

MINUTES

HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE

- DATE:** Wednesday, February 22, 2012
- TIME:** Upon Adjournment
- PLACE:** Room EW41
- MEMBERS:** Chairman Raybould, Vice Chairman Harwood, Representative(s) Anderson, Eskridge, Hartgen, Simpson, Schaefer, Vander Woude, Block, DeMordaunt, Gibbs, Nielsen, Thompson, Smith(30), Jaquet, Cronin
- ABSENT/
EXCUSED:** Representative(s) Simpson, DeMordaunt
- GUESTS:** Robert Neilson, Idaho Strategic Energy Alliance; Brenda Tominaga and Lynn Tominaga, Idaho Irrigation Pumpers Association; Scott Tschirgi, Roth Dairy; John J. Williams, Bonneville Power Administration; Gerry Fleischman, citizen; Jeremy Pisca, Potlatch; Shelley Davis, Barker, Rosholt, Simpson; Tom Harvey, Jason Kreizenbeck, Rich Hahn, Jim Tucker, John Carstensen, and Chris Randolph, Idaho Power Company; Jesse Taylor, Westerberg and Associates; Russ Westerberg and James Campbell, Rocky Mountain Power; Lisa Young, Snake River Alliance; Brian Jackson, American Wind Group; Dene Breakfield, Community Action; Neil Colwell, Avista Corporation; Jane Wittmeyer, Clearwater Paper Corp.; Matt Kaiserman, Galletin Public Affairs; Trent Clark, Monsanto
- Chairman Raybould** called the meeting to order at 2:52 p.m.
- HCR 32:** **Chairman Raybould** presented **HCR 32** regarding the deletion of **Docket No. 24-0501-1101, Section 375.02.c.** from the rule governing education requirements for wastewater professionals. He explained that the resolution had remained on the House Calendar for an extended period, without action, and that the Senate sent a duplicate resolution **SCR 115**, which had passed the Senate. He explained to the committee that in order to expedite the legislative process, he requested the Speaker of the House to return **HCR 32** to the committee. He asked for a motion to **HOLD HCR 32** in committee.
- MOTION:** **Rep. Harwood** made a motion to **HOLD HCR 32** in committee. **Motion passed by voice vote.**
- SCR 115:** **Chairman Raybould** presented **SCR 115** regarding the deletion of **Docket No. 24-0501-1101, Section 375.02.c.** from the rule governing education requirements for wastewater professionals.
- MOTION:** **Rep. Harwood** made a motion to send **SCR 115** to the floor with a **DO PASS** recommendation. **Motion passed by voice vote. Rep. Raybould** will sponsor the bill on the floor.
- James Campbell**, Senior Analyst, Rocky Mountain Power, explained the environmental regulatory requirements put forth by the federal and state agencies in relationship to the mandated deadlines. He also explained that the Clean Air Act (CAA), as last amended in 1990, requires Environmental Protection Agency (EPA) to set National Ambient Air Quality Standards for pollutants considered harmful to public health and the environment. He directed the committee through a PowerPoint presentation explaining the pollutant standards put forth by the EPA and a brief description of the regulations pertaining to each pollutant. (A copy of the PowerPoint will be in the Committee Secretary's office until the end of the session. Following the end of the session, this will be filed with the minutes in the Legislative Services Library.)

Responding to a question pertaining to the over-reaching power of the EPA, **Mr. Campbell** said that in 1990 the amendments to the CAA stipulate that the states have to generate different scenarios or models for meeting air quality control in conjunction with adjoining states which are addressing the same issues. In the example of the pollutant called "regional haze," Utah, Wyoming and Idaho joined together and completed their State Implementation Plan (SIP) which also included an economic impact study.

The overreach came when Utah was told that its plan was not acceptable. EPA decided that Utah must implement a federal plan that contained far more expensive emissions control equipment. In the opinion of the industry, backed by the CAA, it is the states' job to create the SIP. The states, in conjunction with the industry, consider the economic and environmental impact to each state. **Mr. Campbell** said that the EPA came in after being prodded by the Sierra Club and changed the intent of the CAA. He said that the EPA does not follow the law. It over-reaches the law it was elected to oversee. In response to questions from the committee regarding possible procrastination on the part of the industry for not engaging in earlier conservation and/or qualification measures, Mr. Campbell explained that the regulations did not come in overnight but that the enforcement deadlines are all within a ten year period. (See PowerPoint.)

Jim Tucker, Senior Attorney, Idaho Power Company, stated that the hydro relicensing effort for the Hells Canyon Complex has been ongoing since approximately 1996. Idaho Power filed the company's license application for the Complex projects with the Federal Energy Regulatory Commission (FERC) in 2003. In September 2007, FERC issued the Final Environmental Impact Statement, which basically summarizes what will be contained in the new license and describes how the projects will be operated in the future. The two issues which remain unresolved before a new license is issued are: the Endangered Species Act (ESA) consultation on anadromous fish and bull trout, and the 401 Water Quality Certification. He said the fact that the ESA Agencies will not move forward with their consultation until the project obtains the 401 Water Quality Certification is problematic.

In response to questions from the committee regarding the cost of the relicensing process, **Mr. Tucker** explained that to date \$145 million has been spent with no final agreement from the federal agencies. The cost to Idaho Power for the relicensing of the Hells Canyon Complex could exceed \$500 million. In response to further questions, Mr. Tucker stated that, to Idaho Power's credit, the ratepayers have not received a rate hike resulting from the relicensing process.

In response to a question regarding fisheries temperature issues in the Hells Canyon Complex, **Mr. Tucker** said that a temperature control structure could cost \$50 million or more, whereas watershed measures could reach approximately \$120 million. He also said that failure of environmental agencies to consider the fish activity and population history prior to, and after the Hell's Canyon Dam's contribution to anadromous fish recovery, is part of the frustration. He clarified that prior to the Hell's Canyon Dam, salmon were not spawning there. The dam acts as a settling pond; there is more clean water and a better water flow. He said they were all unintended consequences, but positive conditions for salmon. Responding to a question regarding an example of successful relicensing of a moderate-sized dam, Mr. Tucker stated that the Swan Falls Dam relicensing had taken only two years, with no litigation. He acknowledged that the Hells Canyon Complex issues were unique.

Neil Colwell, Manager State Government Relations for Idaho and Montana, Avista Corporation, explained that Avista has two power plants in Idaho, the Cabinet Gorge on the Clark Fork River and the Post Falls Dam. He stated that, similar to the power companies previously presenting, Avista Corporation was subjected to regulations and decisions by a host of federal entities. He stated that some costs to power companies are easily identified such as pollution control, hydro relicensing and FERC compliance. The indirect costs can be annual training costs for the Department of Transportation, other FERC compliance measures, human resources activities, health and safety, equipment purchases, etc. He emphasized that costs to the company are not optional once they are imposed by federal and state statutes and that those costs accumulate. He noted that Avista attempts to minimize the expense of such transactions such as: acquiring of a communication band for gas pipeline safety and meter reading, negotiations with regulatory entities, staying in sync with new rules and integrating of mandated changes. He said that the regulatory costs are significant, but ultimately unknown. However as new costs arise from regulatory actions, Avista Corporation specifies those costs into the rates case requests.

In response to questions from the committee, **Mr. Colwell** explained that the transmission lines from the Avista Corporation's coal-fired plant in Montana, cross northern Idaho and continue on into Spokane, Washington and beyond.

MOTION: **Rep. Smith** (30) made a motion to approve the minutes of the February 20, 2012 meeting. **Motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 4:27 p.m.

Representative Raybould
Chair

Jean Vance
Secretary