habitat Model
 - Core Herd Home Range Analysis
 - Contact Analysis
 - Disease Spread Model
 - Community and Regional Economic Impact Model
- Analyzed Effects
 - Bighorn Sheep as a Sensitive Species
 - Rangeland Resources
 - Tribal Rights and Interests
 - Socio-Economics
 - Environmental Justice
- Cooperator Status for State and Tribes

SENSITIVE SPECIES

- “Those plant and animal species identified by a Regional Forester for which population viability is a concern, as evidenced by significant current or predicted downward trend in population numbers, or habitat capability that reduce a species existing distribution.” (FSM 2672.1)
- Objectives for sensitive species include “special management emphases to ensure viability and to preclude trends toward endangerment that would result in the need for Federal listing.”(FSM 2672.1)

SPEAKER: **Mr. O'Brien** spoke next, explaining the maps and data contained.

The next several slides were maps of the area showing summer habitat; winter habitat; telemetry and observation; population estimates for Hells

Canyon herds; IDFG population counts for Salmon River herds; core herd home ranges; Main Salmon and Southfork core herd home range; foray distances and frequencies; Main Salmon and Southfork core herd home range and foray probability; Upper Hells Canyon core herd home range; and Upper Hells Canyon core herd home range and foray probability.

DISEASE MODEL

- Utilizes the contact rate from the analysis based on foray behavior
- Predicts the probability of disease spread through the rest of the bighorn sheep population
- To determine persistence of the population over time

Population trajectories for three herds

- Imnaha
- Sheep Mountain
- Wenaha

DISEASE INPUTS

- Herd-to-herd contact probability matrix
- Combined BHS/DS-to-BHS transmission
- Outbreak probability
- Initial herd infection status
- Disease outbreak impact
- Extended infectious duration
- Extended adverse effect duration

MODELS & ANALYSES SUMMARY

- Offers multiple quantitative ways to display habitat, population, and potential movement patterns of bighorn sheep relative to landscapes and interactions with domestic sheep
- Compares alternatives relative to risks for bighorn sheep
- Logical and consistent with our understanding of bighorn and domestic sheep interactions

Ms. Soucek resumed speaking to the committee on the following:

EXPANDED ECONOMIC ANALYSES

- Agricultural Economics
 - Community and Regional Impact Models
 - Grazing Fee Impacts
 - Production Value
- Non-market/Recreation Economics
 - Value of Bighorn Sheep Hunts

2008 GROSS INCOME FROM SHEEP AND LAMB PRODUCTION IN SELECTED REGIONS

Idaho State Total for:
Sheep/Lambs – 235,000

Meat	\$19,769,000
Wool	\$ 1,949,000
Total	\$21,718,000

TRIBAL RIGHTS AND INTERESTS

- Directly tied to:
 1. Viability and persistence of the bighorn sheep population over time
 - Provides for a subsistence lifestyle and maintains Tribal traditions
 2. How much area is identified as not suited for domestic sheep grazing
 - Allows for hunting in traditional areas and areas that are culturally important

UPDATE TO THE DRAFT FOREST PLAN DIRECTION

- Maintain Separation
- Monitor for Bighorn Sheep Presence
- Adapt if an Effective Vaccine is Developed
- Implement emergency actions if bighorn sheep are detected near domestic sheep
- Graze domestic sheep only if separation can be maintained
- Domestic sheep grazing is permitted if bighorn sheep monitoring is conducted

Ms. Rainville closed the presentation with the following comments:

TIMELINE

- 45 day comment period on Update
 - Ends March 22, 2010
 - payettebighorn@fs.fed.us
- Content Analysis of the Comments
- Issue the Final SEIS and Decision
 - May 2010

SUMMARY

- Updates to the DSEIS
 - Habitat Model
 - Core Herd Home Range Analysis
 - Quantitative Contact Analysis
 - Disease Spread Model
 - Regional Socio-economic Analysis
 - Environmental Justice Analysis

DISCUSSION: Following are some of the questions asked by the committee members.

Senator Pearce inquired as to when the last inventory was taken on the bighorn sheep. **Ms. Rainville** said they receive their data from the Department of Fish and Game and some of it is from last summer. **Senator Pearce** noted that there was no mention of wolves in the areas

referred to, of which he is very familiar with. Where ever there is a presence of wolves, the sheep population declines severely, and no mention was made of wolves in the models referred to. He asked Ms. Rainville to specifically address that issue. **Ms. Rainville** responded by saying that in the very rocky areas where the Bighorn sheep are found, usually the predators are the mountain lions, rather than from the wolf population. **Senator Pearce** stated that in some of the areas shown as possible sheep habitat, there is also wolf habitat. The sheep will not survive without the rugged protection. The Senator said that he didn't see that factored into the models. **Ms. Rainville** said that she would take his comments under advisement.

Senator Pearce then inquired as to how old the data was regarding telemetry. **Mr. O'Brien** stated that it is from 12+ years. **Senator Pearce** said that the numbers had been expanded all that they could so that the Native Americans can come back to partake and live, and asked if it was taken from the reservation boundaries? He feels they are being accommodated, but our people are not. **Ms. Rainville** said the federal government has responsibilities to the tribal treaty rights. She does not interpret the treaties, but must respect them.

Senator Siddoway asked Ms. Rainville how many Bighorns are on the Payette Forest today, within the Hells Canyon complex and the area she finds as critical habitat for the Bighorn sheep. **Ms. Rainville** responded that the number is about 250. To include the Upper Hells Canyon, the population is between 800-850. **Senator Siddoway** then asked how they arrived at the value of the sheep in the analysis. **Ms. Rainville** said they worked directly with the economists. The **Senator** said that he is not getting an answer. "Was it \$1,000 a ram; \$10,000; or \$20,000? What price did you put on them?" He stated that "on the economic charts provided, domestic sheep on the range is bringing in \$1.6 million for the two counties, that it will be off-set by the total value of all the wildlife, all species within the state. The 250 head and the 800 head are not compared with the livestock in that area, and he asked why not make the comparisons the same?" He feels the figures are not accurate. **Ms. Rainville** said that she understands what he is saying and she will consider the comments.

Senator Siddoway's next question was regarding money from the budget to monitor the separation of domestic sheep from the Bighorn sheep, as well as money for vaccine for domestic sheep. **Ms. Rainville** responded by saying last year they did have appropriated dollars to monitor the separation. They also had partners, as well as people out in the field. They hope to do the same thing this year as far as separation is concerned. Regarding vaccine, she wants to have adapted management available so that if a vaccine is developed, the Forest Service could use that tool if it becomes available.

Senator Siddoway inquired about the status of the safety of the sheep in the Riggins area now that they are without men on the ground and only have guard dogs with the flocks and he also asked if the possibility of transmission would be greater. **Ms. Rainville** said that particular rancher

is still grazing his flocks on the Payette National Forest. In terms of what may happen in the future, she stated that it is part of the analysis they are working on now and will address it in their final environmental impact statement. She also stated that they are focusing on direct effects to the Payette National Forest.

Senator Stennett's inquiry was about being in compliance. **Ms. Rainville** said they were given the directive over five years ago and it seems prudent that they move as quickly as they can. They have been involved in public outreach to look at all the different aspects. **Senator Stennett** asked with whom the final decision rests and **Ms. Rainville** said that it rests with her. If the public wishes to appeal, then it goes through their administrative process and the last step, if needed, would be to go to court.

Senator Brackett asked if this plan was only for the Payette National Forest and the answer was yes. **Senator Brackett** then inquired about the chance of transmission throughout the Basin. **Ms. Rainville** said this only applies to the Payette National Forest. The **Senator** said that he understands her response, but he feels that wherever Bighorn sheep and domestic sheep are anywhere close, that whatever happens in the PNF will set precedence for the rest of the state.

Vice Chairman Bair said he thought that he heard in the opening remarks that the Forest Service's job was to maintain habitat. He questioned as to why they are going into managing the Bighorn sheep - talking about diseases and other things - not just talking about growing good grass and things they need to eat. The Senator then asked **Ms. Rainville** why it appears she has stepped over those bounds. **Ms. Rainville** said the Senator is correct in his observations. She also stated that they have ample habitat for Bighorn sheep on the Payette National Forest. In their Forest Plan of 2003, they had an issue that was presented to the public which was about disease transmission. As the terms of disease transmission was carried forward into this viability analysis, they have to look at it from their current Forest Plan, as there is potential for disease transmission. **Vice Chairman Bair** asked who owned the Bighorn sheep? **Ms. Rainville** responded by saying the State of Idaho. The **Vice Chairman** then asked if it wouldn't be better if the Idaho Department of Fish and Game took the disease issue into their hands and let them do it, rather than let the federal government do it. **Ms. Rainville** said she is looking forward to having an updated sheep management plan from the State of Idaho.

Vice Chairman Bair said he now wanted to talk about viability, as its definition is so broad in scope. He asked who determines what is viable and what is that number? **Ms. Rainville** deferred the question to **Ms. Soucek**. **Ms. Soucek** said that what they did was to ask - Where is the habitat? Do we have it? Is it well distributed across the landscape and is it all connected? She said they have all those things, but it isn't all available to the Bighorns. She said the next question was to ask how much do they make available to reduce the contact so that you can have the Bighorn sheep. With the Bighorn sheep listed as a sensitive species,

it does bring another concern because the population is in a downward trend. They are looking at management strategies to stop the downward trend and turn it around. As far as numbers, she stated that there are 30 to 100 per herd.

Vice Chairman Bair inquired as to how many Bighorn sheep the Native Americans take each year. **Ms. Rainville** said that she doesn't have access to that information and that they don't have to provide that information.

Chairman Schroeder asked Ms. Rainville to review the concept whereby the State of Idaho is allowed to manage the wildlife. She deferred that question to Ms. Soucek. **Ms. Soucek** said they are to be managed in the best interests of the public good. She was not able to name the document that provides that.

The **Chairman** said that he understands that the population of the Bighorn on the Middle Fork has declined about 70% over a period of years. **Ms. Soucek** said all the herds on the Salmon River have declined at different levels. When asked what the reason was, she said that she didn't know. The **Chairman** stated that the 70% decline has him worried.

Senator Siddoway said that he noted that almost all the science was back in 1989 and 1990; nothing on Dr. Ward's work, or the Caine Center, and he questioned as to why today's science is not used. **Ms. Rainville** said that she understands that they have the most recent and up-to-date information. She will check into it.

Senator Siddoway then asked why the Forest Service is appealing the ruling that was given to the Idaho Wool Growers Association. **Ms. Rainville** said that she was not aware of the appeal.

Vice Chairman Bair asked which plan will be used - 7G, 7L, 7M? **Ms. Rainville** said that she hasn't made a decision at this point.

That concluded the questions from the Committee.

**ANNOUNCE-
MENT:**

On the agenda for Monday, there will be quite a few Senate bills and perhaps one RS.

ADJOURN:

Chairman Schroeder thanked Mr. Brunelle and the panel members for their presentation. He then adjourned the meeting at 3 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

- DATE:** February 15, 2010
- TIME:** 1:30 p.m.
- PLACE:** Room WW55
- MEMBERS PRESENT:** Chairman Schroeder, Vice Chairman Bair, Senators Cameron, Pearce, Coiner, Siddoway, Brackett, Stennett, and Werk
- MEMBERS ABSENT/ EXCUSED:** None
- 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:** The meeting was called to order at 1:45 p.m. by **Chairman Schroeder**. (The reason for the delay was due to the length of the morning floor session.)
- The Chairman turned the gavel to the **Vice Chairman** so that he could present his RS and two Senate bills.
- RS 19664:** **Chairman Schroeder** said this RS is a concurrent resolution and urges the Idaho Department of Fish and Game and the Office of Species Conservation to take the lead via meetings to establish dialogue, cooperation and collaborative efforts with similar agencies in other states to address issues relating to wolf management and control.
- MOTION:** **Senator Siddoway** made the **motion** to send RS 19664 to print. The motion was **seconded** by **Senator Brackett**. The motion **passed** by unanimous voice vote.
- S 1286 and S 1328:** **Chairman Schroeder** presented S 1286 and S 1328. (He disclosed that he has a business that deals with furs.) Cities have problems with racoons, skunks, and other small furbearing wildlife. S 1286 would classify raccoons as predatory wildlife. The present law states that when these animals are live trapped, they must be killed. The Chairman provided copies of the rules relating to this issue. S 1328 would allow the release of the animals unharmed (predator or unprotected wildlife) in the county of origin or adjacent county, with written permission by the landowner, where they will be released.
- MOTION:** **Senator Siddoway** made the **motion** to send S 1286 and S 1328 to the floor with a do pass recommendation. The motion was **seconded** by **Senator Pearce**. The motion **passed** by unanimous voice vote. **Chairman Schroeder** will be the floor **sponsor**.

Vice Chairman Bair returned the gavel to **Chairman Schroeder**.

The **Chairman** then called on **Ms. Sharon Kiefer, Assistant Director of Policy, with the Idaho Department of Fish and Game**, who will present several bills on their behalf.

S 1285: A copy of **Ms. Kiefer's testimony** is inserted into the minutes.

Chairman Schroeder and Committee:

Senate Bill 1285 is sponsored by the Department. It would modify Idaho Code (IC.) 36-404 to allow a youth small game license to be issued to qualified youth who are nine years of age to allow application for a controlled hunt turkey permit as long as they were ten at the time of the hunt, which is the minimum age for hunting upland birds. The youth small game license allows ten and eleven year old youth to hunt upland game birds including turkeys, migratory game birds, rabbits, huntable furbearers, and unprotected and predatory birds and animals while accompanied in the field by an adult licensed to hunt in Idaho.

Currently there is similar provision in the statute for the junior hunting license to allow qualified youth who are eleven to apply for a controlled hunt permit as long as they are twelve (the minimum age for hunting big game) at the time of the hunt. We believe adding this provision to the youth small game license is consistent with existing statutory provisions and encourages youth hunting. We do not believe this will affect overall opportunity for controlled turkey permits.

MOTION: After a short discussion regarding ages and hunting courses, **Vice Chairman Bair** made the **motion** to send S 1285 to the floor with a do pass recommendation. The motion was **seconded** by **Senator Cameron**. The motion **passed** by unanimous voice vote. **Vice Chairman Bair** will be the floor **sponsor**.

S 1284: A copy of **Ms. Kiefer's testimony** is inserted into the minutes.

Chairman Schroeder and Committee:

Senate Bill 1284 is sponsored by the Department. Idaho Code (IC.) 19-4705 directs the remittance of fines and forfeitures from wildlife violations. A portion of those fines are remitted to the fish and game fund. I.C. 36-412A then defines that the fines and forfeitures shall be used for hunter and archery education and the improvement of local shooting ranges.

Currently, an amount not to exceed \$100,000 per year can be provided from fines and forfeitures for improvement of local shooting ranges and their operations. No single range can receive all of the money in a year. The Fish and Game Commission has the authority for distribution of the money pursuant to these statutory uses, but the legislature must appropriate the money.

This bill would increase the ceiling for shooting ranges not to exceed \$125,000 per year. These funds have been very important to public

shooting ranges. An example is the use of these funds at Farragut Shooting Range, where use of federal funds is hampered by NEPA procedures, but use of the fine and forfeiture funds to modify and improve a range is not. The Department estimates that a slight increase in the ceiling of annual funding is warranted based on needs to improve public shooting ranges. Any use of the fund would still require legislative appropriation. Recently, \$95,000 has been appropriated annually.

The current balance in the fund is about \$280,000 with an annual income of approximately \$114,000. Our analysis indicates that the proposed increase in the annual ceiling is sustainable and would potentially allow for a small increase in shooting range funding, if annually approved in the Governor's budget and supported by legislative appropriation.

MOTION: **Senator Brackett** made the **motion** to send S 1284 to the floor with a do pass recommendation. The motion was **seconded** by **Senator Cameron**. The motion **passed** by unanimous voice vote. **Senator Brackett** will be the floor **sponsor**.

S 1283: A copy of **Ms. Kiefer's testimony** is inserted into the minutes.

Chairman Schroeder and Committee:

Senate Bill 1283 is sponsored by the Department. Currently, Idaho Code (IC.) 36-411 requires a person born after January 1, 1975 to have either previously held a valid hunting license in Idaho or from another state or to present a certificate of completion in hunter education from IDFG or proof of the equivalent obtained from an agency or association of another state in order to get an Idaho hunting license.

Unfortunately, there is no provision for an individual who has completed a hunter education course in another country to use this certification to get an Idaho hunting license, even when the course is equivalent to Idaho's, because the statute currently only refers to "another state" in terms of equivalent hunter education certification.

This bill would modify statute to allow the equivalent of an Idaho hunter education certificate from another country to meet the hunter education requirement to get a hunting license in Idaho. The bill would also modify a similar provision for archery education in order to get an archery permit. For example, several provinces in Canada likely offer equivalent hunter education. France and Spain offer bowhunting certification that may be equivalent to Idaho's archery education.

There will be some initial research required by our hunter education program staff to determine which countries offer equivalent hunter or archery education certification but there are professional associations such as the International Hunter Education Association and the Association of Fish and Wildlife Agencies with data and resources to assist us with this review. Many other states already allow certain foreign hunter education certifications to get hunting licenses, so this is a customer service measure to make Idaho more consistent with other

states relative to requirements for foreign hunters to get a hunting license or archery permit in Idaho.

Vice Chairman Bair asked Ms. Kiefer how many times a year are requests made and from what countries? **Ms. Kiefer** responded by saying that from three to five requests are made, but she would have to research which countries the requests were from.

MOTION: **Senator Cameron** made the **motion** to send S 1283 to the floor with a do pass recommendation. The motion was **seconded** by **Vice Chairman Bair**. The motion **passed** by unanimous voice vote. **Senator Cameron** will be the floor **sponsor**.

S 1282: A copy of **Ms. Kiefer's testimony** is inserted into the minutes.

Chairman Schroeder and Committee:

Senate Bill 1282 is sponsored by the Department. This is a clarification bill to specify that an antler scoring system, copyrighted by Boone and Crockett, is used by the State of Idaho to define trophy mule deer, white-tailed deer and elk in Idaho Code (I.C.) 36-202(h). This clarification emphasizes that the Boone and Crockett club does not establish the standard for trophy animals in Idaho, rather the State has adopted this scoring methodology to set its own standard. The clarification does not change the current methodology or its application.

MOTION: **Senator Siddoway** made the **motion** to send S 1282 to the floor with a do pass recommendation. The motion was **seconded** by **Vice Chairman Bair**. The motion **passed** by unanimous voice vote. **Chairman Schroeder** will be the floor **sponsor**.

ADJOURN: With no further business to come before the committee, **Chairman Schroeder** adjourned the meeting at 2:30 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE HOUSE RESOURCES & CONSERVATION COMMITTEE

- DATE:** February 17, 2010
- TIME:** 1:30 p.m.
- PLACE:** Auditorium WW02
- MEMBERS PRESENT:** Senate members present: Chairman Schroeder, Vice Chairman Bair, Senators Cameron, Pearce, Coiner, Siddoway, Brackett, and Stennett
- House members present: Chairman Stevenson, Vice Chairman Shepherd (8), Representatives Wood (35), Bell, Barrett, Eskridge, Raybould, Andrus, Wood (27), Boyle, Hagedorn, Harwood, Sayler, Chavez, King, and Pence
- MEMBERS ABSENT/ EXCUSED:** Senator Werk and Representatives Moyle and Bedke
- 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 Stevenson** called the Joint meeting to order at 1:30 p.m. He welcomed the audience to the new auditorium, which replaces the former "Gold Room" where Joint meetings were held.
- RECOGNITION OF HOUSE PAGE:** He then asked Andrew, the Page for the House Resources and Conservation Committee, to come forward. The Chairman presented Andrew with a card and gift in appreciation of the work that he has done for the House Committee the first half of this legislative session.
- ANNOUNCEMENT:** **Chairman Schroeder** also welcomed everyone to the Joint meeting, then announced that the Senate members would remain in the auditorium at the conclusion of the Joint meeting to conduct some Senate Committee business.
- INTRODUCTION:** **Chairman Stevenson** introduced **Ms. Joan Cloonan, Vice President of the Idaho Council on Industry and the Environment (ICIE).**
- Ms. Cloonan** said that she is always pleased to come before the Joint committees and this is their 21st workshop presentation. She stated that their first presentation's topic was "global warming." Other subject matter has been hazardous waste management, recycling, access to federal grants, eminent domain, and noxious weeds, to name a few. This year's workshop is "How Regulation Is Impacting America's Global Competitiveness." Ms. Cloonan then asked **Ms. Becky Johnstone, past president of ICIE**, to introduce the speakers for today's program.
- After some opening remarks, **Ms. Johnstone** introduced **Mr. Jay Larsen**,

Idaho Technology Council, and Mr. Douglas Jones, Growers for Biotechnology.

Following are their biographies:

Jay Larsen, Idaho Technology Council

Jay Larsen is founder and CEO/President of the Idaho Technology Council, a private sector organization focused on developing the innovative ecosystem in Idaho and the region. Larsen is a native Idahoan who graduated from Boise High School and obtained his BA from Brigham Young University and his MBA from Boise State.

Telecommunication has been the industry where Jay has spent 20 years of his career, with start-up long distance companies. He has managed and led teams with U S WEST Cellular, AirTouch Cellular, Qwest Communication, and Verizon Wireless in Idaho, Montana, Wyoming, New Mexico, and Utah. During these 20 years, Larsen led teams pioneering new wireless technologies and managed through several mergers and acquisitions.

He has served on a U. S. Congressman's staff as Director of Economic Development. Jay's key areas of focus are organizational development, marketing, networks, innovation, and leadership. Larsen has coached several sports teams and lives in Boise, Idaho, with his wife and four sons.

Douglas R. Jones, Growers for Biotechnology

Douglas R. Jones of Meridian, Idaho, farmed with his father and brother in Southern Idaho for 35 years in an irrigated row crops operation. Jones still owns a farm in the Twin Falls area of Idaho. The family also did custom harvesting and tillage.

Jones served 20 years in the Idaho House of Representatives, 10 years as chairman of the Agricultural Affairs Committee. In 2005, he accepted the position of Vice President of Ag Services for Hawaiian Commercial & Sugar Co., managing the tillage, seed production, planting, and weed control for 37,000 acres of sugar cane production in Maui, Hawaii.

In 2009, Jones became Executive Director of Growers for Biotechnology. Growers for Biotechnology is an organization of producers supporting modern high technology in agriculture and working to educate policy makers about modern agriculture.

SPEAKER:

First to speak was **Mr. Larsen**. He referenced his remarks to slides in a PowerPoint presentation. Following is information from the slides.

SHOULD BUSINESS DRIVE GOVERNMENT OR GOVERNMENT DRIVE

BUSINESS?

Success in the New Economy:

States with leaders who

- challenge their institutions and businesses
- who follow through with bold new policies focused on innovation, learning, and constant adaptation
- will be the ones that succeed and prosper

Innovative Ecosystem Components

- Government
 - State, Federal, Local
- Research
 - Government and Private
- Commercialization
 - Business Created
- Industry
 - Jobs and Wealth
- Capital
 - Access/Proven
- Talent
 - Leadership
 - Quality Workforce

Are we working to keep a competitive advantage?

The Kauffman Foundation, the Foundation of Entrepreneurship, Benchmarking Economic Transformation in the United States, in 2008, ranked Idaho 26th with a score of 55.6. Utah ranks 12th with a score of 67.7 and Oregon ranks 15th with a score of 63.8.

The Idaho Technology Council's mission is to:

- foster the growth and development of technology companies in the State of Idaho;
- primarily in the areas of information technology, agriscience, and energy;
- provide a valuable forum for industry, research, educators, investors, and government throughout the state.;
- advocates for creating a strong technology ecosystem and a high quality, high paid workforce.

The Sarbanes-Oxley Act of 2002 passed the House and Senate and was signed by President Bush. It introduced an overly complex regulatory environment into U.S. financial markets.

Mr. Larsen quoted Thomas Jefferson when talking about the EPA (Environmental Protection Agency) – “When the people fear their government, there is tyranny; when the government fears the people,

there is liberty.” He stated that many people are concerned about the EPA.

Mr. Larsen discussed forests issues in Idaho next. He stated that 60 percent of Boise Cascade’s timber came from federal lands. When the decision was made to close some of the plants, many of them were moved to China. The company (now known as Boise) goes to other places (international properties) to get their timber. When he asked some of the senior executives if they would consider bringing any of the plants back to Idaho, they said no because of all of the regulations.

SUSTAINABLE ECONOMIC DEVELOPMENT FRAMEWORK

Research Universities

- Engineering Initiative

Government

- Company friendly
- Laws
- Regulations
- Incentives

Talent

Effective K-16 System

- Early College High School

Higher Education’s Role

- Human Capital Creation (e.g., Engineering Initiative)
- Entrepreneur Development
- Management Training

Technology Commercialization

- Centers of Excellence
- Technology Outreach and Innovation Program Centers
- SBIR Center

Industry

- Business Resource Centers
- Recruit Companies

Capital

- Angel Networks
- Create Seed Funding
- Fund of Funds

The Idaho Economic Engine

“Entrepreneurs and their small enterprises are responsible for almost all the economic growth in the United States.” (President Reagan)

Information from the Kauffman Foundation:

Recessions since WWII, 2007-2009 worst in terms of number of jobs lost (over eight million)

- 1980-2005 Nearly all net job creation occurred in firms less than five years old.

Without start-ups, net job creation in America was negative in all but a handful of years.

- 2007 Census – Young firms (one to five years old) account for roughly two-thirds of job creation. New jobs created 12 million/young firms created 8 million

Innovative Economics

1. Are entrepreneurs taking risks to start new ventures?
2. Are workers getting skilled and companies utilizing skills?
3. Are companies investing in tech breakthroughs and is government supporting the tech base?
4. Are regional clusters of firms and supporting institutions fostering innovation?
5. Are research institutions, such as universities, transferring knowledge to companies and individuals?
6. Are trade policies working to ensure a level playing field for domestic companies?
7. Are policy makers avoiding imposing protections for companies against more innovation competitors?
8. Do individuals and firms have right incentives and tools to invest and commercialize ideas?
9. Are policies supportive of open adoption of advanced information technology into society and economy?
10. Are state and local economic efforts organized to support?

How Has the Idaho Economy Changed?

“It is not the strongest of the species that survive, nor the most intelligent, but the ones most responsive to change.”

In his closing remarks, Mr. Larsen stated that private/public partnerships drive innovation and success.

Chairman Stevenson thanked Mr. Larsen for his presentation, then welcomed Mr. Doug Jones.

SPEAKER:

Mr. Jones followed up on some comments made by Mr. Larsen regarding regulations, over-regulation, and regulation that can be used to encourage business.

He then talked about agricultural biotechnology and why it fits in with Idaho. One of our home-state companies is Monsanto, who is a leader. Agricultural biotechnology is one solution to help us address our water, food, and fuel shortages. It holds the promise of increased food yields – one of several solutions to address the food needs.

Regarding water issues, if water usage patterns continue at the current pace, two-thirds of the world's population will be living in drought or water-stressed conditions by 2025. Research in agricultural biotechnology holds the promise that in the next decade farmers will have access to new plants that are optimized to maintain crop yields through drought conditions.

In the face of rising oil costs and climate change, renewable fuels such as ethanol are helping meet the world's increasing need for energy in a more sustainable way. Agricultural biotechnology such as biocatalysts are leading the way in shifting our dependence on oil to renewable resources. As global energy demand increases, agricultural biotechnology is contributing to a more sustainable future.

Mr. Jones talked about what not to do as a state legislature – don't regulate your own industries out of business. What you can do is to have research and make an investment. He said Idaho has a fragile system in research stations, and he warned to be very careful of what you do that we don't lose that system. We can do in one year what it would take in 20 years to rebuild. Mr. Jones stated that the research and advances that are happening in animal agriculture is more spectacular than what is happening in plants.

Mr. Jones closed by saying that Idaho is a great state, business friendly, and has a strong agriculture community. He said, "Let's innovate and be progressive!"

Time was allowed for questions by the Committee.

**ADJOURN
JOINT
MEETING:**

Chairman Stevenson thanked Mr. Larsen and Mr. Jones for their presentation, then adjourned the House members at 2:35 p.m.

The Senate members went at ease for five minutes.

Chairman John "Bert" Stevenson

Chairman Gary J. Schroeder

**SENATE
RECONVENE:**

The Senate members reconvened at 2:40 p.m.

MOTION:

Senator Brackett made a **motion** to approve the minutes of February 1. The motion was **seconded** by **Vice Chairman Bair**. The motion **passed** by unanimous voice vote.

MOTION: **Vice Chairman Bair** made a **motion** to approve the minutes of February 3. The motion was **seconded** by **Senator Siddoway**. The motion **passed** by unanimous voice vote.

PRESENTATION: **Chairman Schroeder** asked **Rachel Schiell, Senate Page**, to share with the Committee her experience here during the first half of the legislative session.

Rachel thanked the Committee members for their helpfulness in making her time in the Senate a pleasant one. She also thanked Chairman Schroeder for encouraging her to become a Page. The thing that most impressed her while she was here was learning how the Government works and also the orderly structure of the committee meetings, as well as the floor sessions with the full Senate. Rachel also mentioned that she found out that the Senators have a sense of humor and all are not “old sticks in the mud.”

Rachel plans to go to college this Fall, but hasn't as yet decided whether it will be the University of Idaho or Rocky Mountain College.

Chairman Schroeder presented Rachel with a letter of recommendation, signed by all the Committee members, and also a Senate watch in gratitude for her duties as a Page.

ADJOURN: The meeting was adjourned at 3 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

- DATE:** February 22, 2010
- TIME:** 1:30 p.m.
- PLACE:** Room WW55
- MEMBERS PRESENT:** Chairman Schroeder, Vice Chairman Bair, Senators Cameron, Pearce, Coiner, Siddoway, Brackett, and Stennett
- MEMBERS ABSENT/ EXCUSED:** Senator Werk
- 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 meeting to order at 1:30 p.m.
He announced that Senator Hill has withdrawn his bill that was on today's agenda, as well as Senator Pearce has withdrawn his concurrent resolution.
- MOTION:** **Senator Pearce** made a **motion** to approve the minutes of February 8, 2010 as written. The motion was **seconded** by **Senator Siddoway**. The motion **passed** by unanimous voice vote.
- MOTION:** **Senator Pearce** made a **motion** to approve the minutes of February 10, 2010 as written. The motion was **seconded** by **Senator Siddoway**. The motion **passed** by unanimous voice vote.
Chairman Schroeder turned the gavel to **Vice Chairman Bair** so that he may present a RS and a Senate bill that he is sponsoring.
- RS 19682:** The **Chairman** said this concurrent resolution would reject a subsection of a pending rule of the Department of Fish and Game relating to the Rules Governing Fish. This rule is not consistent with legislative intent.
- TESTIMONY:** Also testifying in favor of the RS was **Ms. Sharon Kiefer, Assistant Policy Director for the Department of Fish and Game**. She stated that due to an error, the word "unlawful" became "lawful" and a correction needed to be made.
- MOTION:** **Senator Pearce** made the **motion** to print RS 19682. The motion was **seconded** by **Senator Siddoway**. The motion **passed** by unanimous voice vote.
- S 1342:** **Chairman Schroeder** said that pursuant to Senate Rules, he may have a

conflict of interest, due to the nature of his business, regarding this bill.

He stated that in previous years, there were no license requirements or reporting requirements of people buying parts of black bears and cougars. Since the early 90's, things have changed. He provided a seven page handout for the Committee. The Chairman read from page 2 of **Exhibit A**, regarding possession and sale of wildlife parts: "... if black bear or mountain lion parts - excluding tanned or finished rugs or mounts - are sold or bartered, a signed written statement showing the taker's name, address, license and tag numbers, date and the location of kill must be provided to the buyer. Buyers must submit completed transaction statements to Idaho Fish and Game within 10 days of sale."

The Chairman then noted that **Exhibit B** was a form (CE-50), provided by IDFG, that buyers needed to fill out and return to them within 10 days of the sale. The problem is that there is no statutory authority for this rule. This was because IDFG thought that 36-501 provided them that authority (**Exhibit E**), but it only requires a statement showing that the animals were legally taken. You will note that **Exhibit C**, IC 36-601, requires a license for persons who desire to mount, preserve, or prepare for preservation any of the dead bodies of wildlife or any parts thereof not personally taken by him (taxidermy function), for those who engage in the business of buying raw black bear skins, raw cougar skins, or parts of black bears or cougars, or the raw hides, skins, or pelts of fur bearers (fur buyers).

Idaho Code 36-603 (**Exhibit D**), however, provides that records only be kept for the "mounting and preserving" activities and fur bearers purchase. **Exhibit E** is Idaho Code 36-501 - Sale and purchase of wildlife-restrictions-exceptions. The Chairman specifically referred to paragraph (b), Sale of Game Animals. It reads as follows: "The sale of legally taken hides, horns, or heads of game animals, when detached from the carcass, and mounted wildlife, where sale is not specifically prohibited by federal statute or regulation or state statutes, shall be lawful only when the wildlife to be sold is accompanied by a statement showing that the animals were lawfully taken. It shall be lawful to possess or sell naturally shed antlers or horns of deer, elk, moose, antelope and mountain goat, and antlers or horns of deer, elk, moose, antelope and mountain goat which have died from natural causes."

TESTIMONY:

Ms. Sharon Kiefer, Assistant Policy Director for the Idaho Department of Fish and Game, testified. Inserted into the minutes is a copy of her testimony.

Chairman Schroeder and Committee:

There are two primary statutes that govern report requirements for the sale of wildlife including commercial traffic. Idaho Code (I.C.) 36-501, Sale and purchase of wildlife-Restrictions~ Exceptions deals with records the seller must provide the buyer, who is often a taxidermist or fur-buyer. Sellers of certain pieces of game animals and mounted wildlife must provide a statement that the wildlife was legally taken. These are seller to

buyer records.

I.C. 36-603 deals with the records the taxidermist or fur-buyer must keep and the term of the records. Currently, the statute requires retention of records for 2 years of wildlife received for mounting or preserving and fur bearers purchased. The Department provides the form for such records. These are the buyer records.

Senate Bill 1342 adds additional specificity to I.C. 36-603 to allow the Department to require taxidermists and fur-buyers to retain for 2 years any records of raw black bear skins, raw cougar skins or parts of black bears or cougars purchased. Essentially, this codifies IDAPA rule 13.01.10.300.01 .b that requires a written statement must be provided from the seller to the buyer of any black bear or mountain lion head, hide or parts (except tanned hides) that shows legal acquisition. Bears and cougars have long had rule provisions for records because of extensive wildlife trafficking of these species whose sale is often restricted in other states. Bear parts in particular have been the target of illegal wildlife trafficking, which was the genesis of the rule. This modification brings additional clarity to the commercial records expectations for taxidermists and fur-buyers. The bill also allows the Department to require licensees to submit the bear and cougar records to the Department.

The Fish and Game Commission has taken a position to monitor Senate Bill 1342. Should this bill pass, the Department will amend its rules to be consistent with this statute and the record expectations.

MOTION: **Senator Siddoway** made the **motion** to send S 1342 to the floor with a do pass recommendation. The motion was **seconded** by **Senator Coiner**. The motion was **passed** by unanimous voice vote. **Senator Schroeder** is the floor **sponsor** of this bill.

SCR 118: **Chairman Schroeder** stated that this concurrent resolution strongly encourages and urges the Idaho Department of Fish and Game and the Governor's Office of Species Conservation to take the lead, via meetings to establish dialogue, and effect cooperative and collaborative efforts with similar agencies in other states to address issues relating to wolf management and control.

He said the state will manage wolves the same way as they have managed cougars and bears. They will have a sustainable population.

At Senator Pearce's insistence, IDFG has adopted a policy in which they will be more aggressive at eliminating whole packs when they are killing cattle and sheep.

It became apparent to the Chairman that the groups that are suing the

state are very coordinated, legally and strategically. He feels if agencies take that same idea, then much can be accomplished in addressing wolf issues.

Senator Coiner said that he agrees with the comments made by the Chairman.

TESTIMONY: Inserted into the minutes is a copy of **Ms. Kiefer's** testimony.

Chairman Schroeder and Committee:

Senate Concurrent Resolution 118 urges the Department and Governor's Office of Species Conservation to establish a dialogue and effect cooperative and collaborative efforts with similar agencies in other states to address issues relating to wolf management. We believe the resolution encourages collaboration that is largely already taking place. However, more is better and the Fish and Game Commission supports this resolution.

As an example of current collaboration efforts, the Department participates in annual meetings with wolf managers in Montana and Wyoming; assure you that wolf management is a topic of our discussions. Even when wolves were listed, we relied heavily upon the expertise of Alaska wolf managers. The upcoming 2010 North American Wildlife and Natural Resources Conference includes a meeting with the directors of state fish and wildlife agencies from Western and Midwestern states to discuss wolf management issues and will also include federal representatives. The Department's continued participation in the Western Association of Fish and Wildlife Agencies (WAFWA) and the Association of Fish and Wildlife Agencies provides bi-annual opportunities for coordination and collaboration on a variety of fish and wildlife management issues, including issues related to wolf management. The Canadian Provinces of British Columbia, Alberta and the Northwest Territories are members and participants in WAFWA, providing additional opportunity for dialogue with wolf managers from outside the U.S. The Department is actively engaged in dialogue with wolf managers throughout North America in an effort to effectively and efficiently manage gray wolves in Idaho and our intent is to continue to do so.

MOTION: **Senator Coiner** made the **motion** to send SCR 118 to the floor with a do pass recommendation. The motion was **seconded** by **Senator Siddoway**. The motion **passed** by unanimous voice vote. **Chairman Schroeder** is the floor **sponsor**.

Vice Chairman Bair returned the gavel to the Chairman.

ANNOUNCEMENTS: **Chairman Schroeder** announced that a number of bills would be heard on Wednesday and there will be no meeting on Friday.

ADJOURN: The meeting was adjourned at 2:20 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: February 24, 2010

TIME: 1:30 p.m.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Schroeder, Vice Chairman Bair, Senators Pearce, Coiner, Siddoway, Brackett, Stennett, and Werk

MEMBERS ABSENT/ EXCUSED: Senator Cameron

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: The meeting was called to order at 1:35 p.m. by **Chairman Schroeder**.

MOTION: **Senator Stennett** made a **motion** for the approval of the minutes of February 15, 2010. The motion was **seconded** by **Vice Chairman Bair**. The motion **passed** by unanimous voice vote.

MOTION: **Senator Siddoway** made a **motion** for the approval of the minutes of February 12, 2010. The motion was **seconded** by **Vice Chairman Bair**. The motion **passed** by unanimous voice vote.

HJM 9: **Chairman Schroeder** welcomed **Representative Raybould** to the meeting. He will present HJM 9.

Representative Raybould said this House Joint Memorial to the Federal Government is a Memorial in opposition to the legislation known as the Clean Water Restoration Act. This legislation removes the term "navigable waters" from the Clean Water Act and it would expand the Federal Government's authority and their reach beyond which was intended by the original Clean Water Act. It blurs the jurisdictional authority to manage and regulate water resources within state and local jurisdictions that have historically been their rights to control and to administer. This legislation incorporates some things that would be extremely detrimental to the State of Idaho. It says in the bill that it strikes the term "navigable waters" and replaces it with "waters of the United States." The definition of waters of the United States is "all waters subject to the ebb and flow of the tide, the territorial seas, and all interstate and intrastate and their tributaries; including lakes, rivers, streams, and including intermittent streams and this is a real issue with Idaho because that would then involve irrigation streams, canals and ditches on farmers' land. It also would include mud flats, sand flats, wetlands, sloughs, prairie

potholes, wet meadows, natural ponds and all impoundments of the foregoing. By striking the term “navigable water”, it would expand the government’s reach beyond that which was intended by the Clean Water Act and blur the jurisdictional authority to manage and regulate water resources within the state and local governments.

Given the ambiguity of the legislation’s jurisdictional reach, the implementation of the proposal would lead to increased litigation and uncertainty among private and public stakeholders, including homeowners, farmers, water districts, and state and federal agencies, among others.

Representative Raybould also stated that in reviewing the legislation, it does not include underground water; however, if that water is brought to the surface, either by mechanical means, artesian wells, or springs, the minute it arrives at the surface, it is under the jurisdiction of either the Environmental Protection Agency or the Corps of Engineers. The Act is to provide protection to the waters of the United States to the maximum extent of the legislative authority of Congress, under the Constitution.

Representative Raybould said that where most of this information came from was from the Legislative Council on River Governance that was held in Spokane last Fall. This issue was explained in detail to the members of Idaho’s delegation that was at that meeting. It was suggested that each state come up with a resolution to oppose this legislation and therefore giving Congress notice as to where the State of Idaho stands and also giving backup to our Congressional delegation as they oppose this legislation in Congress.

During the discussion, **Senator Werk** inquired if Representative Raybould had asked the Attorney General to look at the implications of the Clean Water Restoration Act. **Representative Raybould** said that he has not discussed this with the Attorney General’s Office; however, prior to Director Tuthill’s retirement from the Department, they had a lengthy discussion about this matter and he had a high concern about what this would do to the Department of Water Resources in their administration of water in Idaho, such as the extra cost that it would cause the State of Idaho for the personnel in that department to go out and administer all the rules that may apply to irrigation and other facilities.

TESTIMONY:

Mr. Norm Semanko, Executive Director, Idaho Water Users Association, Inc., testified in support of HJM 9. He stated that the Association appreciates Representative Raybould’s leadership in bringing this matter forward. Mr. Semanko said this issue is the number one priority of the Water Users groups at the national level. The reason this is so critical is because it is an expansion of the Clean Water Restoration Act of jurisdiction. In 2001, the Supreme Court said there is a limit to the reach of the Clean Water Act – it does not reach to isolated wetlands. The test that resides now is finding a significant nexus between isolated areas and navigable waters -- biologically, chemically, or physically.

Mr. Semanko said the best way to solve this problem is to remove the

word “navigable” in all 83 places that it appears in the Clean Water Act.

Senator Werk asked what would happen if nothing is done? **Mr. Semanko** replied that the Water Users want certainty and they would love to write clarification of the Clean Water Act. Chief Justice Roberts wrote in 2006 that the EPA needs to write more definitive regulations defining what navigable waters are. If nothing is done, this Act will expand the jurisdiction.

MOTION:

Vice Chairman Bair made a **motion** to send HJM 9 to the floor with a do pass recommendation. The motion was **seconded** by **Senator Coiner**. The motion **passed** by unanimous voice vote. **Sponsor** of this bill will be **Vice Chairman Bair**.

GUBERNATORIAL APPOINTEE:

Chairman Schroeder welcomed **Mr. Bill Booth, Gubernatorial appointee to the Northwest Power & Conservation Council**.

This is a reappointment for Mr. Booth, with his term commencing January 15, 2010 and expiring January 15, 2013. Following is Mr. Booth’s bio.

Bill Booth, of Coeur d’Alene, was appointed to the Council in January of 2007 by Idaho Governor C.L. “Butch” Otter. He also serves as a member of the Governor’s cabinet. A resident of Idaho for 45 years, Bill is a former U.S. Air Force Officer and Senior Minerals Industry Executive in Environmental and Public Affairs. Bill holds a degree in Business Administration from the University of Idaho and earned an MBA from the University of North Dakota while serving in the Air Force. As an instructor for the North Idaho College Extended Campus, he taught micro and macro economics, environmental economics, and accounting. In his spare time Bill enjoys exploring the Idaho backcountry and is an avid fly fisherman.

Mr. Booth stated that he is proud to serve Idaho and is honored that the Governor has asked him to continue.

He said that he has worked principally in the environmental and natural resources arena, ending his career as vice president of environmental and government affairs for Hecla Mining Company. Over years, he and his wife have had homes in Post Falls, Kellogg, Boise, Coeur d’Alene, and presently in Hayden. They raised their family in Idaho and now have six grandchildren, all living nearby in Coeur d’Alene.

He stated that Idaho has been good to him and his family and that’s why he appreciates the opportunity to serve on Governor Otter’s cabinet and represent Idaho on the Council. Plus, in the past three years, they have accomplished some very good work for the State. Shortly after he joined the Otter administration in 2007, they established the Idaho Salmon Recovery Team, made up of all the key players. They include Fish and Game, Department of Water Resources, Soil and Conservation Service, Office of Species Conservation, Attorney General’s Office, and the federal agencies. He Chairs that Team and they meet on a regular monthly basis. This has provided a new collaborative focus on the problems our State faces in salmon and steelhead recovery. Mr. Booth said the results

have been amazing. He works with colleagues in the three other states and no other state in the region works together better on fish and wildlife issues than we do here in Idaho. None of the other states have this type of collaborative team addressing these issues.

His office also entered negotiations with Bonneville Power Administration in achieving a \$65 million settlement of the state's claim related to the 2008 federal buy-off. Funding from this settlement will be applied over a ten year period to on-the-ground salmon recovery projects throughout the State. This includes water reconnect and a new sockeye hatchery.

As Chair of the Council, this allowed him, Jim Yost, and Idaho the opportunity to play a key influential role in developing the Council's new fish and wildlife plan for the region. This plan was implemented in 2008.

In closing, Mr. Booth said they have made some good progress in the past three years, have a great team in place, and is looking forward to continuing his service. He respectfully requests confirmation for a second term on the Northwest Power & Conservation Council.

That concluded the testimony of Mr. Booth. The **Chairman** said voting by the Committee regarding this appointment would take place next Monday, March 1.

Chairman Schroeder said the committee now has before them, several House bills. He called on **Mr. George Bacon, Director of the Department of Lands**, to present H 408.

H 408:

Inserted into the minutes is the testimony of **Mr. Bacon**.

Mr. Chairman and Committee members:

This proposed legislation would amend Idaho Code 58-307 to allow lease terms of up to 20 years for grazing, farming, conservation, noncommercial recreation and communication site uses on state endowment lands. Currently, these uses are limited to 10 year leases. This bill will also move language dealing with lands eligible for the federal Conservation Reserve Enhancement Program, or CREP, under the section addressing conservation use.

This proposal is related to the administrative rules on grazing recently passed by both the House and the Senate. During the negotiated rule-making process, producers told us that longer term leases would be more beneficial and appropriate for their activities.

While proposing this change, the Department also noted that provisions related to CREP needed to be changed. The CREP program is a federal program where landowners or their lessees receive federal payments for conservation practices on enrolled croplands. Those conservation agreements are covered under a 15 year contract. When leasing state lands for CREP was added in 2008, it was placed in the commercial leasing section of this chapter, because that was the only way to allow for leases over 10 years. The long-term commercial leasing section allows

lease durations of up to 49 years (which is unnecessary for CREP). More importantly, that section requires public hearings and consultation with the county, which we believe should be unnecessary for CREP proposals.

Lands enrolled in CREP meet the definition of conservation use; therefore, the leasing options for CREP would more appropriately be handled under the proposed section allowing lease terms for conservation use of up to 20 years.

Although there are no direct fiscal impacts to make these changes, longer term leases would provide certainty for lessees to make investments on state lands, and that is expected to translate into higher returns to the endowment beneficiaries.

With that Mr. Chairman, I would stand for any questions.

MOTION: **Senator Brackett** made the **motion** to send H 408 to the floor with a do pass recommendation. The motion was **seconded** by **Senator Coiner**. The motion **passed** by unanimous voice vote. **Sponsor** of this bill will be **Senator Brackett**.

H 409: Inserted into the minutes is the testimony of **Mr. Bacon**.

Mr. Chairman and Committee members:

Last year, the Department of Lands was contacted by the Idaho Geological Survey to confirm representation for the State Board of Land Commissioners. Records indicate that, in the past, either the Director of the Department of Lands or the Bureau Chief of the Minerals Division in the Department of Lands (a position eliminated around 2003) represented the State Board of Land Commissioners on the advisory committee. In spite of past practices, the language in the legislation appears to clearly require a member of the State Board of Land Commissioners to serve on the Advisory Committee.

At their September 15, 2009 meeting, the State Board of Land Commissioners directed the Department of Lands to advance legislation to amend Idaho Code 47-201 so that membership requirements are for, "a member of the State Board of Land Commissioners or their designated representative." Records indicate this was the intent of the Land Board when Board membership was added to the Geological Survey back in the early 80's. It is also expected that this change will provide more effective and efficient participation on the survey. There are no fiscal impacts.

MOTION: **Senator Coiner** made the **motion** to send H 409 to the floor with a do pass recommendation. The motion was **seconded** by **Vice Chairman Bair**. The motion **passed** by unanimous voice vote. **Sponsor** of this bill will be **Senator Coiner**.

H 410: Inserted into the minutes is the testimony of **Mr. Bacon**

Mr. Chairman and Committee members:

Idaho Code 38-111 currently requires forest protective associations, under agreement with the State Board of Land Commissioners, to prepare a detailed budget of all estimated operating costs on a calendar year basis. This budget must be submitted to the Land Board for approval before June 30 of the preceding year.

This legislation will amend 38-111 to require forest protective associations to prepare budgets on a fiscal year basis. This will better conform with current practices for state agencies, and with what the timber protective associations are also required to do to be part of the Department of Lands budget. This amendment would also require budgets to be submitted to the Land Board for approval before August, consistent with budgeting requirements of the Department of Lands. There are no fiscal impacts.

MOTION: **Senator Werk** made the **motion** to send H 410 to the floor with a do pass recommendation. The motion was **seconded** by **Senator Coiner**. The motion **passed** by unanimous voice vote. **Sponsor** of this bill will be **Senator Werk**.

H 411: Inserted into the minutes is the testimony of **Mr. Bacon**

Mr. Chairman and Committee members:

Title 58, Chapter 10 of Idaho Code, known as the Timber Supply Stabilization Act, was established in the early 1980's. It allowed the State Board of Land Commissioners to establish timber market regions within the state and to limit bidding on state timber sales to only qualified purchasers. Primarily, purchasers were qualified if the majority of the state logs they purchased were milled within Idaho. This established a system whereby 95% of the state timber sold had to be milled in Idaho.

Recently, the Department completed an intensive Forest Asset Management Planning process. Part of that process involved reviewing existing statutes, rules and policies to ensure they were consistent with the Department's trust obligations of maximizing the long-term revenue from forested trust lands. The Department was advised by the Attorney General's office that the Timber Supply Stabilization Act most likely conflicts with our constitutional requirements. By limiting bidders, the act limits potential revenue to the trusts, which ultimately reduces income to public schools. The Attorney General further advised that the Timber Stabilization Act would likely fail if challenged under federal interstate commerce laws.

Just as important, our timber industry has changed dramatically over the last several years. Today, the very survival of many Idaho mills depends on their ability to trade logs with other mills in other states. There are now regions of the state where mills outside Idaho are our primary customers. The Department is also concerned that some prospective purchasers, both within Idaho and outside of Idaho, are hesitant in bidding, due to uncertainties raised by having this law on the books.

Based on all these factors - the change in the needs of our industry, the change in our customer base, the apparent problems with interstate commerce, and the fiduciary responsibilities of the State Board of Land Commissioners - the Board directed the Department to not enforce the qualified bidder requirements of the Timber Supply Stabilization Act. The Board further directed the Department to request the legislative repeal of the Act.

With that, I would be happy to stand for any questions.

MOTION: **Senator Coiner** made the **motion** to send H 411 to the floor with a do pass recommendation. The motion was **seconded by Vice Chairman Bair**. The motion **passed** by unanimous voice vote. **Sponsor** of this bill will be **Senator Coiner**.

H 449: Inserted into the minutes is the testimony of **Mr. Orville Green, Administrator for the Waste Management & Remediation Division at the Department of Environmental Quality**.

Mr. Chairman and members of the Committee:

House bill 449, before you today, relates to the Uniform Environmental Covenants Act, which was enacted by the Idaho Legislature in 2006.

The Uniform Environmental Covenants Act is designed to protect real estate interests when remediated property is transferred from one owner to another. It does this by providing for the use of an Environmental Covenant to utilize Institutional Controls which will govern the future use of that property.

An Institutional Control is a long-term land use control (for example, no residential housing or child care facility), or activity use limitation (such as no drinking water wells), which may be needed to close out a remediation project in a manner which protects human health and the environment.

The Environmental Covenant is registered with the county, and runs with the land. DEQ also maintains a registry of all Environmental Covenants in the state.

The Uniform Environmental Covenants Act specifically mentions the types of environmental response projects that are covered by it. These are a federal or state program governing remediation of real property; a project incident to the closure of a solid or hazardous waste management unit (that is, a landfill); or a project under an authorized voluntary cleanup program.

Our landfills are governed by the Idaho Solid Waste Facilities Act, which requires a note to be placed on a property deed when the facility is closed. Our voluntary cleanup program is governed by the Idaho Land Remediation Act, which provides for the use of institutional controls to help protect human health and the environment, when necessary.

House bill 449 is simply a housekeeping bill which amends both the Idaho Solid Waste Facilities, Act, and the Idaho Land Remediation Act, to clarify that any deed notes or restrictions utilized under these laws will conform to the Uniform Environmental Covenants Act.

I will stand for any questions you may have.

MOTION: **Senator Werk** made the **motion** to send H 449 to the floor with a do pass recommendation. The motion was **seconded** by **Senator Stennett**. The motion **passed** by unanimous voice vote. **Sponsor** of this bill will be **Senator Werk**.

H 450: Inserted into the minutes is the testimony of **Mr. Curt Fransen, Deputy Director, Idaho Department of Environmental Quality**, regarding House Bill 450.

Purpose:

This “housekeeping” legislation repeals the Clean Lakes Act (Chapter 64, Title 39, Idaho Code).

Overview of Clean Lakes Act:

The 1989 Clean Lakes Act created a “pilot clean lakes program” for the “five northern counties of the state.”

- The Act provided for the appointment by the Governor of a “regional clean lakes coordinating council.”
- The Council had coordination, public education, review and planning authority regarding lake water quality and management.
- The Council had no regulatory or enforcement authorities.
- The Council was to be assisted by the Panhandle Health District and the Division (now Department) of Environmental Quality.
- Funding was to be provided through the “Clean Lakes Trust Account.”
- Governor Andrus appointed Council members in 1989 and the Council was active for approximately 4-5 years, then disbanded.

The Act has been dormant since 1995:

Under the past four administrations (Batt, Kempthorne, Risch and Otter) the Act has not been utilized.

- No appointments or appropriations for the Council have been made since 1995.
- No funds exist in the Clean Lake’s Trust Account.

Legislation since 1995 has effectively supplanted the Act:

Since 1995, the purposes and functions of the Act have been addressed by other legislation which has functionally created successor groups, councils and commissions.

- Comprehensive water quality legislation in 1995 (Chapter 36, Title 39) established the current regulatory and public processes for addressing surface water quality, including lakes, that do not meet water quality standards through the “total maximum daily load” (TMDL) process. This legislation created “Basin Advisory Groups” (BAGs) for each major river basin and “Watershed Advisory Groups” (WAGs) for watershed areas

within the major basins. The BAGs and WAGs work in conjunction with DEQ to establish and implement TMDLs.

- In 2001, the Basin Environmental Improvement Act (Chapter 81, Title 39) created a Commission (commonly called the Coeur d'Alene Basin Commission or just Basin Commission) environmental and natural resource restoration within the watershed of Coeur d'Alene Lake in Shoshone, Benewah and Kootenai counties.

- In 2003, legislation created the Lake Pend Oreille, Pend Oreille River, Priest Lake and Priest River Commission (commonly called Lakes Commission) to address water issues within those water bodies in Bonner County.

MOTION: **Senator Pearce** made the **motion** to send H 450 to the floor with a do pass recommendation. The motion was **seconded** by **Senator Coiner**. The motion **passed** by unanimous voice vote. **Sponsor** of this bill will be **Senator Stennett**.

MOTION: **Vice Chairman Bair** made the **motion** to send H 409 and H 410 to the **Consent Calendar**. The motion was **seconded** by **Senator Coiner**. The motion **passed** by unanimous voice vote.

ANNOUNCEMENTS: The **Chairman** announced that there will not be a meeting Friday, February 26. Monday, March 1, there will be a Joint meeting with the House Resources & Conservation Committee in the Auditorium regarding ATV's, roads, hunting, and public access. Representatives from the various agencies will be in attendance to answer questions.

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

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: March 1, 2010

TIME: 1:30 p.m.

PLACE: Auditorium WW02

MEMBERS PRESENT: Senate members: Chairman Schroeder, Vice Chairman Bair, Senators Pearce, Coiner, Siddoway, Brackett, and Stennett

House members: Chairman Stevenson, Vice Chairman Shepherd (8), Representatives Wood (35), Bell, Barrett, Eskridge, Raybould, Andrus, Wood (27), Boyle, Hagedorn, Harwood, Saylor, Chavez, King, and Pence

MEMBERS ABSENT/ EXCUSED: Senators Cameron and Werk; Representatives Moyle and Bedke

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 to order at 1:30 p.m.

OPENING REMARKS: He stated that a multitude of inquiries on issues that involved ATVs, roads, and hunting on ATVs will be addressed today. The Chairman said that some people in the audience have indicated that they want to talk about the rules; however, the rules have been approved, but the issues are still here. Rules are written to affect statutory language. Some of the topics to be covered are road closures on public lands; definition of "established roadway"; and definition of "hunting from vehicle". Representatives from the various agencies will provide comments, then the public will be allowed to testify. The Chairman asked that testimony be limited to five minutes.

Chairman Stevenson said that due to the number of emails and phone calls the past few months, they felt it was important to talk about ATVs and what is involved with ATVs.

SPEAKER: **Ms. Sharon Kiefer, Assistant Director of Policy, Idaho Department of Fish and Game**, represented that agency. **She introduced her co-workers in attendance. They were: Virgil Moore, Deputy Director; Jon Heggen, Chief, Bureau of Enforcement; Lance Hebdon, Intergovernmental Policy Coordinator; and Dallas Burkhalter, Deputy Attorney General, assigned to the Department.**

A copy of Ms. Kiefer's remarks are inserted into the minutes.

Chairmen and Committee members:

Road Closures on Public Lands - Federal Public Lands

The role of Idaho Department of Fish and Game (Department) is to make technical recommendations regarding travel/access management. We have no authority to unilaterally close a road on anyone's land other than our own.

The basis of Department recommendations is fish and wildlife population management objectives including habitat needs and hunting, fishing, trapping considerations. These issues are related to: 1) identifying areas where vehicle related disturbance to wildlife would occur during critical time periods, such as wintering animals and fawning and calving, that could have an effect on populations, 2) maintaining or improving watershed integrity and habitat for fish and wildlife, 3) maintaining or establishing areas of big game security cover during hunting season, and 4) recognizing that our stakeholders desire a broad range of experiences which include opportunity for both motorized and non-motorized hunting experiences. There is substantial conflict among those desiring motorized and non— motorized hunting opportunity.

The Department provides comments to federal land managers about road and trail management during a variety of planning efforts including Forest Service Travel Planning, BLM Resource Management Planning and for specific projects.

As the state agency responsible for wildlife management, the Department is recognized to have "special expertise" relative to providing information to fulfill federal agencies requirements under the National Environmental Policy Act. As a result we provide information to assist federal agencies with their assessments before, during, and after the environmental review process.

We coordinate comments with Idaho Department of Parks and Recreation relative to overall state interests and when possible, try to reach consensus about recommendations to address recreation desires and fish and wildlife considerations together. The Governor's Office desires coordinated state comments for Forest-wide travel plans.

Right to Bear Arms Relationship to Hunting

In Title 36, the **Right to Bear Arms** is confirmed in IC. 36-401(g) that says you cannot hunt, trap, or fish for or take any wild animal, bird or fish of this state, without first having procured a license. NO license shall be required and nothing in Title 36 or Fish and Game rules shall be construed to prohibit citizens of the United States who are residents of the state of Idaho from carrying arms for the protection of life and property.

"Public Highway" Definition used in Fish and Game Title 36

“Public Highway” is defined in section (x) of Idaho Code (I.C.) 36-202, which is a chapter of definitions that are specific to statutes in this Title and orders and rule promulgated by the fish and game commission or the director as follows:

“Public highway” means the traveled portion of and the shoulders on each side of any road maintained by any governmental entity for public travel, and includes all bridges, culverts, overpasses, fills, and other structures within the limits of the right-of-way of any such road.

See the diagram for a visual depiction of a public highway specific to this Title.

This definition is used in a public safety shooting statute: IC. 36-1508. SHOOTING FROM PUBLIC HIGHWAY -- CHILDREN IN POSSESSION OF FIREARMS. No person shall: Shoot from Public Highway. Discharge any firearm from or across a public highway.

NOTE — this deals with “shooting” not “hunting”, i.e. you could be shooting at trees from across a public highway and be in violation.

“Established Roadway” Definition in IDAPA 13 in the Fish and Game Motorized Vehicle Rule

“Established Roadway” is defined in IDAPA 13.01 08.411.04.a specific to the Motorized Vehicle Rule for take of big game. (note this rule and the definitions are also found in IDAPA 13.01.07 and 13.01.09 for methods of take of upland game animals and upland game birds).

Key terms in the Motorized Vehicle Rule:

A **full-sized automobile** is defined as any motorized vehicle with a gross weight in excess of one thousand five hundred (1,500) pounds.

An **established roadway** shall be defined as, any road that is established, built, maintained, approved or designated by any governmental entity or private landowner for the purpose of travel by full-sized automobiles. An established roadway shows evidence of repeated use by full-sized automobiles, and may include a traveled way of natural earth with depressed wheel tracks and little or no vegetation in the wheel tracks.

A **hunter** shall be defined as a person engaged in the activity of hunting as defined in Section 36-202(j) — chasing, driving, flushing, attracting, pursuing, worrying, following after or on the trail of, shooting at, stalking, or lying in wait for, any wildlife whether or not the wildlife is then or subsequently captured, killed, taken, or wounded. This does not apply for an unarmed person solely for the purpose of watching wildlife or taking pictures.

The Motorized Vehicle Rule restricts use of a motorized vehicle as an

aid to hunting as follows:

In designated areas and hunts, hunters may only use motorized vehicles on established roadways which are open to motorized traffic and capable of being traveled by full-sized automobiles. Any other use by hunters is prohibited. All off-road use by hunters is prohibited.

It is important to distinguish that using a vehicle as an aid to hunting is a separate activity than “hunting” from a motorized vehicle which is described in I.C. 36-1101 below in our comments.

The Motorized Vehicle Rule restriction is in addition to all federal, state and local laws, rules, regulations, ordinances and orders; including, but not limited to, any motorized vehicle licensing, registration, and permitting requirements and traffic laws. Hunters must comply with all motorized vehicle limits or prohibitions instituted by the landowner or land manager. Also, this use restriction rule is not an exception from, and is in addition to, the statutory prohibition against hunting from or by the use of any motorized vehicle set forth in Section 36-1101(b)(l), Idaho Code.

The hunts and areas with a motorized vehicle use restriction are identified in the Commission’s Big Game Season and Upland Game Season Proclamations, which are published in brochures available at department offices and license vendors.

There are exceptions to this rule - Use of a motorized vehicle, such as an off-road vehicle, traveling off an established roadway to carry in camping gear for the purpose of setting up or carrying out a hunting camp is one exception. Use of a motorized vehicle to retrieve harvested game is a second exception. Use of a motorized vehicle as an aid to hunt by a hunter who holds a disabled motor vehicle hunting permit is a third exception. Use of a motorized vehicle as an aid to hunting on private property by the land owner or a hunter with permission from the landowner is the fourth exception.

Why Is There a Motorized Vehicle Rule?

The purpose of the Motorized Vehicle Rule is to limit the use of motorized vehicles as an aid to hunting. The Idaho Fish and Game Commission approved this regulation in 2001 to:

- Better achieve biological big game management objectives by managing the effects of motor vehicle assisted hunting efficiency and big game harvest. The rule helps to manage (reduce) hunter harvest efficiency by excluding the aid of motorized vehicles — off road. This will improve our ability to continue to provide overall hunting opportunity desired by Idaho hunters.

- Address ongoing and increasing complaints, from Idaho hunters, of the effects of off-road motorized vehicles on the hunting experience, particularly in remote hunting areas.

The Motorized Vehicle Rule manages an activity which is different than the federal land manager closing a road and managing access.

How is the Motorized Vehicle Rule Interpreted/Enforced?

As previously noted, the Motorized Vehicle Rule does not affect 2nd amendment rights of hunters specifically or the public in general. The rule only applies to the use of motorized vehicles as an aid to hunting — during the course of a hunter's outing.

Consider two hypothetical scenarios:

- a) A hunter carries camping equipment and his/her hunting weapon on his/her off-road vehicle, off an established roadway, unloads the camping equipment, parks the off-road vehicle and continues from camp on foot to hunt. This IS NOT a violation of the Motorized Vehicle Rule.
- b) A hunter travels with his/her off-road vehicle, off an established roadway (with his/her hunting weapon), parks the vehicle along the trail and hunts on foot the remainder of the day. This IS a violation of the Motorized Vehicle Rule.

What is the Communication Strategy for the Motorized Vehicle Rule?

There is information about the rule on the Fish and Game website and the Department has a pamphlet about the rule available in all Fish and Game offices. In addition, there is information in the regulation brochures for big game and upland game/upland game birds. Also, Fish and Game does annual media each year at the start of the hunting season reminding hunters of the rule where it applies.

"Hunting From Vehicle" Definition in Fish and Game Title 36

I.C. 36-1101 states that unless exempted in statute or commission rules or proclamations, it is unlawful for any person to 1) hunt any game animals or game birds from motorized vehicles or to 2) use any motorized vehicle to molest, stir up, rally or drive in any manner any of the game animals or game birds of this state. Shooting from a motorized vehicle is not legal for protected animals such as big game. As noted, the Commission has made exception for disabled hunters to allow a physically disabled person to obtain a Disabled Motor Vehicle Hunting Permit which allows them to hunt from a motorized vehicle that is not in motion.

That concluded Ms. Kiefer's testimony.

SPEAKER:

Mr. Terry Heslin, Trails and Travel Management Lead, Bureau of Land Management, was the next speaker.

A copy of his testimony is inserted into the minutes.

Chairmen and Committee members:

Introduction: As the population in Idaho increases, so does the demand for access including the use of motorized recreational vehicles on the public lands. While the BLM's multiple-use mandate allows for such activity, it must be balanced with other types of commodity and recreational use, conservation of special status species (e.g., Threatened and Endangered (T&E) plants, sage grouse), protection of cultural resources, and maintenance of soil stability and watersheds in accordance with laws, regulations, and policies. Finding the appropriate balance is addressed through implementation of Bureau-wide guidance, land-use planning, and site specific management in priority areas. Due to the high-level of interest in this topic as well as its scope and complexity, thorough and ongoing public involvement, consultation, and outreach is essential as BLM develops guidance, conducts land-use planning, makes route and trail designation decisions, and implements and enforces compliance with those decisions.

Background: The BLM determines appropriate access to public lands for public use and resource management based on management objectives through its Land Use Planning (LUP) processes. The development of a rational, planned, and manageable travel and transportation network is a fundamental component of land use plans. The LUP process includes preparation of Resource Management Plans (RMPs) and subsequent activity plans, i.e., travel management plans (TMPs); both require extensive public involvement. At the RMP level, lands are designated as *open*, *closed*, or *limited* to designated routes in accordance with BLM regulations. Subsequent TMP processes then involve a route by route analysis to designate a system of roads, trails and primitive roads within *limited* areas that are available for motorized travel. In addition to planning and designation activities, an increased emphasis is being placed on improving public information for OHV enthusiasts in the form of maps, signage, and promoting OHV operating etiquette. This effort is augmented by the Idaho OHV Outreach Campaign (<http://www.stayontrails.com>). Sponsored through a consortium of state and Federal public land agencies, this ongoing education campaign informs OHV enthusiasts and others about the rules of conduct on Idaho's public lands under the theme, "Use Your Power Responsibly."

Completed Travel Management Plans:

- 1995, Pocatello Field Office, Black Rock EA—designated routes over a 40,000 acre OHV area.
- 2007, Owyhee Field Office, Wilson Sub-unit—designated motorized and nonmotorized routes over a 35,000 acre area.
- 2007, Coeur d'Alene Field Office, entire FO—designated motorized and nonmotorized routes over a 97,000 acre area.
- 2008, Challis Field Office, entire FO – designated motorized routes

over a 794,000 acre area; NOTE: During the fall hunting season (2009) the BLM collaborated with Idaho Fish and Game to step-up outreach and enforcement to educate motor-assisted hunters about the new TMP limitations.

- 2009, Owyhee Field Office, Murphy Sub-unit – designated motorized routes over a 160,000 acre OHV area.
- 2009, Shoshone Field Office, Craters of the Moon National Monument – designated motorized routes over a 275,000 acre area.

Travel Management Plan Process Initiated, Not Yet Completed:

- Salmon Field Office, North Half TMP – will designate motorized and nonmotorized routes over a 160,000 acre area.
- Shoshone Field Office, Blaine County & North of Highway 20 EA – 126,000 acre area.
- Cottonwood Field Office, entire FO, will designate motorized and nonmotorized routes over a 130,000 acre area.
- Pocatello Field Office, Bear Lake TMP EA, will designate motorized and nonmotorized routes...43,000 acre area.
- Owyhee, Bruneau and Jarbidge Field Offices, will designate motorized and nonmotorized routes on public lands within Owyhee County (7.5 million acres) per subtitle of the Omnibus Public Lands Act of 2009.

That concluded Mr. Heslin's testimony.

SPEAKER:

Representing the Forest Service was **Andy Brunelle, Capital City Coordinator, US Forest Service, Boise.**

A copy of Mr. Brunelle's testimony is inserted into the minutes.

Thank you for the opportunity to present information on the issue of off highway vehicles and the current status of their use on the National Forest System lands in the state of Idaho.

Use of off-highway vehicles, (i.e. all terrain vehicles, motorcycles and snowmobiles), is a popular recreational pursuit in Idaho. In fact, our monitoring of recreation use shows snowmobile use and OHV travel rank among the more popular pursuits on National Forests, more popular than most activities we track, and a little less popular than hunting, fishing, camping and sightseeing.

My comments will focus on three topic areas:

- An update on travel planning efforts on each national forest in the state;
- Cooperative efforts by several agencies in public outreach and education to urge OHV users to stay on designated trails and where to ride;

- Safety issues because unlicensed operators of OHVs mix with highway vehicles on some National forest roads.

In 2005, the Secretary of Agriculture completed a national rule through a public rule-making process that provides a mechanism for every National Forest across the United States to complete a Motor Vehicle Use Map, or as we call it, an "MVUM". The map displays a designated system of roads, trails, and areas for motor vehicle use. Designations for roads and motor vehicle trails are made by class of vehicle and, if appropriate, by time of year. These designations are displayed on the MVUM. The maps are to be used in conjunction with Forest Visitor Maps that contain further information about streams, geographic features, and land ownership.

With minor exceptions, the Travel Management Rule prohibits motor vehicle use off the designated system, as well as use of motor vehicles on routes and in areas inconsistent with the designation. The goal is each National Forest will have a MVUM as the primary tool to determine compliance with, and enforcement of, motorized vehicle use designations. Roads, trails and areas not designated as open on the MVUM are legally closed to motor vehicle use.

The MVUM displays a transportation system that is designed to:

- address current and anticipated recreation needs,
- provide a variety of recreation access opportunities,
- consider management concerns (such as public safety, maintenance costs, and consistency with adjoining public lands),
- reduce impacts to forest resources (such as wildlife, soils, fisheries),
- recognize reserved or outstanding rights, and
- reduce conflicts between recreational uses.

The travel planning process makes clear the complexities and controversy surrounding travel management. There is no way to avoid the fact that preparation of a plan is contentious due to competing and polarized public opinions.

The transition to a designated system of routes and areas has been particularly controversial in local communities where the focus has been on change from current travel plans which allowed cross country travel. We encouraged concerned people to be involved in the process by providing specific input on routes they want designated rather than lament the change. Public comments clearly express the deeply divided opinions of individuals and groups. With no consensus among those who typically comment and participate, we look for substantive comments and recommendations on specific routes and trails, and environmental and social issues.

At this stage a number of MVUM have been completed and are published. The five National Forests in southern Idaho have completed their travel plans and produced maps. Some of these designation decisions are now in litigation. The Wilderness and Audubon Society's sued the Sawtooth National Forest for the travel plan decisions on the

Minidoka Ranger District. In January 2010 the Idaho Conservation League and the Wilderness Society filed a lawsuit against the travel management plan for the Salmon-Challis National Forest. The Payette National Forest is dealing with three lawsuits on its travel plan: Idaho Conservation League, the Wilderness Society and the Hells Canyon Preservation Council sued over some designated trails in the Rapid River watershed because Rapid River is a wild and scenic river. The Village of Yellowpine Association sued with concerns over roads that were closed in the Yellowpine and Big Creek Area. American Independence Mines sued claiming the Payette NF decision closed roads that are RS2477 roads and that cannot be closed to motorized travel.

Meanwhile the Boise National Forest wrapped up its travel plans in 2009 and no litigation exists. The new maps are soon to be published. The Caribou-Targhee NF travel plan is also complete and is in implementation.

In North Idaho, the Idaho Panhandle NF is approximately one-third complete. The Coeur d'Alene District completed its decision last May. In April, 2010 the St. Joe District is due to be done, and by the end of the year, the north zone (Sandpoint, Bonners Ferry) is scheduled to be completed. The Nez Perce NF is poised for completion by April while the Clearwater NF is scheduled for completion by December 2010.

In addition to these travel plans and maps we are cooperating with other agencies to help the public understand the need to stay on trails in order to limit resource damage and to preserve the access that motor vehicles do have to the forests. We believe information and education are an essential part of promoting voluntary compliance with the maps. For several years we have enlisted the services of an advertising agency to help us get the word out, using billboards and radio public service announcements. In the last year we have updated the website stayontrails.com to provide more information to users so that they also can get information on where to ride. It's not enough just to urge people to stay on a trail. The website takes the next step and provides ideas and details where people can go enjoy motorized trail activities.

The State of Idaho and the Forest Service share the mutual interest and responsibility of providing opportunities for people to use Off Highway Vehicles (OHV) responsibly and in a reasonably safe environment. Last year's enactment of Senate Bill 1098, however, has resulted in the removal of basic traveler safety for OHV users and other travelers on National Forest System (NFS) roads. An exemption from licensing for underage drivers mixes untrained youth on the same roads as passenger vehicles, trucks hauling recreation trailers, and even commercial vehicles like livestock, logging and construction trucks.

We appreciate the efforts of the sponsors of the legislation to try to make it easier for youth to be afforded outdoor recreation opportunities. Such activities must be balanced with public safety where appropriate. For many, even most, National Forest roads there is probably not an

issue. Not all roads on the national forests are low speed and low use, however. There are many roads with significant highway vehicle traffic. This includes recreation traffic as well as commercial traffic like logging trucks. Introducing very young riders untrained in either traffic rules or basic operation of their vehicles into this environment is a risk we should avoid. The state already requires a minimum age and training for young hunters, and we believe that for OHVs to be operated on roads, with cars and trucks, some minimum age and required training is needed so there is the ability to understand and apply rules of the road as well as be able to physically handle the vehicle.

Our regulations allow us to address only vehicles and not operators. Thus we can only restrict the type of vehicle on roads. A likely consequence could be that even licensed OHV users could be prohibited from using some roads. This is not an appealing prospect for us, and it affects some very popular recreation opportunities. There is a better solution.

For the last several months we have worked with off-road vehicle interest groups to compose legislation that can address this problem. Those groups are in the lead and have been working to get the legislation introduced. While you are still here this session, we hope you can address this issue and fix the problem and the potential safety hazards created by the new law. I am certain that you share our objective of helping the people of Idaho safely enjoy their National Forests. Thank you.

That concluded Mr. Brunelle's testimony.

Chairman Schroeder said that he would now take testimony from audience members, starting with those who have traveled the furthest.

Testifying first was **Anthony Varilone from Soda Springs, Idaho**. A copy of his testimony is inserted into the minutes.

TESTIMONY:

Dear Senators,

I am here today to give testimony on the Idaho Department of Fish & Game Motorized Vehicle Rule. I will speak about each of these points and explain why they are a violation of law, an illegal imposition on citizens legal rights, or an unanchored interpretation of a "method of take".

- 1) This RULE is illegal under the 2nd Amendment of the United States Constitution and the Idaho Constitution; I/
- 2) The RULE makes illegal the right of private land owners to use a motorized vehicle while hunting on their own land, or to authorize other licensed hunters to hunt on their land using a motorized vehicle for transportation; II/
- 3) With the exception of foot travel, the RULE singles out one form of a

“ground travel method” used by hunters as illegal, calling it a “method of take”, while allowing other methods of ground travel to be used by hunters without being in violation of the RULE. III/

1/ US Constitution - Amendment 2 - Right to Bear Arms. Ratified
12/15/1791.

“A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.”

II/ Idaho Big Game Season & Rules 2009; page 69, Use Restriction Exceptions item “d”.

“Private landowners, their authorized agents and persons with written landowner permission may use a motorized vehicle on their private land, but they may not hunt from or by the use of any motorized vehicle.

III/ Method of Take.

According to the F&G Rules a hunter may use the following conveyances to carry their hunting equipment, and/or themselves

- 1) A horse or mule;
- 2) a bicycle;
- 3) wheelbarrow;
- 4) a sled or travois.

BUT cannot use an ATV or a motorized trail bike when allowed by the land manager because it is considered a method of take. Yet it provides the same services to a hunter as the other methods.

However, hunters are allowed to use an ATV to: a) “pack their camp in/out”; b) retrieve downed game if allowed by the landowner or manager, or c) if the hunter holds a “valid Handicapped Person’s Motor Vehicle Hunting Permit”.

**THE F&G MOTORIZED VEHICLE RULE IS ILLEGAL,
DISCRIMINATORY, AND VIOLATES THE TRAVEL MANAGEMENT
AUTHORITY OF THE LEGAL LAND MANAGEMENT AGENCIES &
PRIVATE, LAND OWNERS.**

That concluded Mr. Varilone’s testimony.

TESTIMONY: Mr. Craig Shuler, also from Soda Springs, Idaho, testified.

He said that he has held a hunting license for 48 years and is distressed over the ATV rule. A study done in 1992 by the General Accounting Office (on file) indicates that 50.4 million acres of public lands are without public access.

Mr. Shuler said that motorized users are paying for the right to use these trails. Hikers and equestrians are using the trails at no charge and are trying to shut the ATVs out. He also feels that the Fish and Game Department has an in-house bias towards motorized vehicles, as well as appearing to blame motorized vehicles for the decline in their big game numbers, especially the deer.

He also stated that he shares the same views as Mr. Varilone.

TESTIMONY: **Mr. Bill Brower**, representing the “Over the Hill Gang”, which was started about one year ago, testified. He said that they have tried to work with the Forest Service to make things go better; however, he is definitely against the rule, as well as are the members of the club. Mr. Brower stressed that they pay fees and taxes, but the horsemen and hikers pay nothing and he feels that is not fair at all.

TESTIMONY: **Mr. Ted Ransom**, from Iona, said that he disagrees with the Fish and Game Department and would like to see the source documents that they refer their numbers to.

He stated that he is retired from the US Forest Service, having worked in Regions 1 and 4. He retired from the Regional Office in Region 4 and has been exposed to a lot of Forest Service activities in the State.

Mr. Ransom said that some money has been taken by Parks and Recreation to build roads. One such road is Lake Creek Trail in Unit 50 which is well-constructed, and no habitat damage going on. The road is closed from August through December, so that only leaves July to ride on the road, according to Mr. Ransom. He feels it is inappropriate to spend so much money, then close it off.

Vice Chairman Bair asked if the Lake Creek Trail is located in the Copper Basin and the reply was yes.

Chairman Schroeder thanked the men from the Soda Springs area for traveling to Boise to testify and he said that he was particularly impressed with the expertise and the careers represented by them. The Chairman stated that the reason that he is glad they are here is because there are some problems. Not all road policies fit together in a comprehensive manner that is readily comprehensible to the public. He said there is not money for Interim Committees, but he would give his word that he will work on this issue between now and the next session with those that want to help to bring some resolution to some of these

issues.

TESTIMONY: **Mr. Bill Dart**, a resident of Caldwell, said a problem that he sees is that this sets up more of a conflict between recreational riders and hunters. There is already some conflict there. He said it doesn't help to give one group privileges and deny the other.

Fish and Game says disturbance is an issue with ATVs. He feels that disturbance is insignificant. There are wolves and other predators out there 24/7 365 days a year pursuing the animals until they get them.

TESTIMONY: **Mr. Rusty Faircloth**, President of the Mountain Home ATV Club spoke next.

In his remarks, he referred to a statement made by a former Idaho Senator to the Energy and Natural Resources Committee, United States Senate, June 2008, in regards to off-highway vehicle management on public lands. "There is no question in the West, especially in the large public lands, that off-road vehicle use and off-road recreation is a major opportunity of resource. It is something we view with pride because it is part of my people who come to live in the state and they enjoy it.access is critical to the economy of my state."

Mr. Faircloth stated that in the last five years, the sum total of recommended closures of motorized trails is in excess of 2,000 miles and it is obvious that Fish and Game has only one agenda, and that is to limit the maximum amount possible of the number of trails in the State of Idaho. He also said that Idaho Fish and Game has instituted rules and laws to close/restrict areas and they have accomplished this with their own motorized rule. They have also defined off-highway vehicles as a "method of take." Mr. Faircloth said if Fish and Game continues to restrict access, it is not in anyone's best economic interest. Snowmobiling in Valley County alone, accounts for 116 jobs annually, with \$10 million in revenue. These numbers are from a documented study conducted by the University of Idaho in 2006.

"Motorized recreation has a place in the landscape of Idaho. Idaho Fish and Game needs to be reminded of this fact here and now," stated Mr. Faircloth.

He received a report from the Government Accounting Office (GAO) and it specifically addresses the use of OHVs on BLM, US Forest Service, and National Park lands. GOA recommends that the Forest Service and

BLM improve their strategic planning and take other actions to help provide quality OHV opportunities while protecting federal lands and resources. The agencies generally concurred with GAO's findings and recommendations.

In his closing remarks, Mr. Faircloth asked, "Is a "boat" a method of take while going up a river duck hunting or a "horse" a method of take when riding on a trail going deer hunting? So why would an "ATV" be a method of take?" His point being, where does it end?

TESTIMONY: **Mr. William Jones**, a member of the Idaho ATV Association, Boise Chapter, was next to testify.

He stated that he would like to see Fish and Game include up-to-date material in their studies and he feels their facts and figures are wrong. He also stated that ATVs are not a method of take – they are a means to get to a fishing or hunting area. People will recreate in Idaho and there is money to be made for the State of Idaho from the recreationists. In the Challis area, there is an up and coming riding area that will help their economy. Mr. Jones said that Fish and Game needs to learn to manage big game before they manage trails.

TESTIMONY: **Mr. Mark Sauerwald**, outdoorsman and a member of the Mountain Home ATV Club, was last to testify. A copy of his testimony is inserted into the minutes.

Senator Schroder and members of Joint Resources & Environment/Conservation Committee,

Thank you very much for the opportunity to submit comments concerning roads, ATV hunting and public access during your joint meeting, 1 March 2010.

My name is Mark Sauerwald. I have lived in Mountain Home for almost 11 years and am an avid hunter, fisherman, outdoor enthusiast, a member of the Mountain Home ATV Club, which is part of the state-wide Idaho ATV Association. I am also an ATV owner and use my ATV to travel many established ATV trails for enjoyment and hunting access.

As you may be aware, the ATV clubs and association throughout ID are major contributors to volunteer manpower for maintaining the very trails Idaho Department of Fish and Game (F&G) are restricting from our use.

They are also strong advocates of safe and ethical riding.

1. F&G Authority/ID Code

- a. Several years ago Idaho Administrative Procedures Act (IDAPA) 13.01.07 (Attch. 1) was approved giving F&G authority to restrict trail use to ATVs during hunting. This is based on F&G description of an ATV being an “AID TO HUNTING” since then they have increased trail restrictions and last year they added more trails/seasons to the list.
- b. An ATV is a mode of travel NOT an aid to hunting or a method of take. Aid to hunting should be described when referring to weapons and their attachments.
- c. F&G states hunting is defined as “chasing, driving, flushing, attracting, pursuing, seeking, following, trailing, shooting at, stalking, or lying in wait for, any wildlife” while in possession of a hunting weapon and appropriate tags and permits. (Attch 3)
- d. IDAPA 13.01 .07 section 101 4(c) refers you to ID code 36-2020) (Attch 4) for the definition of hunting.

This code does not say “while in possession of a **hunting weapon and appropriate** tags and permits.” As described by F&G above, F&G public statement on their web site is deceptive and inaccurate.

- e. The ID Attorney General (letter attached) responded to my inquiries concerning this issue. Among other information he provided, he stated the following:

“Determining whether a, person is, engaged in the act of hunting is a “factual question”, dependent on individual circumstances. The mere carrying of a firearm or carrying of a hunting license does not constitute “hunting”. Other circumstances would determine whether a court would consider a person was hunting.

- f. Too broad authority has been given to F&G. This allows them authority outside of their responsibility of management of wildlife by regulating trail use by motorized vehicles on federal land.

- g. BLM and USFS are required to conduct scheduled analyses to determine if any negative effect on wildlife or degradation of vegetation

is occurring on federal lands that they are responsible for. If there is a problem, they (BLM/USFS) close the trails to all vehicle traffic. This is not disputed.

h. The trails in question are open trail systems. Since USFS/BLM has NOT closed them it is understood the USFS/BLM studies show no issues concerning ATV effect on wildlife or vegetation on these open trails that would require the trails to be closed.

2. F&G public statements

a. On F&G's website they state ATVs disturb hunters and can effect wildlife and vegetation (Attach 3). They say this rule came about due to many years of complaints from hunters being disturbed. This may have been true when cross-country travel was not illegal. It is illegal now and there are very few numbers of hunters willing to walk 15 or 20 miles to remote areas and typically do not hunt on ATV trails that I would be traveling, therefore the disturbance statements disputed.

b. I know there are documented surveys that have been conducted asking hunters if when encountering an ATV was the hunting experience diminished. The answer was yes for most. Certainly this would be the case just as if another hunter is encountered or horseback rider interrupted their hunt by walking/riding into the forest where they are hunting, but ATVs are required to stay on the trail. These surveys are out of date and many were conducted when cross country travel was allowed.

c. Also on their website F&G states that "STUDIES" show "elk harvest increase with increased access" (ATV use). (See Attach 3) I cannot find any public record of such a study by ID F&G. On the same page they state that their own check station reports show hunters on ATVs are less successful than non ATV users which contradicts the previous statement of increased elk harvest.

d. F&G indicates the quality & quantity of elk habitat is degraded by ATVs (Attach 3). I cannot find any record of a study justifying this. In fact there is a very in-depth/scientific study documenting the opposite.

e. The study title is "Effects of off-road recreation on mule deer and elk" also known as the Wisdom Report" (Attch 2) for one of the authors. It was conducted in Oregon 2002-2004 by several members of the USFS and the Oregon Department of Fish & Wildlife. This in-depth study proves there is a modest increase of probability of elk flight and distance

they move in response to ATV travel compared to Horseback riders or hikers.

f. This same study shows the probability of mule deer flight and distance they move is LESS with ATV travel when compared to horseback/hikers contradicting F&G claims that wildlife is negatively effected by ATV travel.

g. The majority of public input/comment I can find documented on the F&G minutes archives (Attch 3) show most are opposed to the rule than are in favor.

h. F&G has had reasonable & enforceable laws/rules enacted for many years that prohibit cross-country travel and hunting from a motorized vehicles. These laws are sufficient and not disputed.

NOTE: To clarify — we are not “hunting” from the ATV. That is, we do not use the ATV as a weapon or shoot at wildlife while sitting on the ATV. We simply use it to travel. If wildlife are seen, we would park and peruse the wildlife. This is illegal according to this rule because F&G defines ATV travel as an “aid to hunting”. It’s no more an aid to hunting than is my truck or the boots on my feet. F&G does not require me too walk from home to the forest or remove my boots before hunting. ATV use is the same, it’s a mode of travel.

i. I believe F&G makes opinionated statements publicly and to the state Legislature with little to no scientific fact to back those statements up to reduce ATV use and ultimately eliminate it during all hunting.

j. As you can see from what I have described, F&G has made contradictory statements and are misleading in their “facts” and so-called studies to justify this rule in the first place. With this rule in place they can, and have continued to, select trails to prohibit ATV travel while hunting.

3. Summary & Recommendations

a. This rule essentially closes off many areas for me to hunt because walking 15, 20, 30 miles one-way to hunt is unrealistic and impossible for most anyone.

b. The rule is simply unfair since the USFS /BLM has determined there

is no negative effects to justify trail closure and trails are open to all other ATV/OHV users except hunters.

c. It's unjustified because it's based simply on F&G opinion, there is a lack of documented F&G scientific studies and because there are other scientific studies showing little to no effect on wildlife/vegetation.

d. It's unnecessary because there are reasonable, undisputed rules already in place prohibiting cross-country travel and hunting (shooting) from a motorized vehicle.

e. I would hope that this commission will help abolish or revise the existing rule IDAPA 13.1.7 section 101 (Atch 1) and eliminate F&Gs authority to manage motorized travel on Federal land trail systems and have faith in USFS/BLM to determine trail closure needs based on their analysis of the effect ATVs have on wildlife and vegetation.

f. My recommendations would be to require all hunting weapons be unloaded during ATV travel and increase fines for those few people violating the cross-country and no hunting from a motorized vehicle rules, but still allow ATV/OHV travel for hunters on all open trails.

In closing, I would like to reaffirm my gratitude to Senator Schroder and members of the Joint Committee for this opportunity to discuss the issue of restricting ATVs during hunting on open trails.

DISCUSSION:

Representative Hagedorn inquired of Fish and Game the logic behind the closing of trails for ATVs as opposed to closing access for horses, boats, or those types of things.. **Ms. Kiefer** responded by saying they are not closing trails, they are restricting the activity on some of those trails. By regulating the use, she believes they are becoming more effective/efficient.

Representative King asked how much land is open to use. **Ms. Kiefer** said that 65% of the land is publically owned and that she didn't know what percentage is available for ATVs.

Representative Barrett wanted to know about a lawsuit that was recently filed in the Salmon Falls Forest, which is in her Legislative District, by whom, and on what grounds. **Mr. Brunelle** stated that it was filed January 22 by the Idaho Conservation League et al, and they have identified a number of areas where soil and water conditions have been impacted.

Representative Wood inquired if the land owned by the Potlatch Company has been closed. **Mr. Virgil Moore** said that their brochure identifies the motorized vehicle rules for hunters and as to the Potlatch property, it is private land.

There were no more questions from the Joint Committee.

ADJOURN: **Chairman Schroeder** adjourned the meeting at 3 p.m.

Senator Gary Schroeder
Senate Resources Chairman

John "Bert" Stevenson
House Resources Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

- DATE:** March 3, 2010
- TIME:** 1:30 p.m.
- PLACE:** Room WW55
- MEMBERS PRESENT:** Chairman Schroeder, Vice Chairman Bair, Senators Cameron, Pearce, Coiner, Siddoway, Brackett, Stennett, and Werk
- MEMBERS ABSENT/ EXCUSED:** None
- 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 meeting to order at 1:30 p.m.
He stated that the first order of business would be to approve some minutes.
- MOTION:** **Vice Chairman Bair** made a **motion** for the approval of the minutes of February 17, 2010. The motion was **seconded** by **Senator Coiner**. The motion **passed** by unanimous voice vote.
- MOTION:** **Senator Coiner** made a **motion** for the approval of the minutes of February 24, 2010. The motion was **seconded** by **Senator Cameron**. The motion **passed** by unanimous voice vote.

The **Chairman** then asked **Senator Heinrich** to present his bill.
- S 1355:** **Senator Heinrich** said that this legislation is being brought forward on the recommendation by the Idaho State Board of Scaling Practices. The Board is composed of industry, logging, and private land owners and is an independent state agency. It is attached to the Department of Lands and the primary purpose is to enhance log scaling standards and license scaling practitioners. Funding for this Board comes from an assessment on timber purchases within the State, and due to the shrinking stumpage that is being cut, it has jeopardized the existence of sufficient scalers to provide a consistent, accurate, and honest measurement system that is verified by independent experts not related to the buyer and seller.

By amending section 38-1909, Idaho Code, it would allow the Idaho Board of Scaling Practices to equally assess private timber owners and timber purchasers. This legislation also exempts assessments on state endowment lands, as well as forest service timber sales, which is the current practice. This bill will not have any fiscal impact on the State's general fund.

Currently, the Board has authority to assess up to twenty cents per 1,000 board feet, but the actual assessment is set annually by the Scaling Board. It is anticipated this assessment will be reduced when both the purchaser and seller are contributing.

Senate bill 1355 has the approval of the Associated Loggers, Intermountain Forestry Association, Farm Bureau, Idaho Board of Scaling Practices, and the Department of Lands.

That concluded Senator Heinrich's remarks.

TESTIMONY: **Mr. Dennis Tanikuni**, speaking on behalf of the **Farm Bureau**, stated that the Bureau is in support of this legislation.

TESTIMONY: **Mr. Jeremy Chou**, spoke on behalf of the **Intermountain Forest Association**. The Association is in support of Senate Bill 1355.

TESTIMONY: **Mr. George Bacon, Director, Department of Lands**, also testified in behalf of this legislation. The Board's scaling practices are very important to both the timber purchasers, as well as the timber sellers.

MOTION: **Senator Cameron** made a **motion** to send S 1355 to the floor with a do pass recommendation. The motion was **seconded** by **Vice Chairman Bair**. The motion **passed** by unanimous voice vote. **Senator Heinrich** will be the **sponsor** of this bill.

S 1343: **Ms. Suzi Budge** presented S 1343. Her testimony is as follows:

Chairman Schroeder and Committee members:

This proposal is an outgrowth of the work of Natural Resources Interim Committee. HCR18, passed in 2009, requested that the interim committee study the impacts of the conversion of working ranches, farms and forests to other uses. The interim committee examined the need for new state policy initiatives to protect the values that such lands contribute to local economies, agricultural heritage, wildlife habitat, and recreational opportunities. As a result of these discussions, RS 19512 is proposed to establish the working lands fund in the state treasury. The purpose of this fund is to protect and enhance the benefits that working lands provide to all Idahoans. The fund is authorized to receive future legislative appropriations, private donations and other contributions. The fund shall be administered by the working lands fund committee composed of nine members appointed by the governor. The fund shall be used to support grants that provide *voluntary* incentives to landowners and project sponsors for natural resources stewardship, protection and enhancements habitat and recreation opportunities. Such grants are intended to complement the land conservation and stewardship programs of state natural resources agencies by, among other things, assisting such agencies and public organizations in meeting match requirements.

This legislation does not appropriate general fund moneys to the working lands fund. Office of Species Conservation will house the working lands committee that oversees the land. A percentage of the moneys accruing to

the working lands fund in the future may be used to defray administrative costs.

Ms. Budge provided copies of written testimony in support of this legislation to all Committee members. The letters were from the following:

James S. Riley, President
Intermountain Forest Association
Carl Ellsworth, President
Idaho Cattle Association
Kennon McClintock, Idaho Region Manager,
Forest Capital Partners, LLC
James A. Little
Rancher
Margaret Soulen Hinson
Sheep and Cattle Producer
Kim Hancock, S. Idaho Regional Director
Rocky Mountain Elk Foundation
Don Weilmunster, President
Idaho Foundation for Parks & Lands
Bonnie Self, Interim Executive Director
Teton Regional Land Trust
Tim M. Breuer, Executive Director
Land Trust of the Treasure Valley
Mark Benson, Vice President of Public Affairs
Potlatch Corporation
Norm Semanko, President
Food Producers of Idaho, Inc.

TESTIMONY: Testifying in support of the bill was **Mr. Jim Little**, a rancher from Emmett.

TESTIMONY: Testifying next was **Mr. Stan Boyd, representing the Idaho Cattle Association and the Idaho Wool Growers Association**. He stated that both Associations are in support of the legislation.

DISCUSSION: There was much discussion by the Committee regarding easements; structure and framework; why house it in OSC?; Governor informed?; fiscal impact questioned; federal, state, and private funds; and policy.

TESTIMONY: **Ms. Sharon Kiefer, Assistant Director of Policy, Idaho Department of Fish and Game**, testified. A copy of her testimony is inserted into the minutes.

Chairman Schroeder and Committee:

We have appreciated the work of the Natural Resources Interim Committee that has brought Senate Bill 1343 to fruition. As you have heard, the bill creates an innovative funding mechanism to support Idaho's working forests, ranches, and farms to sustain food production, the heritage of local communities, habitat for fish and wildlife, intact watersheds for clean water, and opportunities to hunt, fish and enjoy the outdoors.

Senate Bill would establish the Working Lands Fund in the state treasury, administered by the Office of Species Conservation. Overseen by a Governor appointed board, the fund would provide voluntary grants to landowners and project sponsors to:

1. Promote stewardship of natural resources;
2. Protect and enhance fish, wildlife, and native plants; and
3. Provide for recreational opportunities, including but not limited to hunting, fishing, and access to public lands.

We find these efforts complementary to the work and goals of the Department and the Fish and Game Commission policy position is to monitor this bill. Although we all recognize current economic reality, enacting Senate Bill 1343 now allows the State to lay the foundation for a program to keep working lands working and maintain the many benefits these lands provide to citizens and our natural resources. The Department believes Senate Bill 1343 can be another tool in our collaborative toolbox to address these important issues.

That concluded Ms. Kiefer's testimony.

Chairman Schroeder stated that the group spoke to the Natural Resource Interim Committee twice last summer and now the question is - should we keep the group together and should we provide a structure so that any funds could be funneled into it, with the possibility that in the future, the State may want to contribute to it. This is a structure to put together a mechanism to address preservation of working lands and this does not obligate the State in any way.

MOTION: **Senator Cameron** made a **motion** to send S 1343 to the floor with a do pass recommendation. The motion was **seconded** by **Senator Werk**.

SUBSTITUTE MOTION: **Senator Brackett** made a **substitute motion** to send S 1343 to the Amending Order. The motion was **seconded** by **Senator Pearce**.

DISCUSSION: **Senator Brackett** stated that he disagrees with where it will be housed.

Senator Cameron said that this group has been working very well together, with all the appropriate stakeholders at the table. The group is there to support and provide incentives to help landowners. He said that as landowners, we should be providing every tool we can to assist them in what could be some difficult issues. The bill is fairly broadly drawn and that is for a purpose, as it allows for enhanced opportunities both for recreation and conservation practices.

Senator Coiner said that he does not see this as competing, but complimenting and enhancing what is already being done and a way to coordinate and bring it together. The Senator said he will be supporting the original motion.

VOTING: A roll call vote was taken on the **substitute motion** with Senators Brackett, Siddoway, Pearce and Vice Chairman Bair voting aye. Voting nay were Senators Werk, Stennett, Coiner, Cameron, and Schroeder. The substitute **motion failed**, 4-5.

A roll call vote was taken on the **original motion** with Senators Werk, Stennett, Coiner, Cameron and Schroeder voting aye. Voting nay were Senators Brackett, Siddoway, Pearce, and Vice Chairman Bair. The original **motion passed**, 5-4. **Senator Coiner** will be the **sponsor** of the bill.

H 416: **Representative Fred Wood** presented H 416.

Section 36-1202, within Title 36, Idaho Code, governs the wasting of game animals taken by sportsmen. Review of this section reveals multiple conflicts with other sections of Title 36. There are some ambiguities and confusion on the part of the hunting public. The purpose of the changes to 36-102 is to resolve the conflicts between penalty Sections of Title 36, clearly define the expectations of the sportsmen harvesting game, discontinue the use of undefined terms, define exemptions by species rather than undefined categories, and bring the statute into compliance with hunting practices in the field. The changes increase the exemptions to salvage by one species. For purposes of the Section, "game animal" is clearly defined and the exception for livestock owners, their agents, etc., is maintained.

Representative Wood said this bill had unanimous support of the House Resources and Conservation Committee, the Fish and Game Commission, the Sportsmen for Fish and Wildlife, and the Idaho Outfitters and Guides Association.

MOTION: **Senator Siddoway** made a **motion** to send H 416 to the floor with a do pass recommendation. The motion was **seconded** by **Senator Brackett**. The motion **passed** by unanimous voice vote. **Senator Siddoway** will be the **sponsor** of the bill.

Ms. Kiefer submitted written testimony in support of this bill.

MOTION: **Senator Cameron** made a **motion** for the approval of the confirmation of Bill Booth to the Northwest Power and Conservation Council be sent to the floor with the recommendation that it be confirmed by the Senate. The motion was **seconded** by **Senator Coiner**. The motion **passed** by unanimous voice vote. **Senator Jorgenson** will be the floor **sponsor**.

ADJOURN: **Chairman Schroeder** adjourned the meeting at 3 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: March 8, 2010

TIME: 1:30 p.m.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Schroeder, Vice Chairman Bair, Senators Cameron, Pearce, Siddoway, Brackett, Stennett, and Werk

MEMBERS ABSENT/ EXCUSED: Senator Coiner

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 meeting to order at 1:30 p.m. He said the first order of business would be to approve some minutes.

MOTION: **Senator Pearce** made a **motion** to approve the minutes of February 22, 2010. The motion was **seconded** by **Vice Chairman Bair**. The motion **passed** by unanimous voice vote.

H 415: **Ms. Sharon Kiefer, Assistant Director of Policy, Idaho Department of Fish and Game**, presented H 415. A copy of her testimony is inserted into the minutes.

Chairman Schroeder and Committee:

House Bill 415 sponsored by the Department, would change Idaho Code 36-410 governing permits to fish for steelhead trout and anadromous salmon. The purpose of this change is to clarify that the purchase of both steelhead and salmon permits are lawful. The statute currently specifies that only a single salmon or steelhead permit may be purchased. Allowing the purchase of only salmon or a steelhead permit has never been the practice since the inception of the permits. Anglers have always been able to purchase both with the total number of permits governed by Commission proclamation.

As you know, Idaho's salmon and steelhead fisheries only harvest adipose fin-clipped hatchery fish. The proposed change would bring the statute in line with current practices and desires of the angling public while cleaning up a conflict within the statute. The Department requests your support for this bill.

There was no opposition to this bill.

MOTION: **Senator Brackett** made a **motion** to send H 415 to the floor with a do pass recommendation. The motion was **seconded** by **Senator Cameron**. The motion **passed** by unanimous voice vote. **Senator Brackett** will be the **sponsor** of this bill.

H 417: **Representative Fred Wood** presented H 417. He said that currently, the Idaho Department of Fish and Game has a full season nonresident small game hunting license, at a cost of \$96.00. This amendment established a three day nonresident small game license for \$33.75, allowing more flexibility and choice for nonresidents.

There was no opposition to this bill. The only person to testify was **Ms. Kiefer**.

TESTIMONY: Chairman Schroeder and Committee:

House Bill 417 would create a three day nonresident small game license at a fee of \$33.75 (excludes the vendor fee). The Fish and Game Commission fully supports House Bill 417 and appreciates Representative Wood's leadership in bringing this proposal forward. Currently, Idaho only has a full season nonresident small game hunting license at a cost of \$96.00. Nonresident licenses are defined in Idaho Code 36-407 (e) which specifies that the nonresident small game hunting license is valid for hunting upland game (including turkeys), migratory game birds, cottontail rabbits, huntable furbearers, and unprotected and predatory birds and animals of the state.

The proposed legislation is primarily a customer service action in response to hunters who wanted a lower cost short-term opportunity to share Idaho's outdoor recreation with nonresident family and friends who come to Idaho. We believe that with this new license, some nonresident full season license purchasers may shift to the short-term license but also that new customers may be attracted, which is the basis for the fiscal note. The Department requests your support for this bill.

MOTION: **Vice Chairman Bair** made a **motion** to send H 417 to the floor with a do pass recommendation. The motion was **seconded** by **Senator Cameron**. The motion **passed** by unanimous voice vote. **Vice Chairman Bair** will be the **sponsor** of the bill.

H 463: **Senator Pearce** presented H 463, in the absence of **Representative Boyle**, who had a conflict of schedules.

This bill amends nonresident game tag provisions to allow the Fish and Game Commission to promulgate rules to allow a nonresident deer or elk tag to be used to hunt and kill a bear, wolf, or mountain lion instead of

deer or elk during open seasons for deer or elk as specified by the Commission. Addition of alternative hunting opportunity using nonresident deer or elk tags for other species is estimated to increase adult, nonresident general and control hunt deer and elk tag sales by at least five percent for an estimated increase of \$336,900 in revenue to the Fish and Game account

No one testified against this bill.

TESTIMONY: A copy of **Ms. Kiefer's** testimony is inserted into the minutes.

Chairman Schroeder and Committee:

House Bill 463 is fully supported by the Fish and Game Commission. The Commission appreciates Representative Boyle's leadership in bringing this license proposal forward. The Department believes this creates a new "tool" in the hunter opportunity toolbox and will help facilitate Department management objectives for certain species.

House Bill 463 does two things:

1) The bill adds wolves to the list of species that a nonresident deer tag holder could harvest, pursuant to Commission rules regarding open seasons and areas, instead of a deer. Currently there is already opportunity to harvest a mountain lion or black bear in the event a nonresident deer hunter is an unsuccessful deer hunter. Wolves would be added to the harvest opportunity.

From 2000 to 2005, an annual average of 7 mountain lions and 33 black bears were tagged with a nonresident deer tag. This represents less than 2% of the total statewide harvest for both species. These statistics show this opportunity is not affecting resident opportunity or the opportunity of nonresidents who also purchase nonresident mountain lion or black bear tags. This does represent a utilized opportunity that helps achieve management objectives for these species.

This multiple species opportunity is generally considered "value-added" by nonresident hunters who must pay substantially more than our resident hunters to hunt deer. A nonresident hunter pays \$446.50 to hunt and potentially harvest a deer but instead could possibly harvest a black bear, or a mountain lion, or a wolf with House Bill 463. A resident hunter pays \$67.00 to potentially harvest a deer, a mountain lion, a black bear and a wolf. There is a financial differential of almost 6 times for a nonresident to have the potential to kill one of the four species compared to the resident potential to kill all four species.

2) The bill adds all of these provisions (opportunity to kill a wolf, bear, or mountain lion) to the holder of a nonresident elk tag, again pursuant to Commission rules regarding open seasons and areas for this opportunity. We cannot predict how many nonresident hunters would harvest one of

the alternative species using their nonresident elk tag but expect it to be in the range reported with the nonresident deer tag.

MOTION: **Senator Cameron** made a **motion** to send H 463 to the floor with a do pass recommendation. The motion was **seconded** by **Vice Chairman Bair**. The motion **passed** by unanimous voice vote. **Senator Pearce** will be the **sponsor** of this bill.

HJM 11: This House Joint Memorial was presented by **Representative Anderson**. He stated that the Cap and Trade will dramatically affect American farmers; it is a tax on energy; and the cost of this tax greatly exceeds any benefit. The members of Congress are urged to vote no on Cap and Trade and to reject all efforts to use global warming as a pretext to increase federal revenues.

TESTIMONY: Testifying was **Russ Hendricks, representing the Idaho Farm Bureau**. A copy of his testimony is inserted into the minutes.

Mr. Chairman and Committee:

Members of Idaho Farm Bureau support HJM11.

This memorial correctly points out that cap and trade legislation will reduce net farm income significantly as prices for fuel, oil, fertilizer and other inputs rise dramatically under a cap and trade scenario. Unfortunately, farmers cannot easily pass these increased costs on, so this reduces their income.

Cap and trade will also unavoidably cause food prices to rise significantly. On average only 20 cents of every food dollar goes to the farmer for the cost of the actual food. A significant part of the remaining 80 cents of a food dollar is transportation, processing, packaging, refrigeration etc. all of which are heavily energy dependant. Therefore, as energy prices rise under a cap and trade scheme, food prices must also rise.

Other goods will also increase in price because of the increased cost of embedded energy, but those price increases will simply be passed on to the consumers.

This is why the Congressional Budget Office is conservatively estimating that cap and trade will cost American families around \$1,000 per year in increased expenditures. Other estimates are much higher.

E-mails made public recently call into question just how unsettled the science really is on climate change and demonstrate the unwillingness of many of the world's climatologists to share data or even entertain opposing viewpoints.

Furthermore, carbon dioxide is a crucial plant nutrient and essential to healthy, productive crops. Studies have shown that increased

concentrations of carbon dioxide have not only improved crop yields, but have also reduced crop demands for water, thus allowing for reduced irrigation requirements.

Our members are firmly behind HJM11. In fact, just last month, delegates representing more than 6 million families who are members of Farm Bureau from all 50 states and Puerto Rico unanimously approved a special resolution opposing cap and trade legislation at the American Farm Bureau annual meeting in Seattle. We respectfully ask for your support.

Senator Werk stated that he had a concern about the wording in HJM 11, in terms of one side versus the other.

- TESTIMONY:** **Mr. Lynn Tominaga, Executive Director, Idaho Irrigation Pumpers Association**, testified that they support HJM 11. The Association is composed of about 1,500 irrigators across Southern Idaho. They see the Cap and Trade as raising the cost associated with those who farm, especially those who pump water from the aquifer. He said they feel this will increase the cost without really doing anything to control climate change.
- MOTION:** **Senator Pearce** made the **motion** to send HJM 11 to the floor with a do pass recommendation. The motion was **seconded** by **Vice Chairman Bair**. The motion **passed** by majority voice vote. Voting nay was Senator Werk. **Senator Pearce** will be the **sponsor** of the bill.
- HCR 52:** **Representative Stevenson** presented HCR 52. This concurrent resolution rejects two sections of a pending rule of the Idaho Fish and Game commission relating to the Public Use of the Lands Owned or Controlled by the IDFG (roads and trails) as being not consistent with legislative intent. The effect of this resolution, if adopted by both houses, would be to prevent the amended language in the sections from going into effect
- MOTION:** **Senator Pearce** made the **motion** to send HCR 52 to the floor with a do pass recommendation. The motion was **seconded** by **Senator Cameron**. The motion **passed** by unanimous voice vote. **Senator Pearce** will be the **sponsor** of the bill.
- HCR 53:** **Representative Stevenson** presented HCR 53. This rejects a certain rule of the Department of Parks and Recreation, relating to Rules Governing the Administration of Park and Recreation Areas and Facilities, (personal safety and firearms) and is not consistent with legislative intent.
- MOTION:** **Senator Cameron** made the **motion** to send HCR 53 to the floor with a do pass recommendation. The motion was **seconded** by **Vice Chairman Bair**. The motion **passed** by unanimous voice vote. **Senator Coiner** will be the **sponsor** of the bill.
- HCR 54:** **Representative Stevenson** presented HCR 54. This concurrent

resolution would reject a number of sections and subsections of a pending rule of the Department of Lands relating to the Grazing Leases and Cropland Leases as being not consistent with legislative intent.

MOTION: **Senator Brackett** inquired if this is what the Joint meeting on February 3rd covered and the reply was yes (grazing on State Endowment Lands). He then made a **motion** that HCR 54 be sent to the floor with a do pass recommendation. The motion was **seconded** by **Vice Chairman Bair**. The motion **passed** by unanimous voice vote. **Senator Brackett** will be the **sponsor** of the bill.

H 533: **Mr. Dave Ricks, Deputy Director for Parks and Recreation**, presented H 533. Some elements critical to managing an ongoing program for the Idaho Protection Against Invasive Species Sticker program were not included in the initial legislation. This bill will put into place the resources necessary to allow the program to pay for itself and to reimburse local vendors for their costs. The bill also clarifies the conditions for a discounted outfitters rate and mirrors boating registration validation sticker provisions for display by dealers and duplicate stickers.

TESTIMONY: Written testimony was submitted by **Norm Semanko, President of the Food Producers of Idaho, Inc.** It is inserted into the minutes.

Members of the Senate Resources & Environment Committee:

At the weekly legislative meeting on March 3, 2010, Food Producers of Idaho, representing agriculture commodity and farm organizations, **voted to support and track H533**. On the back of this letter is a list of the current members of Food Producers of Idaho. Our members were made aware of H533 that will add the resources necessary to allow the Invasive Species sticker program to pay for itself and to reimburse local vendors for their assistance in selling stickers.

It is of great importance to our members that **every effort be made to limit the incursion of an invasive species** that could potentially have an impact on a large portion of the state's agricultural land. This legislation adds \$2 to the original cost of out-of-state and non-motorized stickers for local vendors that will provide uncomplicated distribution and accessibility of the state stickers. This creates an improved opportunity for citizens to comply with state regulations as well as making the stickers more convenient to buy. One of the largest complaints from the 2009 legislation was the difficulty in securing the stickers. H533 streamlines that process.

H533 is essential to Food Producers of Idaho members because invasive species have the potential to impose a heavy maintenance burden on irrigated agriculture water systems. Left unattended, the quagga and zebra mussels could devastate Idaho's irrigation systems — a vital component to the success of Idaho's agriculture industry. The more we are able to ensure that automobiles, trailers and watercraft are free of invasive species, the better we are able to protect our valuable natural resources.

H533 passed the Idaho House of Representatives on March 4, 2010 by a vote of 55-15-0. Food Producers requests your support of **H 533** and are asking for your “**YES**” vote to send the measure to the floor of the Idaho Senate with a “**do pass**” recommendation.

H 533 is presently being tracked for the Food Producers of Idaho 2010 Scorecard.

TESTIMONY: **Lt. Ben Keyes, Canyon County Sheriff**, testified in support of H 533. He stated that it is vital to see the stickers on all watercraft and the rafters complained about not being able to affix them. He showed the Committee a sticker encased in plastic that had a wire tie so that it could be attached to a raft. Hence, problem solved.

Representative Anderson showed the Committee a piece of rope that he personally had put in Lake Mead. It was so covered with quagga mussels, the rope was hardly visible.

MOTION: **Senator Cameron** made the **motion** to send H 533 to the floor with a do pass recommendation. The motion was **seconded** by **Senator Pearce**. The motion **passed** by unanimous voice vote. **Senator Corder** will be the **sponsor** of the bill.

H 561: **Representative Eskridge** stated that this bill eliminates the charge for a dock permit that is required for replacement of a previously permitted dock for a single or two family home, as long as it is not larger and placed in the same location as the original dock.

MOTION: After a brief discussion, **Senator Werk** made a **motion** to send H 561 to the floor with a do pass recommendation. The motion was **seconded** by **Senator Stennett**. The motion **passed** by unanimous voice vote. **Senator Werk** will be the **sponsor** of this bill.

ADJOURN: With no further business to come before the Committee, **Chairman Schroeder** adjourned the meeting at 2:30 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: March 10, 2010

TIME: 1:30 p.m.

PLACE: Room WW55

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

MEMBERS ABSENT/ EXCUSED: None

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 meeting to order at 1:30 p.m.

Approval of some minutes was the first order of business.

MOTION: **Vice Chairman Bair** made a **motion** to approve the minutes of March 1, 2010. The motion was **seconded** by **Senator Pearce**. The motion **passed** by unanimous voice vote.

MOTION: **Senator Stennett** made a **motion** to approve the minutes of March 3, 2010. The motion was **seconded** by **Senator Coiner**. The motion **passed** by unanimous voice vote.

SPEAKER: **Chairman Schroeder** welcomed **Mr. Mark Goodman, College of Southern Idaho (CSI) Program Director**, who gave a PowerPoint presentation on "Wind Turbine Technology."

Mr. Goodman said that this is a brand new program for CSI, as well as a brand new industry in south central Idaho. Nationwide, the wind industry is expanding at 40% per year. In southern Idaho, they are expanding at the rate of 110% per year. Part of the reason of being able to do this is that the cost of developing a kilowatt hour is coming down.

The industry is approximately about a \$5 billion dollar industry in North America. By the year 2020, they expect to provide at least 20% of the world's energy produced with a renewable energy source – wind turbine technology.

CSI has a turbine blade on campus, nicknamed "Mobie", because of its size and color. Blades are extremely large and an average blade weighs approximately eight tons. The blade on campus is 145 feet in length. Because of the size and need for transportation, turbine blades have created a new market for the trucking industry. Trailers designed to carry

the blades haul no other commodity.

Manufacturers of turbines are located in approximately nine international countries. Mr. Goodman stated that it's amazing that the product can be manufactured in nine different countries, shipped to remote locations in southern Idaho, and have them fit together and also work.

The program at CSI was approved in August, 2008 and they got up-to-speed by developing technical partnerships. They also joined the American Wind Energy Association (AWEA), and they have been a wealth of information on the wind industry, not just in North America, but worldwide. There are 22 North American technical institutes, community colleges or universities that are currently teaching wind turbine technology, with 25 more slated to begin in the Fall of 2010. Mr. Goodman said he visited the schools at Cheyenne, Wyoming and The Dalles, Oregon, and they helped him to develop a good working curriculum. A working advisory committee was also established.

As far as funding, they applied for and received federal grant moneys from the Workforce Innovations in Regional Economic Development (WIRED). Approximately \$775,000 that was used to put this program in place came through the WIRED grant.

In looking at curriculums, CSI was wanting to help the community create jobs and with this program, after two semesters, there would be a hireable workforce. Mr. Goodman said they have taken the program one step further. They now offer a two year "associates of applied science" program.

Some of the significant events have been:

- The gift of Robert Lewindowski's original turbine
- Suzlon blade
- Partnerships
 - Exergy Development
 - Suzlon/John Deere
 - INL
 - Ridgeline Energy
 - Eagle Rock Timber
- Facilities
- External funding
- Instructor search process

Incorporated into the training from the beginning was the use of tools and equipment, as well as safety and rescue. A ladder training apparatus was built and is the largest in North America. It is 35 feet tall and takes approximately 16 feet to find out if people are afraid of height.

In closing, Mr. Goodman said that at CSI, they feel they are energizing the future, not only for the students, but for the industry within southern Idaho.

Chairman Schroeder thanked Mr. Goodman for his presentation and said the Committee would now hear some House bills.

H 557: **Mr. Norm Semanko, Executive Director for Idaho Water Users Association**, presented H 557. This legislation clarifies that trusts may vote in irrigation district elections, the same as corporations, partnerships, and other irrigation district landowners. If the majority or designated stockholder, partner or trustee is married, his or her spouse shall have the same rights and privileges in the conduct of irrigation district business as do the spouses of individual land owners in the district. A person, or the spouse of a person, voting for a corporation, partnership or trust shall not be entitled to vote again as an individual.

When asked if place of residence was of importance, Mr. Semanko said that the person who votes needs to live within the irrigation district.

MOTION: **Senator Cameron** made the **motion** to send H 557 to the floor with a do pass recommendation. The motion was **seconded** by **Senator Coiner**. The motion **passed** by unanimous voice vote. **Senator Cameron** will be the **sponsor**.

H 559: **Mr. Semanko** said that H 559 has to do with prescriptive overflow easements for reservoirs. The issue is the respective rights of the property owners when there is a prescriptive overflow easement. This legislation clarifies that a servient landowner, subject to a prescriptive overflow easement for water behind a dam, may not unreasonably interfere with the storage of water. This legislation does not apply to anything retroactively or existing lawsuits.

There was no testimony against this bill.

MOTION: **Senator Coiner** made the **motion** to send H 559 to the floor with a do pass recommendation. The motion was **seconded** by **Senator Werk**. The motion **passed** by unanimous voice vote. **Senator Coiner** will be the **sponsor**.

H 560: **Mr. Semanko** presented H 560. This bill provides that drainage districts, like irrigation districts and their boards of control, may purchase used personal property without competitive bidding. This is an existing exemption already in the code for irrigation districts. The purchase of used personal property saves the patrons of the districts thousands of dollars every year. If the district has to use competitive bidding, they will inevitably need to buy new equipment, which will cost three to four times the cost of used personal property.

Mr. Bryce Farris, an attorney, represents a number of irrigation districts. Two of the irrigation districts are here in Boise. One is comprised of 29,000 acres and encompasses ten different canal companies. The other one is much smaller – 3,000 to 4,000 acres. They function for the purpose of drainage and cooperate with the irrigation entities.

He testified in favor of this bill.

MOTION: **Senator Coiner** made the **motion** to send H 560 to the Consent Calendar, with a do pass recommendation. The motion was **seconded** by **Senator Siddoway**. The motion **passed** by unanimous voice vote.

Senator Coiner will be the **sponsor**.

H 599: **Representative Takasugi** presented H 599. He stated that this legislation would allow the use of some new technology in the management of landfills and waste technology and it is an amendment to the solid waste facilities act.

The technology itself allows approximately six positive reasons to incorporate it into landfill management.

- accelerates waste stabilization
- recovers about 15-20% landfill space
- beneficial gas-use projects
- improve retake quality
- alternative to the land application liquid waste
- reduces the cost of landfill operations in general

If this bill passes, there are six sites in Idaho that would use this technology which requires a lining in the landfill..There is one site in Kootenia County, two in Ada County, one in Burley, one in Pocatello, and one in Idaho Falls. This technology is being used in other states at this time. Mr. Takasugi said this bill is not only good for the environment, but provides cross-reduction in management landfills and is a sustainable technology that we will all use.

TESTIMONY: Speaking next in favor of H 599 was **Stephen West, with CENTRA Consulting, Inc.**, and is testifying on behalf of Idaho Waste Systems. He provided a handout that contained a "Summary of Citations in Bill Creating Section 39-7421, Idaho Code" and "The Bioreactor Landfill, Next Generation Landfill Technology."

The issue on bioreactors is the change in the way that is dealt with landfilling operations. There are a number of good reasons as to why this makes sense. This legislation is part of a collaborative effort with DEQ, Health and Welfare, Idaho Association of Counties, and members of the environmental community.

Bioreactor technology accelerates the biological decomposition of food, greenwaste, paper and other organic wastes in a landfill by promoting conditions necessary for the microorganisms that degrade the waste. The single most important factor in promoting waste decomposition is the moisture content of the waste.

Liquids must be added to the waste mass to obtain optimal moisture content, which ranges from 35 to 45 percent water by weight. Liquids that are added include landfill leachate, gas condensate, water, storm, water runoff, and wastewater treatment sludges.

The **bioreactor landfill benefits** are:

- Accelerated waste stabilization. Stabilized landfills can be converted to other useful purposes years sooner with greater assurance of environmental safety.
- Recovery of 15 to 35 percent of landfill space as waste decomposes and is converted to gas extends the useful life of

- landfills, reducing the need to site new facilities.
- Expanded and concentrated production of methane gas favors beneficial gas use projects while decreasing greenhouse gas emissions over the life of the landfill.
- Leachate recirculation reduces leachate management costs while improving leachate quality.
- Provide an environmentally sound alternative to the land application of certain liquid wastes.

Waste Management is evaluating four types of bioreactor technology:

- Aerobic Anaerobic
- Anaerobic
- Aerobic
- Facultative

These types are being evaluated at existing landfills and at those that are being constructed.

Senator Werk inquired about the leachate process. **Mr. West** said that it is similar to the way that they do ground water. An evaluation program of leachate would be part of the permit being issued, as it is part of the requirement at the federal level. **Senator Werk** asked for that list and **Mr. West** replied that it is lengthy, but will pass it around.

In 2004, there were over 70 bioreactor landfills permitted throughout the country. Washington and Oregon have programs, as well as a number in the Eastern states. **Senator Werk** asked if any issues have been identified and **Mr. West** said none that he is aware of.

Once the initial permit is issued, it is good for three years and can be renewed every three years, up to a maximum of 12 years. In each of the cycles, the department has the ability to negotiate a reasonable cost going forward, but to recoup costs.

Senator Brackett asked for a copy of the groundwater monitoring protocol list that was passed around earlier and **Mr. West** said that he would be happy to provide him with the list.

Senator Siddoway inquired about air quality – a solid land waste fill versus a liquid fill. He also wondered if the methane collection will take care of any odors that may happen because of the liquid being applied. **Mr. West** said the emission issues and odor issues are separate. As it is now under the current regulations, as soon as the landfill accumulates 3.2 million tons of waste, they have to implement a gas collection system. Up until then, the landfills are not required to have that gas collection system. What the bioreactor landfill operation or technology will do is to facilitate the production of methane and get it to a point sooner where it is economically feasible where a methane collection can begin, either as a collection or use for power generation. **Senator Siddoway** then asked as to how much acreage is required for a site. **Mr. West** said it is not so much an acreage issue, as it is a waste volume issue.

An inquiry was made as to the strength of the liner and also the life of the liner for the landfill. Mr. West said they use an 80 mil HVPT, a synthetic liner, that has a life span of 100 years for the life of the material. The other piece of that is the liner installation which must be monitored to make sure it is installed properly and not cause problems.

MOTION: **Senator Brackett** made a **motion** to send H 599 to the floor with a do pass recommendation. The motion was **seconded** by **Senator Werk**. The motion **passed** by unanimous voice vote. **Senator Brackett** will be the **sponsor**.

ANNOUNCEMENT: The **Chairman** announced that there will be a brief meeting on Friday, following adjournment of the morning legislative session, for the hearing of Gubernatorial appointment of Marc Brinkmeyer to the Lake Pend Oreille Basin Commission.

ADJOURN: He then adjourned the meeting at 2:45 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: March 12, 2010

TIME: Noon or Upon Adjournment of Morning Legislative Session

PLACE: Room WW55

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

MEMBERS ABSENT/ EXCUSED: None

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 meeting to order for the purpose of hearing the testimony of Gubernatorial appointee, **Marc Brinkmeyer, to the Lake Pend Oreille Basin Commission.**

ADJOURN: When it was apparent Mr. Brinkmeyer was not coming, the **Chairman** adjourned the meeting at 12:15 p.m.

(The hearing will be rescheduled.)

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

- DATE:** March 15, 2010
- TIME:** 1:30 p.m.
- PLACE:** Room WW55
- MEMBERS PRESENT:** Chairman Schroeder, Vice Chairman Bair, Senators Cameron, Pearce, Coiner, Siddoway, Brackett, Stennett, and Werk
- MEMBERS ABSENT/ EXCUSED:** None
- 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 meeting to order at 1:30 p.m.
- WELCOME:** He welcomed **Mr. Wayne Newbill, Director, Idaho Association of Soil Conservation Districts.**
- INTRO- DUCTIONS:** Mr. Newbill introduced the following Board members. **Randy Purser, Vice President; Kit Tillotson, Director; and Kyle Hawley, Director.**
- SPEAKER:** **Mr. Purser** stated that he is a Butte County farmer and has served on the Butte Soil Conservation District for the last 24 years.
- Mr. Purser narrated a PowerPoint presentation about the history of the Soil Conservation Districts. Information from the slides is as follows:
- HISTORY OF SOIL CONSERVATION**
- * Hugh Hammond Bennett (said to be the Father of Soil Conservation)
 - * Soil Scientist
 - * Dust Bowl (witnessed the Dust Bowl from the Midwest)
 - * 1935 Congress approved enabling legislation
 - Soil Erosion Service created
 - 1936 renamed to Soil Conservation Service
 - 1994 renamed to Natural Resources Conservation Service
 - * 1937 President Roosevelt sent letters to states inviting them to create Soil Conservation Districts
- HISTORY OF IDAHO DISTRICTS**
- * 1939 Idaho State Legislature Approved Idaho Soil Conservation District Law
 - * Created Idaho Soil Conservation Commission (ISCC)

- * First Districts formed:
 - Latah
 - Bear Lake
 - Portneuf (Bannock County)
 - Squaw Creek (Gem County)
 - Mayfield (Elmore County)

IDAHO DISTRICTS

- * 1944 Eleven Districts formed IASCD
 - Provide unified voice for districts
 - Non profit 501 © 3
- * Districts are a Governmental subdivision of the State
- * 51 Districts currently statewide
- * 5 or 7 locally elected Supervisors per District (serve 4 year terms)
- * 283 District Supervisors statewide
 - Volunteer
 - Non-regulatory
 - Cooperate with local landowners

CONSERVATION PARTNERSHIP (FY09)

Federal
 USDA-NRCS 185 FTE

State
 ISCC 22 FTP

51 Conservation Districts and 283 Elected Supervisors

Private
 IASCD 11 FTE

CONSERVATION PARTNERSHIP HISTORY

- * 1973 Sediment and Erosion control efforts increased by Clean Water Act
- * 1979 Idaho Agricultural Pollution Abatement Plan
- * 1980 Water Pollution Control Account authorized
 - * State Agricultural Water Quality Program (SAWQP)
- * 1993 Legislature allocated \$49,700 for IASCD support
- * 2000 OnePlan authorized by State Code, ISCC granted development rights

CLEAN WATER ACT

- * 1995 US District Court order against EPA
 - 962 Idaho water bodies on 303(D) list
 - ISCC responsible for TMDLs with an ag or grazing component
- * 1998-2009 TMDL staff administered by IASCD
- * Resource Conservation and Rangeland Development Program (RCRDP)
- * 2000 Water Quality Program for Agriculture

WHAT DISTRICTS ARE IC 22-2722

- * Governmental subdivision of the state
- * Public body corporate and politic, exercising public powers
- * Local entity of state government
- * Governed by locally elected voluntary supervisors

WHAT DISTRICTS CAN DO IC 22-2722

- * Conduct surveys, investigations, and research
- * Conduct demonstration projects
- * Carry out preventative and control measures
- * Cooperate, enter into agreements, financial or other aid
- * Acquire, maintain, administer, improve, sell or lease property
- * Make available agricultural and engineering equipment
- * Construct improve, operate and maintain structures
- * Make and execute contracts
- * Sue and be sued

DISTRICT PROJECTS

- * Water Quality & Quantity
- * Soil Erosion remediation
- * Nutrient risk reduction
- * TMDL - Planning and Implementation
- * Clean Water Act
- * Endangered Species Act
- * Wildlife Habitat
- * Youth Education
- * Planning & Zoning (reviewing plans)

URBAN

- * 2008 Ada SWCD named first Urban Conservation District in Idaho
- * NRCS appoints first Urban Conservationist to Ada SWCD
- * Ada SWCD hires full time District manager
- * Ada SWCD makes District manager available to other Districts facing urban conservation issues

DISTRICT FUNDING FY 2009

* Local County & City	442,500
* State General Fund	
Base Allocation	255,000
Matching Allocation	545,000
Total District Operations Funding	\$1,242,500
*Project Funding	
District in kind	421,754
Landowner match	10,175,999
WQPA	1,000,586
USDA Farm Bill	30,828,851
Other	9,489,680
Idaho Conservation FY09	\$53,159,370

STATE GENERAL FUND LEVERAGE

- * District Operations 1:1.08

State General Fund	800,000
Local Funds, Volunteer	864,254
* Projects	1:50,88
ISCC Funds (WQPA)	1,000,586
USDA, EPA, DEQ, USFW	50,916,284
* Overall	1:28.76
State Funds	1,800,253
Other	51,780,538

SUMMARY

- * 51 Soil Conservation Districts
- * Locally led
- * Volunteer supervisors
- * Non-regulatory
- * Incentive based conservation
- * Cooperation with local landowners
- * Effective Dollar Leveraging

That concluded the presentation by Mr. Purser.

Senator Siddoway said there is a bill that talks about the reporting of the Conservation Districts to the legislature. Part of that proposal is to have the Director of Legislative Services to give a report on the relationship between the Commission and the Districts and asked Mr. Purser to address this issue. Mr. Purser deferred the question to Kyle Hawley. **Mr. Hawley** stated that the intent of the legislation is that there is a platform where someone has established to take the responsibility of reviewing the actions between the Soil Conservation Commission and the Districts. The last few years, there has been some disagreement on how it is managed and he feels it is because of the lack of leadership - statewide. They are trying to figure out the authority of the current legislation and the intent of the new legislation. One way to establish a review is to have someone in charge of that review, whether it is LSO, DFM, or another entity, and that would put the Districts on notice to work in a cooperative manner.

Chairman Schroeder asked Mr. Hawley if he is in support of House bill 576. Mr. Hawley said that he is in support of the bill.

There were no further questions from the Committee. The Chairman thanked the representatives from the Soil Conservation Districts for their presentation.

He then called on Mr. Norm Semanko to present his bills.

H 598: **Mr. Semanko, Executive Director, Idaho Water Users Association,** said this bill amends a section of Idaho Code to include a provision for irrigation districts to obtain insurance coverage for directors, in lieu of bonding.

There was some discussion about the amount that each board member needed to execute (not less than \$500 and no more than \$5,000).

MOTION: **Senator Coiner** made the **motion** to send H 598 to the floor with a do

pass recommendation. The motion was **seconded** by **Senator Pearce**. The motion **passed** by unanimous voice vote. **Senator Coiner** will be the **sponsor** of the bill.

H 556a:

Mr. Semanko said that an issue was brought to him by their legislative committee and the only way it could be worked out was through legislation. The floodway code was added to the state code in 1998 and it was very clear at that time what was being done was to provide if any new construction, housing, or development in floodways, a permit had to be issued. For whatever reason, activities that occur in ditches and irrigation drainage districts are subject to this interpretation of what “development” is. This past year, one of the irrigation districts was informed that it needed to get a permit from the city for its “activity”. As it turned out, the “activity” was cleaning the drain, which is normal, standard, statutorily required maintenance work that the irrigation districts do every year. Mr. Semanko feels that the irrigation districts should not be required to get a permit, on the local level, to take care of maintenance work.

The bill says that ditches, canals, laterals and drains that are constructed and used for irrigation or drainage purposes are not floodways; their activities are not developments; and should not require permits in the local jurisdiction.

Mr. Semanko said that they met with Ken Harwood, Executive Director of the Association of Cities, FEMA (by phone), and folks from the Bureau of Homeland Security. There was not any disagreement about the canal companies and irrigation districts doing the maintenance on the ditches, but the issue was the proposed wording that was to be put in the bill would have an adverse impact on the flood insurance program. It would also have caused them to redo floodplain mapping.

All parties reached an agreement with the two amendments.

There was no opposition to this bill.

MOTION:

Senator Siddoway made the **motion** to send H 556, as amended, to the floor with a do pass recommendation. The motion was **seconded** by **Senator Cameron**. The motion **passed** by unanimous voice vote. **Senator Siddoway** will be the **sponsor** of the bill.

H 531a:

Representative Boyle explained H 531, as amended, which is to provide for the confidentiality of certain fish and game records; to prohibit harassment, intimidation and threats relating to the lawful taking and control of fish and wildlife; and to clarify that certain prohibitions shall not apply to constitutionally protected activities.

Representative Boyle provided a copy of an ad in a newspaper that advertised how to obtain a list of successful wolf hunters. She also provided emails from people who suggested ways to eliminate hunters of wildlife (not just wolves).

When asked why she was supporting this bill, she said the government needs to protect its citizens and the only way to prevent this kind of

harassment is for the Department of Fish and Game not to be able to provide information.

TESTIMONY: Testifying in opposition to this bill was **Ms. Sydney Sallabanks, a lobbyist, representing the Idaho Press Club.**

Ms. Sallabanks proposed an amendment to the bill:

At the end of line 39 on page 5, insert "Provided, however, that this exception shall not apply to any elected official, candidate for elected office, political appointment or a person who is a bona fide candidate for a politically appointed office."

At the end of line 5 on page 6, insert "Provided, however, that the provisions of this section related to confidentiality shall not apply to any elected official, candidate for elected office, political appointment or a person who is a bona fide candidate for a politically appointed office."

She stated that journalists need to be able to access this information in order to do their job and the proposed amendment is a step in the right direction.

Chairman Schroeder inquired if this amendment was proposed in the House. Ms. Sallabanks stated that she didn't know.

TESTIMONY: Also testifying in opposition to H 531 was **Mr. Jeremy Pisca, an attorney, representing the Idaho Allied Dailies.**

He asked that the bill be held in Committee.

Mr. Pisca said that when the bill was first introduced, he met with Representative Boyle to see if they could find some common ground; however, they agreed to disagree.

As to the Chairman's question if the amendment was proposed in the House, Mr. Pisca said that it was not. He stated that it was when he listened to Representative Boyle's testimony on the floor of the House that he thought it could be improved with an exclusion of the application to public officials.

He agreed that harassment is bad and the activities that have taken place against these wolf hunters is reprehensible. There are portions of the bill that he agrees with - cracking down on people who are doing the harassment. When people have done a lawful activity, legalized in the State of Idaho, they should not be subject to that kind of harassment. "But to close public records is going too far", stated Mr. Pisca. He feels that he should have the right to investigate to see if an individual is a hunter or fisherman, but not the right to harass them.

Mr. Pisca said that he has been associated with campaigns in the past where this type of information has been used to compile voting lists by a candidate who wants to get a message out to hunters and fishermen and they have requested a public records request.

There were concerns about a 12 year old wolf hunter being harassed. Mr. Pisca suggested that perhaps the bill should be more tailored down to protect those under the age of 18. He asked again that the Committee hold this bill, but if they cannot do that, to send it to the amending order to exclude candidates, elected officials, political appointments or persons who are bona fide candidates for a political appointed office. He stated that Chairman Schroeder asked him to speak with Representative Boyle before going forward with the amendment, which he did, but she did not agree with it.

Chairman Schroeder said that he saw in a newspaper where people could post things on a blog without identifying themselves. Mr. Pisca replied that there are several blogs out there. The Chairman then asked, "Why would an organization hire someone like you to come here and tell us about openness and run blogs where people are able to attack whomever they want, with whatever they want? Can you please respond." Mr. Pisca said that he did not have an answer for that question.

Chairman Schroeder stated that the person who placed an ad in the paper regarding information about the successful wolf hunters was later identified and his name was put in the paper. Later, an article in a paper indicated that he felt that by publishing his name, it was harassment. He didn't feel that his ad was harassment. The Chairman said that it appears there is a double standard.

Due to time constraints, testimony and discussion regarding H 531a will be continued Wednesday.

ADJOURN: The meeting was adjourned at 3 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: March 17, 2010

TIME: 1:30 p.m.

PLACE: Room WW55

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

MEMBERS ABSENT/ EXCUSED: None

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 meeting to order at 1:30 p.m.

He welcomed **Ms. Linda Mitchell, Gubernatorial appointee to the Lake Pend Oreille Basin Commission**. This is a reappointment and the term commenced July 24, 2009 and will expire July 24, 2012.

GUBERNATORIAL APPOINTEE: **Ms. Mitchell** said the Commission is charged to study, investigate, and select ways and means of controlling the water quality of the waters of Lake Pend Oreille, Pend Oreille River, Priest Lake, and Priest River for interests of the communities and the state, and for the survival of the native species of fish contiguous to the Pend Oreille River Basin. Ms. Mitchell said "that's it in a nutshell of what they do."

She said they meet quarterly, or more often if necessary, to discuss the issues and they have an open forum for the public to know what is going on in the area and to make comments.

The **Chairman** asked Ms. Mitchell to review the major issues since the Commission was formed. **Ms. Mitchell** stated that lake level management has been a priority and kokanee salmon is critical to their fisheries. Since the mismanagement of the lake level in the 60's, the spawning grounds were nearly destroyed and they were in danger of losing the kokanee population. By managing the level of the lake, they have improved the conditions of the spawning beds. She said the kokanee are up ten fold and there are seven times the amount of two year olds as there were two years ago.

Ms. Mitchell said the Army Corps of Engineers notified them last September that they were going to drop the level of the lake between January and April and raising the lake five feet. She stated that this would cause great problems in terms of erosion, infrastructure, and

docks, both private and commercial. As they studied this issue, they found that it would be a disaster, both economically and ecologically. They were able to stop this through the efforts of the northern legislative delegation and the Governor. It may be presented again next year, so they are dealing with it as an on-going issue.

Another major issue was the Rock Creek Mine which had disastrous consequences for Lake Pend Oreille. There were no benefits to Idaho, would be disastrous, and the Judges agreed to revoke their permit to deposit waste into the Clark Fork River which empties into the lake.

Ms. Mitchell said an upcoming issue will be the aquifer. Through lack of conservation efforts of Eastern Washington, there has been higher and higher demand for water. There is discussion from Washington of pumping Lake Pend Oreille's water into the aquifer. She stated that instead of looking at conservation, they are looking for an easy fix.

Chairman Schroeder said he is proud of the delegation from North Idaho – Senator Keough, Representative Eskridge, and Representative Anderson.

Representative Eskridge said that on behalf of District 1, he would like to express support for Ms. Mitchell, who is active and a very involved Commission member. **Representative Anderson** expressed his support, as well as **Senator Kerby**, sitting in for Senator Keough.

Chairman Schroeder thanked Ms. Mitchell for her hard work that she does for the Commission and also for her appearance here today. The Committee will vote on her appointment next Monday.

H 531a:

The **Chairman** said he would now take testimony on H 531a, which has been continued from Monday. First to testify was **Ms. Sharon Kiefer, Assistant Director of the Department of Fish and Game.**

Inserted into the minutes is the testimony of Ms. Kiefer.

Chairman Schroeder and Committee:

The release of hunter names by the Department in response to public records requests related to wolf harvest has led to publicized instances of verbal harassment of individuals harvesting wolves. This has raised substantial concern about the release of hunter names and harassment of hunters. Hunters have inquired about opportunity to modify the law to allow withholding of hunter names.

Idaho Code (I.C.) §9-340C of Idaho Public Records law currently exempts from disclosure any personal records, "other than names, business addresses and business phone numbers" provided to agencies as part of licensing. In response to requests for licensing information, big game monitoring reports, and other licensing data, the Department may withhold home addresses, home phone numbers, identification numbers, and personal information other than name and business information. However, the Department cannot withhold names and business information.

Relative to physical harassment, I.C. §36-1510 provides for criminal and civil sanctions for intentional interference with the lawful taking of wildlife or lawful predator control although section c was struck down by the Idaho Supreme Court as being an unconstitutional infringement on free speech. Anti-stalking laws (I.C. §§18-7905 and 7906) impose criminal penalties for intentionally and maliciously engaging in conduct that would cause a reasonable person emotional distress or to be in fear of death or injury.

The Department appreciated the opportunity to work with Representative Boyle to provide legal and technical advice about this bill. House Bill 531a would expand the public records exemption (I.C. §9-340C) for Fish and Game license information to include the exemption of license holders' names, business addresses and business phone numbers. With the amendment, the Department would have to withhold all personal licensing information from disclosure unless we obtained written consent. This exemption applies broader than just successful harvesters. For example, the Department would need to obtain consent to release names related to SuperHunt and other tag auctions and lotteries so we would need to work with the sponsoring nonprofit groups to ensure the consent requirement was met in advance.

The language in Section 2 ensures the Department can still release information required by law enforcement or other governmental requirements without violating the provisions of H531a. The legislation would also amend the hunter interference statute in to include criminal sanctions for harassing, intimidating or threatening anyone who is or was engaged in the lawful taking or control of fish or wildlife. The amendment includes an allowance for constitutionally protected speech.

The bill also has an emergency clause in Section 5; it would be in effect upon passage and Governor signature.

The Fish and Game Commission recognizes the balance of open government and protections for citizens conducting legal activity. They have heard from hunters with concerns about records requests. The Commission position is to monitor this bill and should the bill pass, the Department will be prepared to enact the procedures necessary to meet the emergency timeline of this bill.

That concluded Ms. Kiefer's testimony. However, in regards to public records requests, she said they have received a request asking for the names of everyone who were issued licenses and tags for the year 2009. **Chairman Schroeder** inquired as to who has requested the information. **Ms. Kiefer** said she would check to see if she can give out that information, and if so, she will provide the name.

Senator Werk inquired about the cost of providing records to the public. **Ms. Kiefer** said there are standard costs that are established in statute for public records. She stated that she would have an answer for him in the morning.

TESTIMONY: **Mr. Bob Minter** from Cascade testified next. He said that he and his three sons are very much in support of this legislation. Mr. Minter is President of the Ada County Fish and Game League and they support this legislation also.

TESTIMONY: **Ms. Kristy Sternes, a rancher**, testified next in support of H 531a. She feels private information should remain private unless one chooses otherwise.

TESTIMONY: **Mr. Wally Butler, representing the Farm Bureau**, said most of his comments have been addressed and he is in full support of this bill, with no negative comments from the Bureau's membership.

WRITTEN TESTIMONY: The **Food Producers of Idaho, Inc.** submitted written testimony. It is inserted into the minutes.

TO: Members of the Senate Resources and Environment Committee

FR: Norm Semanko, President

RS: H531a

Food Producers of Idaho, representing over 40 agriculture commodity and farm organizations, voted at their weekly legislative meeting to **support and track H531a** dealing with confidentiality of fish and game records. Our current Food Producers of Idaho member organizations are listed on the back of this letter.

H531a protects the privacy of citizens holding permits, licenses, and/or tags issued by the Idaho Department of Fish and Game (IDFG) from being released upon request by the public without the citizen's consent. These citizens include many of our members who are hunters, fishermen, trappers, and livestock producers.

H531a protects citizens holding IDFG licenses, and/or tags from harassment, intimidation, or threats through personal or written contact, email, website, and/or phone. The government's first duty is to protect its citizens which this bill accomplishes. No one should be subject to harassment simply for participating in a legal activity.

Food Producers members value the confidentiality of information. Through the years, our members have worked to protect information related to many different areas of Idaho's agriculture industry. These records have applied to acres grown of specific commodities, grower contracts with dealers, Food Quality Assurance Lab reports and a variety of other topics

that are important to **safeguard our industry**. We believe H531a affords that same protection to certain fish and game records and should be part of Idaho law.

We ask your support for H531a and encourage you to send the legislation to the floor of the Idaho Senate with a do pass recommendation.

H531a will be tracked legislation for the 2010 Food Producers of Idaho Scorecard.

WRAP UP:

Representative Boyle was given the opportunity to wrap up the discussion regarding her legislation. She stated that this bill is to protect citizens, citizens that are engaged in a lawful, state licensed activity and citizens who are engaged in this activity should not be fearful of their lives or the lives of their families.

Chairman Schroeder said that he understands the National Rifle Association (NRA) has endorsed this bill. **Representative Boyle** said that was correct.

MOTION:

Senator Pearce made the **motion** to send H 531a to the floor with a do pass recommendation. The motion was **seconded** by **Vice Chairman Bair**.

SUBSTITUTE MOTION:

Senator Werk made a **substitute motion** to send H 531a to the amending order. The motion was **seconded** by **Senator Stennett**.

Chairman Schroeder said that **he and the Pro Tem are co-sponsors** of this bill. The Chairman said that if you believe that the Constitution reserves all the rights to us as individual citizens, except those that we have willingly given up, there is nothing more natural than hunting. People have been doing it forever. The right to hunt is one of those things that is reserved for the people and there are restrictions and seasons for hunting. There are some people who want to take away this right and harass people. As someone who sets public policy, we have a responsibility to protect people who have a legal right, and should be protected from those who want to harass them in a way that would discourage them from exercising their legal right.

A roll call vote was requested. Voting aye on the **substitute motion** were Senators Werk and Stennett. Voting nay were Senators Brackett, Siddoway, Coiner, Pearce, Cameron, Bair, and Schroeder. The **substitute motion failed 2-7**.

Voting aye on the **original motion** were Senators Brackett, Siddoway, Coiner, Pearce, Cameron, Bair, and Schroeder. Voting nay were Senators Werk and Stennett. The **motion passed 7-2**.

MOTION:

Vice Chairman Bair made a **motion** to approve the minutes of March 8,

2010. The motion was **seconded** by **Senator Cameron**. The motion **passed** by unanimous voice vote.

Senator Brackett made a **motion** to approve the minutes of March 10 and March 12, 2010. The motion was **seconded** by **Senator Coiner**. The motion **passed** by unanimous voice vote.

ADJOURN: The meeting was adjourned at 2:35 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: March 22, 2010

TIME: 12:45 p.m. and 2 p.m.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Schroeder, Vice Chairman Bair, Senators Cameron, Pearce, Coiner, Siddoway, Brackett, and Stennett

MEMBERS ABSENT/ EXCUSED: Senator Werk

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 meeting to order at 12:45 p.m. to accommodate Gubernatorial appointees Ford Elsaesser and Marc Brinkmeyer.

GUBERNATORIAL APPOINTEE: **Mr. Ford Elsaesser** was reappointed to the **Lake Pend Oreille Basin Commission** to serve a term commencing July 24, 2009 and expiring July 24, 2012.

Mr. Elsaesser said that he has been chairman of the Commission for the past two years and they meet quarterly. However, they have been meeting more often due to a number of issues. The most recent accomplishment of the Commission was with the Bonneville Power Administration. They proposed to raise and lower the lake during the winter draw-down. Usually, the lake is drawn down to six feet or eleven feet, to help the kokanee. Recovery is two years at the higher level and one year at the lower level and this is a lower level year. BPA wanted to raise and lower the lake as if it were a normal reservoir. During the winter, the Commission was busy working with the Corps, the Governor's office, Congressional and Senate delegations in Washington D.C. and they ultimately prevailed upon the Corps of Engineers to not try this until they thoroughly studied the environmental impact.

Since the Commission was founded, they have been successful in dealing with the Corps of Engineers to extend the summer recreation season, which is absolutely critically to the Bonner County economy. Now, the citizens can enjoy the lake until early October.

Mr. Elsaesser also said that the Commission has interaction with the Department of Fish and Game and he feels that they would say that the Commission is supportive of their efforts to restore the fisheries in the lake, particularly the kokanee fishery, which is so important to the lake's

**GUBERNA-
TORIAL
APPOINTEE:**

economy.

He stated that he enjoys what he is doing and would enjoy another term.

Mr. Marc Brinkmeyer was reappointed to the **Lake Pend Oreille Basin Commission**, with his term commencing July 24, 2008 and expiring July 24, 2011.

Inserted into the minutes is a copy of the bio that **Mr. Brinkmeyer** submitted.

Owner and President of Riley Creek
Chairman and Co-Owner of Idaho Forest Group

Marc Brinkmeyer has farming roots dating from Germany in the 1400's and in Iowa since 1870. The fact that both farms are still in the Brinkmeyer family is testament to the family's core belief that the land is to be respected and nurtured as a resource that supports us all.

Marc founded Riley Creek in 1981. He began his career in public accounting with Arthur Andersen in Portland, Oregon working with medium and large size companies including several in the forest products sector. He then became Chief Financial Officer of Brand-S Corporation, a privately owned lumber manufacturing company, from 1973 until 1981 when he left to acquire the Laclede facility from Brand-S. From inception thru 2008, Riley Creek has grown to be the largest lumber producer in Idaho consisting of state of the art production facilities located at Laclede, Chilco and Moyie Springs. The Company also has 65,000 acres of timberland in Washington, Idaho and Montana, exclusive cutting rights to 300,000 acres in central Idaho and strategic relationships with other industrial forest land owners. In 2008 the Riley Creek Mills were merged with Bennett Forest Industries to form Idaho Forest Group. The new venture is the largest lumber producer in the Inter-Mountain West.

He is active in many organizations including past Chairman, Western Wood Products Association, past President of the Intermountain Forest Association. He has recently been appointed as a Member of the BI-National North American Lumber Council. He also serves as a Board of Trustees of Buena Vista University. He is also a member of Pend Oreille Lakes Commission.

Mr. Brinkmeyer stated that he enjoys being a part of the Commission that oversees water quality, fisheries, and mill effluent in the Basin. They have also been involved as a Commission with Montana. With their location in the Clark Fork drainage, it is important to know what is going on in the State of Montana.

He has been in Idaho for nearly 30 years and is looking forward to serving another term in office for the Basin Commission.

Chairman Schroeder inquired if the timber industry is turning around some and the reply was that they are operating at 55% of capacity and he

does not see a significant change. Their growth forecast for this year is roughly 4.5%. Mr. Brinkmeyer said that what the government does in the next six to eight months, since they are 98% of the mortgage market, will determine what happens this next year.

Vice Chairman Bair asked how the mil foil eradication program is working. **Mr. Brinkmeyer** said that Representative Anderson could give specific details regarding that issue. However, he said that progress has been made in dealing with it, but it is something they can't give up on. It is an issue that all they will ever be able to do is to control it, as they can't eradicate it. He also feels that in northern Idaho, they don't do as good of a job on noxious weeds as they should.

Representative Anderson said that in regards to the Vice Chairman's question, statewide it is about 84%. In very deep water and fast moving currents, it is hard to get herbicide contact time on those areas. In slower bodies of water, it has been eradicated. Priest Lake had 31 acres that was treated last Spring.

Representative Anderson said that the Lakes Commission has taken a very active role in the quagga/zebra mussel issue and he commends them for it.

Representative Eskridge said that on behalf of District 1, he stands in support of both of these gentlemen. They have helped to solve the problems of Rock Creek, BPA's special request, and the kokanee issue. They are both well-known, well-respected, and active in community affairs.

Chairman Schroeder said that he is impressed with the professional qualifications, expertise, and the hours that the group gives to the Commission.

Senator Broadsword said that Mr. Brinkmeyer and Mr. Elsaesser are not just community leaders, but important businessmen, with so many demands on their time. For them to take time out of their busy schedules and to donate their time to the Commission is fortunate for us in the community. It shows their commitment, not only to the community, but to the environment in our area.

Senator Kerby deferred his time to Representative Eskridge.

That concluded the confirmation hearing for the two gentlemen.

RECESS:

Chairman Schroeder called for a recess at 12:30 p.m. and said the Committee would reconvene at 2 p.m.

CALL TO ORDER:

The **Chairman** called the meeting to order at 2 p.m. with all Committee members in attendance except for Senator Werk, who is chairing a JLOC meeting.

Chairman Schroeder suspended the rules regarding voting on Gubernatorial appointments. He stated that due to time constraints, plus the possibility of the Senate adjourning by the end of the week, this action

was necessary.

MOTION: **Vice Chairman Bair** made a **motion** to send to the floor the recommendation of **Ford Elsaesser** to the Lake Pend Oreille Basin Commission. The motion was **seconded** by **Senator Cameron**. The motion **passed** by unanimous voice vote. **Senator Kerby** will be the **sponsor**.

MOTION: **Vice Chairman Bair** made a **motion** to send to the floor the recommendation of **Marc Brinkmeyer** to the Lake Pend Oreille Basin Commission. The motion was **seconded** by **Senator Cameron**. The motion **passed** by unanimous voice vote. **Senator Kerby** will be the **sponsor**.

MOTION: **Senator Cameron** made a **motion** to send to the floor the recommendation of **Linda Mitchell** to the Lake Pend Oreille Basin Commission. The motion was **seconded** by **Senator Stennett**. The motion **passed** by unanimous voice vote. **Senator Broadsword** will be the **sponsor**.

H 407a: **Chairman Schroeder** then asked **Mr. George Bacon, Director of the Idaho Department of Lands**, to tell the Committee about his bill, H 407a.

A copy of **Director Bacon's** remarks has been inserted into the minutes.

Mr. Chairman and Committee members:

Chapters 12 and 13, Title 58, Idaho Code, establish state ownership of the beds of navigable waters and require the State Board of Land Commissioners to regulate, control, and permit encroachments, such as dock permits and other activities. The Department of Lands is responsible for the administration of the Lake Protection Act which generally consists of reviewing encroachment applications and approving permits. Each transaction involves document review and processing, and at least one site inspection.

This General Fund program is currently losing money. Last year revenue for the entire program was \$502,308, against expenses of \$664,468. This equates to a net loss to the General Fund of over \$162,000. (\$162,160)

The Department estimates the average actual costs for inspecting and processing single-family and two-family dock permits is \$300. It costs us about \$550 for each shoreline protection permit. Currently, the maximum fee allowed by code for these activities is capped at \$250.

The proposed legislation would raise the cap for single and two-family dock permits to \$500 and shoreline protection permits to \$1,000. Actual fees will be established under those caps through negotiated rule making. These fees are "one-time" charges that only occur when new projects are proposed.

If you approve this legislation, the department will attempt to set new fees under the new caps through the rule-making process. As I stated, our

latest studies indicate those fees should be at \$300 for single and two-family docks, and \$550 for shoreline protection permits. Those rates will properly price the costs of permitting those activities. The total increased revenue to the General Fund is estimated to be \$34,050.

Obviously, that will not balance costs for the entire lake protection program. However, it will allow us to set appropriate fees for dock and shoreline projects. The Department will examine appropriate rates for other activities, such as lakebed leasing, to balance program expenses with revenues. We believe this can be done under existing authorities.

With that, I would stand for any questions.

Chairman Schroeder asked where does the money go – to the general fund or to a special fund? **Director Bacon** said that all moneys go back to the general fund. The **Chairman** then asked how often do people apply for permits, then are denied? The Director deferred that question to **Mr. Eric Wilson, Program Manager, Navigable Waters and Minerals, IDL**. Mr. Wilson said that permits for single and two family dock permits are rarely denied.

Senator Stennett inquired if a permit would be required for something more than what was originally designed. **Director Bacon** said that right now, replacement would require a new permit. There is legislation that has passed both Houses (and he stated that IDL agreed with it) that permits would not be needed if replaced with exactly the same thing. Permits are required for new construction or reconfiguration that does not conform to the exiting permit. As property changes ownership, people want to personalize their docks and they start all over again. Director Bacon said that the fees they are suggesting are needed to cover their costs. **Senator Stennett** said, for clarity, if the dock stays the same, it doesn't matter about the ownership. **Director Bacon** said that was correct.

Vice Chairman Bair asked Director Bacon that when he said “the Board shall set the fee”, did he mean the Land Board? **Director Bacon** said the original legislation was going to have the Board set the fees, but under this legislation the Board will not set any fees, as it will be done under rule-making.

MOTION: **Senator Siddoway** made the **motion** to send H 407a to the floor with a do pass recommendation. The motion was **seconded** by **Vice Chairman Bair**. The motion **passed** by unanimous voice vote. **Senator Siddoway** will be the **sponsor**..

HCR 58: **Representative Anderson** presented this concurrent resolution. He said it is requesting the Constitutional Defense Council to investigate the feasibility of pursuing legal and other actions to allow the State of Idaho to assert control of and provide maintenance operations on Bureau of Land Management and United States Forest Service Lands. He stated that the current balance of the Constitutional Defense Fund is \$240,321.61.

Vice Chairman Bair inquired as to who sits on the Council. The

response was the Governor, Pro Tem, and Speaker of the House.

- TESTIMONY:** **Mr. Wally Butler, Range and Livestock Manager for the Idaho Farm Bureau Federation**, testified that they are in support of HCR 58.
- MOTION:** **Senator Pearce** made the **motion** to send HCR 58 to the floor with a do pass recommendation. The motion was **seconded** by **Senator Cameron**. The motion **passed** by unanimous voice vote. **Senator Kerby** will be the **sponsor**.
- ADJOURN:** The meeting was adjourned at 2:45 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: March 24, 2010

TIME: 1:30 p.m.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Schroeder, Vice Chairman Bair, Senators Pearce, Coiner, Siddoway, Brackett, Stennett, and Werk

MEMBERS ABSENT/ EXCUSED: Senator Cameron

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 meeting to order at 1:30 p.m. for the purpose of recognizing the **Committee Page, Jedediah Russell**.

PAGE RECOGNITION: The Chairman turned the gavel to **Vice Chairman Bair**, as he proceeded to the speaker's podium to join Jedediah.

Chairman Schroeder said we are at the end of another legislative session and having to say goodbye to another tremendous person who has worked for us is always a sad time, but was glad to have had the opportunity to meet such a fine young man. He then presented a Senate watch and a letter of recognition, signed by all the Committee members, to Jedediah.

The Chairman then asked Jedediah to tell the Committee about his future plans and to also tell them what he learned while serving as a Page during this legislative session.

Jedediah said that some of his goals are to go to BYU-Provo this Fall, then serve a LDS mission for two years. Following that, he plans to major in International Relations, with a minor in Spanish, and after that, do graduate studies at George Washington University in Washington, D.C. in micro economics. Jedediah would eventually like to work as a diplomat abroad.

As to what he has learned while serving as a Page, Jedediah said that he learned an unaccountable number of things through working with all the good Senators. He said there are three things that he wanted to stress and one was that politicians are people too. He expected to work with a bunch of wealthy lawyers and professional politicians, like what is in D.C., and for them to be very serious and not have a sense of humor. Jedediah said that on the first day, he learned that was not the case. All the

Senators here take their job seriously, but they laugh, they play, and enjoy what they do.

The second thing is that he is proud to live in Idaho. Before he came here, he thought Idaho was perceived as one big, backwater wilderness area where every highschool kid is a “Napoleon Dynamite” and everyone outside the state mistakes it for “Iowa” or “Ohio”. Being here has given Jed a number of things to be proud of. For the most part, he said the legislative process works and the people that represent the people of Idaho are decent, caring people. Idaho may not have very many people, but the state has a balanced budget, which is a lot more than most states can say. Idaho also has a citizens’ legislature, which in his opinion, is very important and the legislature realizes the impacts of the laws that they pass.

Jedediah said the third, and probably the most important, was his change of attitude about politics. Last Sunday night, he watched the final hour of the health care debate and was shocked at what he heard and saw. He observed people shouting political rhetoric to the opposite side of the aisle – people were angry – people spoke out of turn – people were rude. He realizes after being here that politics can be an angry, selfish, and corrupt business, but that is not what it has to be. It certainly shouldn’t be. Working here has taught Jedediah what politics should be – people with conflicting opinions, with diverse backgrounds, all working together for the benefit of all.

That concluded Jedediah’s remarks to which he got a roaring round of applause.

Chairman Schroder again thanked Jedediah for his hard work as the Committee’s Page. **Vice Chairman Bair** returned the gavel to the Chairman.

ADJOURN: **Chairman Schroeder** adjourned the meeting at 1:45 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary