

MINUTES  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**

**DATE:** Wednesday, February 22, 2012

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

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Werk, and Stennett

**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 Pearce** called the meeting to order at 1:30 P.M. and welcomed Linda Kambeitz, New Attache to the staff. **Chairman Pearce** asked for a motion to approve the minutes for February 8 and 10.

**MOTION:** **Senator Cameron** made the **motion** for approval of the minutes of February 8. The motion was **seconded** by **Senator Siddoway**. The motion **passed** by unanimous **voice vote**.

**MOTION:** **Senator Tippetts** made the **motion** for approval of the minutes of February 10. The motion was **seconded** by **Senator Cameron**. The motion **passed** by **unanimous vote**.

**S1305:** **Senator Siddoway** declared a conflict of interest because he said he is a sheep rancher and some of the aspects of this bill could have a direct effect on his operation. He wanted to make sure that it is completely understood by every member of the committee and it is reflected in the journal that this bill is only for people who have suffered losses from wolf depredation. **Senator Siddoway** said depredation could be from livestock, hunting dogs, family pets, horses and this bill gives people the opportunity to utilize the tools that are made available from this bill. He said many of these tools are currently available through Fish & Game right now. He stated the aerial provision of the bill needs to be codified.

**Senator Cameron** asked **Senator Siddoway** to yield to a couple of questions. He asked, "when does the 36-hour clock start or stop on page 3, lines 2 -4? Is it based on when the owner believes there was an attack or when a complaint was lodged with the U. S. Fish & Wildlife Service or the Idaho Fish & Game?"

**Senator Siddoway** said that as soon as it is known when the animal was molested or attacked, the clock would start then. **Senator Cameron** asked that if sheep were attacked and you didn't know about it until two days later, would you have only 24 hours based on the provisions of this bill? **Senator Siddoway** said that it was his interpretation of this bill that if it was after 36 hours after the attack one would need to obtain permits from both the Idaho Department of Agriculture and the Idaho Fish & Game to pursue the animals. **Senator Cameron** asked on line 19 when the bill says, "not withstanding any other provision of Idaho law", what are we attempting to get around?

**Senator Siddoway** said we have had experience when we have tried to protect our animals before, specifically from coyotes and especially at night when artificial light can be utilized. The Fish & Game personnel approached and informed us that we were not allowed to take these types of actions. We felt we have been susceptible to prosecution for protecting our animals. **Senator Siddoway** gave an example of a private citizen who felt his family and livestock were threatened by wolves, who used his vehicle, a snow machine, and ran over the wolves; and prosecution was brought against him. **Senator Siddoway** indicated when this bill was being created, the direction from Legislative Services was to put it all in one spot where it will be crystal clear. Again, the Department of Fish & Game, testified they could use a good number of these tools right now. Practically speaking, when out in the field, and when in pursuit of these animals and the Department personnel views chasing a wolf down with a vehicle or a snow mobile, (and everybody knows it is illegal to shoot from a vehicle or use a vehicle to pursue an animal), then we feel some susceptibility. He stated that is why we want this codified into law that we are no longer susceptible to being prosecuted for utilizing these tools that we deem appropriate to protect livestock.

**Senator Cameron** asked **Senator Siddoway** if he could provide understanding that this bill could create loopholes that a citizen could misinterpret? For example, if a citizen hunting after hours was approached by Fish & Game, could they claim they were participating in wolf depredation after 24 or 36 hours after the kill.

**Senator Siddoway** said only the person who suffered the loss, or his employees or agents, will be able to participate in the wolf depredation within the 24 or 36 hours time limit. **Senator Cameron** asked if anyone who had not suffered a loss could apply these statutes? **Senator Siddoway** answered no.

**Senator Siddoway** gave an example of using his own dog, chaining it, making sure the dog had food and water, and placing himself in a position to be in sight of any approaching predator. Turning on the electronic recording of a wolf call, the dog would join in with the electronic wolf call, making quite a commotion. The pack of wolves would approach the dog, placing the wolves within rifle range. At that time, he said, a rifle could be fired. After a few hours, if the wolves did not arrive, he would go to another location. The dog is well taken care of and is guarded at all times. The other way to utilize the live bait, he said was to load the dog in a truck, take it home, feed and treat it well like any other animal on the ranch.

**Senator Siddoway** commented that he had received numerous emails regarding this bill in regards to animal cruelty laws and the visuals received were unbelievable. He said they have absolutely no idea about what is going on out here nor do they know. **Senator Siddoway** further commented that he couldn't understand the compassion others have for his dog as live bait, being guarded with his rifles; but absolutely no compassion for the guard dogs routinely being killed and mangled to protect our livestock. In the last three years, his family had lost over 18 dogs. There is no compassion for those guard dogs who are paying the full price for protecting our livestock.

**Senator Siddoway** presented another scenario of sheep being used instead of a dog. A pen could be built as big as the meeting room in an oval shape, and two to five sheep could be put in that pen with food and water on a daily basis. On the perimeter of the pen, 10 or 12 traps would be set around the base of that fence. Hopefully, when the wolves came down from the side of that hill, they would come down to that fence. The fence would be from 4 to 6 feet high and since the wolves usually don't jump right in, they usually circle to try to find a hole. While circling around, hopefully, they would step in those traps. That's the other way he envisions how live animals could be used as bait. When the pack of wolves hear the gun

shot, they take off. He stated by using sheep or dogs, no animal would be lost or endangered, the animals would be used only to attract the wolves.

**Senator Cameron** commented he would like to see the language in this bill to be reworded in a different way. He acknowledged an owner of livestock and land should have different tools available to protect their livestock and remove wolves that are harassing or causing harm to their livestock and property. He stated that he has known friends that had gone elk hunting and calling out an elk, found themselves surrounded by wolves. The electronic call method has been used and also fake rabbits to draw in coyotes. **Senator Cameron** further commented that it seemed the most controversial piece of this bill is the live bait issue. **Senator Cameron** asked **Senator Siddoway** why he felt this was a necessary piece of legislation with all of the other tools that are being provided for the land owner or the livestock owner.

**Senator Siddoway** commented that the wolves cause havoc in the middle of the night. He said half of the time they roam within the public lands of the U.S. Forest Service, and these lands are bordered along Idaho and Wyoming. In the lands and mountains by McCall and Sun Valley, the wolves find dense cover and ridges in these areas, giving them easy access to the sheep. A herd of sheep can be scattered by over a half mile by a mile long and one can only see 150-200 head out of a herd of 2,500-2,600. Because wolves are hard to find, live bait is needed.

**Senator Stennett** said she had three parts of this bill that trouble her. First of all, she is afraid that the agreement with the federal government to have wolves hunted and managed by the state will jeopardize the wolf bill and is counter productive. Secondly, going after wolves that have not molested an animal is another step in a direction we have not taken so far. She understands if there is evidence livestock have been attacked that predators can be destroyed. She stated just to randomly lure animals in so that you can diminish their numbers is a whole different term in what we are doing. Thirdly, the use of live bait is not defined as to what live bait means in this bill. She said anyone can torture anything to bring wolves in and she said she thought this was completely inappropriate. **Senator Stennett** thought if this was a little better defined it might become better understood, but at this time she cannot support this bill. She said she felt that allowing for the torture of those creatures to bring other species in is not anything we intended to do here and that disturbs her.

**Chairman Pearce** asked if there was any further debate.

**Senator Siddoway** stated to **Senator Stennett** that he didn't understand why the utilization of live bait came to torture. He asked **Senator Stennett** if the trauma to the live bait animal was considered torture? **Senator Stennett** indicated that she knew this was not his intention, but by allowing an animal to be staked down in a trap or around a trap, to bring predators in so that they could be thinned out or killed for the purpose of saving livestock, does not allow them to be able to defend themselves. In that case, these may not all be wolves. She said she thought they could come upon a live animal that is staked down, who does not have the ability to defend itself and she said she thinks it goes past the threshold of attacking something that happens to be in the area. She stated she felt this did not provide for a level playing field.

**Senator Siddoway** asked **Senator Stennett** if the sheep that were in the corral were the bait or were the sheep that were out grazing the bait? He asked her if she could differentiate between the live bait and the ones who are not the live bait and which has the best chance of survival and the one who has the least chance of survival under the Wolf Act?

**Senator Stennett** said that if there were four sheep in a corral that were adequately protected they probably would stand a better chance of being protected rather than the ones who are outside of the corral. She said we are talking about going to the next level by putting something live and trapped for the purpose of luring another species. She asked what about an individual who puts something live in a trap to lure in a wolf and then is not around to defend the animal that is put there. She stated there were no parameters about how you use or abuse the live bait piece of this bill.

**Senator Tippetts** asked the question, "when is enough, enough"? He stated Idahoans did not want wolves in the first place. He stated that one of the members of the Department of Fish & Game said we may have as many as 1,500 and we have livestock owners who suffer tens of thousands of depredation every year, and people across the state say they don't allow their children to play outside because they have wolves around the house. He further stated he didn't know if this was the perfect solution, but options should be provided to livestock owners to take action against these wolves when they are feeding on their livestock. He said that **Senator Stennett** brought up a valid point that there is a possibility that this could create concerns with the agreement we now have. He said he spent time with **Congressman Simpson** last night and that he brought up this topic and he has his permission to represent his opinion. If this bill passes, it is likely wolves will be re-listed and he does not want that to happen. **Senator Tippetts** said he will support this legislation now because he doesn't want to stall the legislation, but he said he may not support it later on when it gets to the floor for that very reason. He said if this isn't the answer and if we don't want to re-list the wolves and we decide to do something differently, he would be looking for some sort of a solution that would keep the wolves from being re-listed. Some options need to be provided for the livestock owners and the other people of this State, who have, frankly, had enough. He further indicated the livestock owners and other people feel we need to do more than we are currently doing to get this problem under control.

**Chairman Pearce** stated that if these wolves were running in town, there would be an outcry to do something about it. He said this is a long way away from some people's real problems and that rancher's livelihood is being eaten and destroyed. **Chairman Pearce** said that one of the ranchers he knows lost 69 calves this season to wolves and they did not get compensated for all of them either. It was a major loss and ranchers have lost too many. This bill does not do as much as it appears to do and it is not as far-reaching as we think it is and it states simply that some additional tools may be used and there are other areas where changes can be done. He said he will support this bill.

**MOTION:**

**Senator Werk** made a motion to hold **S1305** in Committee until July 1, 2012.

**Senator Stennett** seconded the motion. The following discussion ensued:

**Senator Werk** said he understands there are issues out there. The reason he made this motion was the language, "notwithstanding the provisions of Idaho law" is about as broad of an exemption from Idaho law that he has ever seen in any legislation. The issue associated with live bait, he said, whether the intent is to have individuals that would be engaging in the practice that would be diligent in protecting whatever was being used for live bait, there is nothing in this code that would indicate that we need to be diligent. He said there would be things that would happen that would be rather unfortunate. As well, he said he was very happy that wolves were being de-listed and he felt that was a great victory in our efforts to be able to control the population and work in the future years for adequate management.

He indicated that if the impact of passing this legislation would result in the re-listing of wolves, he could not see this as being worthwhile. He said he would hope the Committee would decide to take a step back so as to not to put the State of Idaho in this type of risky position. Perhaps, he said, that something will come out of the discussion that is easier to evaluate and pass and not run afoul of the Federal issues.

**SUBSTITUTE MOTION:** **Vice Chairman Bair** made a substitute motion that **S1305** move to the Floor with a "do pass" recommendation and **Senator Heider** seconded.

**ROLL CALL VOTE:** **Chairman Pearce** asked for a roll call vote. The following voted aye: **Senators Cameron, Brackett, Tippets, Heider, Siddoway, Bair, and Pearce**. The following voted nay: **Senators Werk and Stennett**. The motion **passed** with 7 ayes and 2 nays.

**Chairman Pearce** said this took a lot longer than they had anticipated.

**TESTIMONIES:** Doug Badger opposes the bill. Loretta Sadler opposes this bill. Don Charney opposes this bill. Janet Hoben opposes this bill. Joan Favazza opposes this bill. Bret Hoverstick opposes this bill. Mary Ann High opposes this bill. Ann DiNucci opposes this bill.

**SJM103:** **Senator Keough** was asked by **Chairman Pearce** to introduce this bill relating to the Community Forest Trust Pilot. She indicated she and **Chairman Pearce** were the sponsors of this bill. She said the resolution sets out the Concept formulated by the counties of Shoshone, Boundary, Clearwater, Idaho and Valley as a possible alternative for national forest land management and asked that a pilot project to determine the feasibility of the concept be included in a reauthorization of Secure Rural Schools. She introduced **Commissioner John Cantamessa**, from Shoshone County and **Commissioner Dan Dinning** from Boundary County.

**TESTIMONY:** **Commissioner Dan Dinning** provided a background on the Joint Memorial 103 on the Community Forest Trust. He said in the year of 2000 the Community Secure Rules Schools Community Self-Determination Act was originally set up to keep the counties and school districts of the western states whole with federal receipts, but did not come in due to lack of management in the prior 25% formula. He stated the counties received 70% and the schools received 30%. The counties and schools received 25% of the gross receipts from national forest timber sales. That figure dwindled drastically over the last 30 years. He stated in the year 2000, the federal government said they would pay an anticipated amount. Counties would have time to simultaneously expand their economies, which has not happened.

The Secure Rural Schools Act has now expired and, as **Commissioner Dan Dinning** pointed out, we need to get on a path to balance our national budget and reduce our national deficit. However, without the Secure Rural Schools Act, the consequences to our Idaho counties are dire, leaving no choice but to dramatically reduce services or raise local taxes or both. He further pointed out that it would further stress schools and roads, stifle any new opportunities for economic growth and significantly cause a disadvantage for the existing businesses in our communities. He said we need an alternative that does not rely on federal transfer payments and still supports our local government and communities.

**Commissioner Dinning** said that Idaho counties have developed an alternative to the federal transfer payments, called a Community Forest Trust. The Trust is a proposed partnership with the State Department of Lands to better utilize some federal lands to meet the needs of local communities and county governments.

**TESTIMONY:** **Commissioner Cantamessa** ; Chair of the Idaho Association of Counties Public Lands Committee, presented the concept of The Community Forest Trust Proposal. He indicated the Community Forest Trust concept had been adopted by formal resolution of the entire Idaho Association of Counties and by many Idaho Chambers of Commerce, businesses, and community groups. He indicated the proposal was for the federal government to designate by law specific federal forest lands in Idaho to be managed in trust, under sustained yield and multiple use principals, for the specific purpose of providing revenues to local county schools and roads, in lieu of federal transfer payments under the SRS Act.

**Commissioner Cantamessa** indicated the lands would remain in federal ownership and be open for hunting and fishing and other recreational activities by all Americans. Management of the natural resources on the Community Forest Trust lands would be by the Idaho Department of Lands professionals under the laws as they currently apply to the management of the Idaho state forest lands. Net revenues generated from the Community Forest Trust lands would be distributed to all Idaho counties in the same proportion they are currently receiving SRS funds and their SRS payment from the federal government would be reduced by a like amount. He further commented the Idaho Department of Lands would deduct their management costs for the Community Forests from the revenues prior to the transfers to counties. Overall management guidance would be provided by a Community Forest Trust Board made up of all commissioners from Idaho counties with federal forests.

**Commissioner Cantamessa** said there was a proposal before the U.S. Congress for a small pilot project of 200,000 acres to prove and refine this concept. He noted that the success of the Community Forest Trust proposal depends on a partnership with the state natural resource management agencies. He thanked the Idaho Congressional delegation, particularly **Representative Labrador**, who has helped advance this concept in the U. S. Congress. He also thanked **Senator Keough** for sponsoring this important Joint Memorial and **Chairman Pearce** and members of the Committee for their consideration.

**Vice Chairman Bair** asked for a clarification on what the Community Trust Pilot Program was for Idaho. **Commissioner Cantamessa** commented this concept was adopted by formal resolution by the entire Idaho Association of Counties, and by many Chambers of Commerce, businesses and community groups. The proposal would be for the Federal Government to designate by law specific forest lands in Idaho to be managed in trust, for the specific purpose of providing revenues for local county schools and roads in lieu of federal transfer payments under the SRS Act. The lands would remain in federal ownership and be open for all Americans at all times for recreational activities. The management of these natural resources on the Community Trust Lands would be by the Idaho Department of Lands professionals, under the laws currently and apply to the management of the Idaho state forest lands. Net revenues generated would be distributed to all Idaho Counties in the same proportion they are currently receiving SRS funds. **Chairman Pearce** commented there are 375,000 acres and he asked if this land is a part of this pilot program. **Commissioner Cantamessa** said they are in cooperation with the Idaho Forest Service to identify the lands which would be suitable for this program and have asked the Department of Lands to assist in this program.

**MOTION:** **Vice Chairman Bair** made the motion, seconded by **Senator Tippetts** that the Committee send **SJM103** to the Senate floor for recommendation. Motion carried by **voice vote**. **Senator Keogh** will be the floor sponsor.

**SJR 106:** **Chairman Pearce** asked **Senator Heider**, to introduce this bill to the Committee relating to the rights to hunt, fish, and trap as a valued part of the heritage of the State of Idaho. **Senator Heider** suggested the Committee to read along and underline the words "and manage", and "or establish any minimum amount of water in any water body." Originally when this bill was presented, those words were not included. The Attorney General's office suggested we use the words "and manage", in this bill, to make it more clear the fact we would be managing wildlife through the rules, the laws and the proclamations of the State. Previously it was implied, but this language says it in a more firm, supportive manner. The Idaho Water Users Association had a problem with the verbiage as it didn't think it went far enough to protect our water rights. The Association were the ones who added the verbiage "of establish any minimum amount of water in any water body." The Idaho Water User Association supports this bill. He appreciated **Senator Werk** requesting the Attorney General's opinion. In the Attorney's General's report was stated support for this bill. **Stephen P. Holbrook**, an attorney for the **NRA** organization, supports the validity of a fee. He never had been questioned by any state to hunt, fish and trap. **Senator Heider** stated we need to protect this right for everyone. He further commented on the display of a picture of his son with a large fish at Henry's Lake, and the big smile on his son's face. Memories like this one will be forever with his son, he said. This law is about protecting those rights so we can take our children, and our grandchildren and the citizens unborn to have the right to hunt, fish and trap within the great of Idaho. It is a valued heritage for the people of Idaho, through this Constitution Amendment and he said he believed we could preserve it forever.

**TESTIMONY:** **Sharon Kiefer**, Idaho Department Fish and Game testified the Department believes **SJR106** is strengthened by adding the words "and managed" before "through." She said it creates a break or separation between the State's duty to preserve hunting, fishing and trapping rights and the State's authority to manage those rights through laws, rules and proclamations. This subtle and important change would uphold and enable a successful argument that the amendment does not infringe upon the Fish and Game Commission's traditional authority to take into account factors, such as biological conditions, other than preservation of hunting rights, when establishing Fish and Game regulations and licensure. The Fish and Game Commission, she explained, desires to preserve both the traditions of hunting, fishing and trapping, and the traditional legislative statutory and Commission regulatory powers that are important to providing continued supplies of wildlife.

**MOTION:** **Vice Chairman Bair** made a motion, **seconded** by **Senator Siddoway**, to send this **SJR106** to the Senate floor with a "**do pass**" recommendation. Motion carried by **voice vote**. **Senator Heider** will be the floor sponsor.

**H446:** **Chairman Pearce** asked **Director Nancy Merrill**, Idaho Department of Parks and Recreation, to present **H 446** to the Committee. **Ms. Merrill** stated this bill amends Section 49-401B, Idaho Code, to provide that applications for motor vehicle registration shall contain a provision allowing an owner to choose to participate in the Idaho State Parks Passport Program. Fees collected, in addition to vehicle registration fees for the Idaho State Parks Passport Program, as provided in Section 49-402 (11), Idaho Code, shall be separately identified and accounted for and paid to the state treasurer. **Ms. Merrill** further commented that in a new Section 67-4223A, Idaho Code, there is a provision for the Idaho State Parks Passport Program, to provide for fees and that the Department shall not be precluded from continuing to sell certain daily and annual motor vehicle entrance passes.

**TESTIMONIES:** Mark Young, Meridian, ID supports this bill. Steve Stuebner, author of ten outdoor books, supports this bill. Todd Graeff, Boise, ID, who has many years of working in the parks and recreation field, sees the Idaho State Parks Passport Program as a lifetime for the parks and citizens of Idaho and is in support of this bill. Bill Eastlake, supports this bill and its low cost to purchase this passport.

**MOTION:** **Senator Cameron** made a motion, **seconded** by Senator Heider, to send **H446** to the Senate floor with a "**do pass.**" Motion **passed** by **voice vote**. **Senator Cameron** will be the floor sponsor.

**ADJOURNMENT:** **Chairman Pearce** thanked the Committee for the good work today. The meeting adjourned at 2:50 PM.

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Senator Pearce  
Chairman

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Linda Kambeitz  
Secretary