

MINUTES
HOUSE RESOURCES & CONSERVATION COMMITTEE

DATE: Thursday, February 09, 2012

TIME: 1:30 P.M.

PLACE: Room EW40

MEMBERS: Chairman Stevenson, Vice Chairman Shepherd, Representative(s) Wood(35), Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Wood(27), Boyle, Hagedorn, Harwood, Vander Woude, Gibbs, Pence, Higgins, Lacey

**ABSENT/
EXCUSED:** None.

GUESTS: The sign-in sheet will be retained in the committee secretary's office until the end of the session. Following the end of the session, the sign-in sheet will be filed with the minutes in the Legislative Services Library.

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

MOTION: **Rep. Raybould** made a motion to approve the minutes of Tuesday, February 7, 2012. **Motion carried by voice vote.**

RS 21134: **Rep. Eskridge** said based on an example in his district he wanted to bring this proposed legislation. He said this will allow a disabled hunter companion, holding the appropriate license and tag, to be able to finish an animal if it is wounded by the disabled hunter and the disabled hunter is unable to get to the animal due to their disability.

MOTION: **Rep. Shepherd** made a motion to introduce **RS 21134**. **Motion carried by voice vote.**

H 462: **Paul Kjellander**, Public Utilities Commission, said this legislation refers to gathering lines for pipelines. He said it specifically relates to safety inspections for gathering lines. He said the legislation puts safety inspections in place. He said these safety inspections are the same types of inspections they do now, they already have the trained staff and inspectors to do the inspections instead of trying to create a new entity to do them.

MOTION: **Rep. Eskridge** made a motion to send **H 462** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Eskridge** will sponsor the bill on the floor.

H 460: **Tom Schultz**, Director, Idaho Department of Lands, said this bill would amend the Code regarding permit fees. He said it is a permanent application fee but there is a sunset clause in the bill for the fee to only be carried through June of 2017. He said they felt the fee increase is necessary and appropriate and will reduce the burden on the General Fund.

MOTION: **Rep. Gibbs** made a motion to send **H 460** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote** with **Rep. Harwood** being recorded as voting **NAY**. **Rep. Gibbs** will sponsor the bill on the floor.

H 463: **Tom Schultz** said the changes to the bill will reorganize definitions in Code and will bring standards more current. He said this will update provisions to protect oil and gas and prevent the pollution of fresh water supplies. He also said it adds penalty amounts for violations.

- RS 21204:** **Steve Thomas**, on behalf of his client, Chevron, said this proposed legislation is a trailer bill to **H 463** dealing with penalties. He said there was a concern with the civil penalties in **H 463** and the \$10,000 civil fine. He said this legislation will clarify when the civil penalty starts. He said there was also concern with the criminal penalty and this bill will make clarifications to that penalty. Mr. Thomas answered questions from the Committee regarding when the penalties start.
- MOTION:** **Rep. Hagedorn** made a motion to send **H 463** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Hagedorn** will sponsor the bill on the floor.
- MOTION:** **Rep. Raybould** made a motion to introduce **RS 21204** and send it directly to the Second Reading Calendar. **Motion carried by voice vote.** **Rep. Harwood** will sponsor the bill on the floor.
- H 379:** **Tom Schultz**, Director, Idaho Department of Lands, said this legislation will allow the State Tax Commission to collect tax for the oil and gas program and will redirect the General Fund portion of the severance tax to the Oil and Gas Commission. He said almost all other states have a higher tax rate for oil and gas than Idaho. He said no two states are the same which makes it difficult to have a comparison with other states around us. Mr. Schultz said this doesn't increase the tax, it only redirects the tax. He said the intent is to be able to fund the oil and gas program from these fees being collected.
- Mr. Schultz** answered questions from the Committee regarding the different ways of valuing the price for oil and gas, types of hardships due to oil and gas production that could occur and who manages the fund and how the determination is made for a hardship.
- MOTION** **Rep. Boyle** made a motion to send **H 379** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Boyle** will sponsor the bill on the floor.
- H 464:** **Suzanne Budge**, Idaho Petroleum Council, said the Council is a new organization which was formed hoping to see development in the oil and gas industry. She said these various rules and bills are the product of many people and agencies doing extensive rule making and changes to Idaho Code. She said the industry, local government and public have been involved. She said this bill is largely based on what other states do and is a matter of historical perspective. Ms. Budge said there is oil and gas statute currently in Code under the mining statute. She said there are five pieces of legislation with components that update the statute as well as the Rules. She said this legislation is the piece that fills in the gaps of the other pieces of legislation. Ms. Budge gave a brief over view of the changes the bill will make to update existing statute. She said there are also changes relating to geothermal wells. She reviewed these changes and said this brings consistency in oil and gas which will be regulated from the state level. She said it clarifies local government's role in the oversight of oil and gas, clarifies the drilling of wells and adds definitions that exist in the Federal Code. Ms. Budge thanked the parties that were involved in this process and said it is good to have energy resources in the state and to add natural gas and oil to those resources, as well.

Mike Christian, Snake River Oil and Gas LLC., said he worked with the Petroleum Council in drafting **H 464**. He said they engaged in a number of meetings with various agencies and other groups. He said the bill does four things, it clarifies the statement of public interest to provide for uniformity and consistency. He said it clarifies the scope of local regulation in drilling and post drilling. It adds the definition of injection in injection wells, which is consistent with federal rules and it recognizes that water produced with oil and gas wells is a waste product and not subject to other uses. Mr. Christian explained the bill in detail and said this is good for the state and hopefully the Committee will move it forward and send the legislation to the floor with a do pass recommendation.

In response to Committee questions, **Mr. Christian** explained what happens to geothermal waste water and the temperatures for low and high geothermal water. He also reviewed the role of local government. Mr. Christian explained the provision in rules regarding mineral and surface right agreements. In further response to questions, Mr. Christian explained the specific requirements for disposing of waste water and the permit process for drilling wells.

In response to Committee questions regarding the concern with allowing injection wells that may pollute the state's water system, **Ms. Budge** said the language in the bill complies with the Federal Drinking Water Act and the bill refers to the line between local and state authority.

Kerry Ellen Elliott, Idaho Association of Counties, said she participated in the drafting of the compromise language and she is in support of bill. She said the rules will provide a background that the local government doesn't want to recreate. She said permitting will go through the land use process. She said this bill will provide the counties with a framework to use as a base for their own ordinances.

Alex LaBeau, President, Idaho Association of Commerce and Industry, spoke in support of the legislation. He said the bill brings Idaho up to speed with other states and it is an appropriate measure for the state to have oversight of natural gas, since it's the state's roll to manage the resources of the state.

Bob Barber, self, spoke in support of using the state's resources and said he is aware of the effects for local industry. He said he is concerned about taking away the permitting process from local government and concerned with limiting their authority. He said the language is not in the best interest of the counties. He asked the Committee to not take away the counties ability to determine what is best for their citizens.

Tony Edmunson, self, said the legislation is troubling because the language is vague. He questioned what the language means for counties and it was unclear in the language what is an acceptable distance for a well from a home.

Larry Church, Payette County Commissioner, spoke in support of the legislation and gave some history. He said the counties don't have the money or the expertise to regulate this. He felt gas production would improve the county and a substantial majority want to proceed with gas production in the county. He said he didn't think this was precedent setting because the state regulates this process now and the counties couldn't accept the liability.

Marc Shigeia, Payette County, said he participated in the rule making and he appreciates the Committee's action on the Rule. He said he is in support of the bill, but has some concern with the word prohibit. He said there is a difference between that and regulate. He also said there might be some mitigating concerns.

Gayle Poorman, self, spoke in opposition to **H 464**. She said the legislation creates doubt and confusion and will lead to litigation. She said she believes the bill would clear the way for hazardous material to make its way into ground water. She said the health risk is not worth the benefit of natural gas.

Mary Susan Roach, self, said she is not in favor of the legislation. Her main concern is with local cities and counties setting ordinances that will greatly impact the citizens. She said she is not opposed to the industry being here, she just wants to have some say as to what the industry does in the county.

Robert Patrick, self, said he is not a member of a green environmental group, he is a standard republican and has concern with issues that effect him and his property. He said he believes in the right to be included in the process to ensure land, air, and water are protected.

Jon Norstog, American Planning Association, spoke in opposition to the bill saying it gives the Oil and Gas Commission unlimited authority to regulate and approve the sighting, development and operation of oil and gas wells. He said this exempts land users from local regulation.

Amanda Buchanan, self, spoke in opposition to the bill saying citizens have concerns over the loss of local control. She said the way the language in the bill reads, a person doesn't have to go through the local government until the well goes through the permit stage.

Alma Hasse, self, spoke in opposition to the bill saying there are concerns with counties being able to develop the perfect ordinance to regulate wells and there is no regulation for the proximity of wells to homes and schools.

Tina Fisher, self, spoke in opposition to the bill saying in 20 years she has never seen the state allow one industry to have free reign on changing the law. She said the industry makes good claims, but the outcome will not be good.

Reed Mulkey, self, spoke in opposition to the bill saying within the bill there are protection concerns for the health and safety of citizens. He said there is a fear of loss of local control.

Kirk Chandler, Chandler Valley Ranch, spoke in support of the bill saying that drilling for natural gas is not new in the state. He said it may be a good thing to have come into the counties to fix some of the problems we have now. He said he thought it would be good for the state and the industry has come a long way.

Anna Owsiak, self, said she believed in accountable and responsible gas and oil development, but thought this bill limited local control and she urged the Committee not to support the bill.

Justin Hayes, Idaho Conservation League, spoke in opposition to the bill saying the bill diminishes certain aspects of local control and the section addressing injection well activity is a dramatic departure from the rules and statute currently in place.

Carol Bogue, self, spoke in opposition to the bill saying the language in the bill as she sees it will take away the ability of local government to decide what the future of the citizens will be.

Gaetha Pace, self, spoke in opposition to the legislation saying as a resident they should be allowed to have some say in their community and people have legitimate concerns with this bill.

Jeri Soulier, Washington County Planning and Zoning, spoke in opposition to the bill saying the majority of the testimony has been in favor of industry and in favor of local control. He said there is a need for the public to be involved in the process.

Mike Larkin, self, said he is concerned about the tone of the language in the bill and the legislation needs to be clarified and rewritten.

Liz Amason, self, spoke in opposition to the bill saying she participated in the rulemaking process and this is an important issue. She said the state is not competent enough to oversee the local community. She said there is proof of missteps in natural gas activities.

Pattie Young, self, spoke in opposition to the bill saying that other counties, states and countries have been compelled to impose moratoriums on fracking and the counties don't want the responsibility. She encouraged the Committee not to limit local control.

Gary Chapman, self, spoke in support of the bill saying he has five wells and everything the industry has told him has been accurate. He said he believed the state, cities and counties need this resource.

Lynn Tominaga, Idaho Ground Water Users Assoc., said he would speak to the water right issues, there is a protection for ground water users and less than 2% of wells would interfere with water rights. He said the gas and oil industry have to prove there is an issue.

Roy Eiguren, Idaho Petroleum Council, said he has worked on this issue in the state and a number of issues were discussed during the rule making process. He said they have drafted this legislation with the understanding that if necessary they can come back and make changes.

MOTION:

Rep. Hagedorn made a motion to send **H 464** to the floor with a **DO PASS** recommendation. **Rep. Barrett** requested a roll call vote. **Motion carried by a vote of 16 AYE, 0 NAY, 2 Absent/Excused. Voting in favor of the motion: Reps. Shepherd, Wood(35), Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Wood(27), Boyle, Hagedorn, Vander Woude, Pence, Higgins, Lacey and Stevenson. Reps. Harwood and Gibbs were Absent/Excused. Rep. Stevenson** will sponsor the bill on the floor.

ADJOURN:

There being no further business to come before the Committee the meeting adjourned at 4:43 p.m.

Representative Stevenson
Chairman

Susan Werlinger
Secretary