

## MINUTES

*(Approved by the Council)*

Idaho Council on Indian Affairs  
August 20, 2013  
Clearwater River Casino and Lodge, Lewiston, Idaho

In attendance were Chairman Representative Marc Gibbs; Vice-Chairman Silas Whitman, Nez Perce Tribe; Senator Dan Johnson; Senator Cherie Buckner-Webb; Representative Donna Pence; Dennis Smith, Shoshone-Paiute Tribes; Tino Batt, Shoshone-Bannock Tribes (representing Nathan Small); John Abraham, Coeur d'Alene Tribe (representing Chief J. Allan); and Russell Westerberg, Kootenai Tribe (representing Jennifer Porter). Absent and excused was Tom Perry, Office of the Governor. Legislative Services Office (LSO) staff member Ryan Bush was present.

Others present at the meeting included Representative Thyra Stevenson; Tim Olson, Steve Rector, Darren Williams, Rachel Edwards and Sam Penney, Nez Perce Tribe; Helo Hancock and Heather Keen, Coeur d'Alene Tribe; Lyn Darrington and Delbert Farmer, Shoshone-Bannock Tribes; Nancy Egan, Shoshone-Paiute Tribes; Tanya McElfresh, Ni Mii Puu Health Services, Nez Perce Clinic; Mike Tatko, Avista Corporation; Joyce Broadsword, Idaho Department of Health and Welfare; Bill Goesling, State Board of Education; and Elizabeth Jones and Dylan Brown, The Lewiston Tribune.

The meeting was called to order at 8:55 a.m. by **Chairman Gibbs**. He welcomed everyone and thanked **Vice-Chairman Whitman** for welcoming the Council to the Clearwater River Casino and Lodge. **Chairman Gibbs** stated that since the meeting was in Lewiston and on the Nez Perce Reservation **Vice-Chairman Whitman** would chair this meeting. **Vice-Chairman Whitman** thanked **Chairman Gibbs** and asked for a prayer before the meeting. **Dennis Smith** stated that he likes to go before the Creator as one and asked that everyone in the room join hands for the prayer. Members of the Council and everyone in the room then introduced themselves and where they were from.

**Vice-Chairman Whitman** called for approval of the minutes from the last meeting of the Council on June 19, 2013. **Mr. Smith** stated that he thought an important part of the June 19th minutes was omitted. He remembered a presentation on the statutes governing the Council that stated the Council could meet more than once per year and that **Nathan Small** stated on June 19th that that meeting should only be considered a "meet and greet" for the Council and not an official meeting. **Mr. Smith** felt that it was very important to include these statements in the minutes. **Senator Buckner-Webb made a motion that the minutes be accepted with the corrections suggested by Mr. Smith. The motion was seconded by Mr. Batt, and the motion passed by unanimous voice vote.**

**Rob Luce**, Administrator of the Division of Family and Community Services of the Idaho Department of Health and Welfare updated the Council on the Indian Child Welfare Act (ICWA). **Mr. Luce's** presentation can be found online at:

<http://www.legislature.idaho.gov/sessioninfo/2013/interim/indaff.htm>

**Mr. Luce** introduced himself and stated that he was honored to be in front of the Council given his childhood growing up around native Alaskans. **Mr. Luce** began by showing a graph that depicted the number of American Indian/Alaskan Native (AIAN) children in out-of-home care per 1,000 children. Idaho's numbers have decreased since 2009 to bring it closer to the national average of around 10 per 1,000. **Mr. Luce** stated that the high numbers in 2009-2011 were a result of the system not capturing data correctly and that those numbers were overstated. Numbers in 2013 should be even lower. **Mr. Luce** then discussed the number of ICWA notices that the Department sent out in 2012. Five hundred eighty-six notices were sent out and 47 of those were confirmed as ICWA eligible. The number of children in care has gone down and the number of children that are ICWA eligible has gone down. **Mr. Luce** stated that this was a good trend.

**Mr. Smith** asked if **Mr. Luce** could provide handouts to the Council of his PowerPoint presentation. **Mr. Luce** stated that he would provide this to the Council. **Mr. Luce** then showed the tribal involvement for the 47 children who were ICWA eligible. There were 17 cases where there was no tribal involvement, 2 cases where the tribe took jurisdiction over the case, and 28 cases where tribes intervened but the case was left in Idaho state court.

After discussing ICWA statistics, **Mr. Luce** updated the Council on ICWA itself. He first provided an update on notice and registered mail. In the last legislative session, the Department adopted rules wherein an ICWA case notice would be sent to tribes via certified mail, return receipt requested. Tribes came to the Department and stated that the method should be registered mail, return receipt requested. **Mr. Luce** stated that the tribes were correct and that the Department was wrong. The Department is going to return to registered mail, return receipt requested, on September 1 for all ICWA cases. **Mr. Luce** stated that it is important for the Department to have up-to-date contact information from the tribes on who should receive such registered mail. The Department will change the rules to reflect this.

**Nancy Egan** asked **Mr. Luce** what kind of consultation the Department would be having with the tribes for this rule change. **Mr. Luce** stated that since this recent rule change would put the Department's rules on ICWA back in line with federal law, that he did not anticipate the need for any negotiated rulemaking. **Mr. Luce** stated, however, that he would be happy to do that if the Council felt that it was necessary. **Ms. Egan** stated her belief that anytime there is a rule change involving tribes and federal law, then tribes should be involved in the rule change from the beginning. **Mr. Luce** stated that he would be happy to do this and since the rule change is still being drafted, the timing is perfect.

**Mr. Luce** then discussed House Bill 214 (2013) involving putative fathers. Late in the session, the Department was contacted by attorneys for the Nez Perce Tribe and **Lyn Darrington** who raised an issue about an older Idaho law. The issue was regarding notice and adoptions and how there was no reference to ICWA, which is supreme. They drafted language that is now in Idaho law showing that ICWA is supreme. This will help parties to an adoption who may not be familiar with ICWA.

**Mr. Luce** then mentioned the discussions that the Department has been having with tribes regarding government-to-government consultation. One way to do this is to informally communicate on a local level where Department social workers consult with tribal social workers. Another way is formal

government-to-government consultation. The Department has asked its workers to consult with tribes on how best to have these informal meetings and make them meaningful. **Mr. Luce** stated that **Joyce Broadsword** is working on a memorandum of understanding that sets forth how formal consultation would occur. Both options will provide a long-term process on working with ICWA.

**Mr. Luce** then discussed the myth that Idaho ranks near the bottom of ICWA compliance. **Mr. Luce** stated that this distressed the courts and the Department and that they both agreed to find the source of this myth. Wendy Olson in the U.S. Attorney's office stated that she never stated this and that there are no such statistics. **Mr. Luce** stated that what they think happened was that the statistics showing that Idaho had disproportionate numbers of ICWA eligible children in care was being confused with ICWA compliance.

**Nancy Egan** stated that she believed that the slide stating that Idaho ranks near the bottom of ICWA compliance came from a 2012 ICWA conference, but she could not remember the presenter. **Mr. Luce** stated that they had tried to find that slide but could not find it.

**Mr. Luce** informed the Council that the Department lost its ICWA specialist and that they are in the process of selecting a new ICWA specialist. The application period is now closed, and they had 19 applicants. The Department intends to ask the tribes to help in the selection process and each tribe can send a representative.

**Mr. Smith** stated how important this issue is to the Indian tribes. He stated that he was astounded that the Department deviated from federal law regarding the issue of registered versus certified mail for ICWA notifications. **Mr. Smith** discussed the recent Supreme Court case regarding ICWA and "Baby Veronica" and how important it was that the Court upheld ICWA. **Mr. Smith** stated that **Mr. Luce** should not go to the Legislature for the rule change but only to remind them that ICWA is supreme to state law. **Mr. Smith** stated how important it is for the Department to consult with the tribes. Putting a name on a sign-in sheet is not consultation. **Mr. Smith** then discussed his mother's struggles when he was young prior to ICWA. Whatever ICWA says is how the Department should proceed. **Mr. Smith** stated his belief that Idaho is near the bottom in ICWA noncompliance because he has seen and read these statistics. The Department should find that presentation because he saw it. **Mr. Smith** mentioned a child in Idaho who falls under ICWA and how the law states that the state shall contact the chairman of the tribe. A judge in Idaho got in contact with **Mr. Smith** regarding this child. **Mr. Smith** stated that Indian people will always protect their young and there will always be someone to take care of a child. **Mr. Smith** stated that he is glad that Indian tribes will take part in selecting the new ICWA specialist because they want an Indian in that position who understands the tribes.

**Vice-Chairman Whitman** stated that this issue is very important to the tribes and they spend a lot of time working on ICWA to ensure a level playing field. The tribes want staffing to be consistent with the tribes' positions. Everyone has common interests but there are differences in the cultures, languages and ways. Someone working on ICWA at the Department needs to understand these complexities. Tribes need to bring children into their culture and practices, and an Indian as the ICWA specialist can help achieve this.

The Council then discussed the health insurance exchange in Idaho and how this affects tribes. **Helo Hancock** began by mentioning a meeting in Fort Hall, ID on June 18, 2013, that the tribes had with Indian Health Services (IHS) and Stephen Weeg, Chairman of the Health Insurance Exchange. **Mr. Hancock** stated that at this meeting, part of the discussion entailed how the Exchange Board is required by federal law to consult with tribes as they develop policies and plans for the Exchange. Also at that meeting, Mr. Weeg invited a representative of the tribes to present at the next meeting of the Exchange Board in Boise. **Vice-Chair Whitman** presented to the Board on June 25. **Mr. Hancock** stated that he has not heard anything from the Exchange Board since June. **Mr. Hancock** reached out to Mr. Weeg and suggested that someone from the Exchange reach out to the tribes individually or hold a meeting where all tribes can attend. **Mr. Hancock** stated that if the Exchange is set up without meaningful consultation with the tribes then this will be detrimental to tribal members. **Mr. Hancock** believes that there was a misunderstanding about consultation with the tribes and who the Board should communicate with.

**Vice-Chair Whitman** stated that neither he nor his tribe's lobbyists had heard anything from the Exchange Board since his presentation in June. **Lyn Darrington** stated that her colleagues in Boise were hired by the Exchange for education outreach and that they were developing outreach plans for each individual tribe. **Ms. Darrington** stated that she was currently awaiting an email from her colleagues awaiting more information. **Tanya McElfresh** stated that the Nez Perce Tribe had sent a list of 19 questions to the Exchange Board on how the Exchange might impact the Nez Perce and their clinic. Stephen Weeg answered those 19 questions for **Ms. McElfresh**. She agreed to share these answers with the Council.

**Vice-Chair Whitman** referenced back to **Ms. Darrington's** earlier comments and stated that formal interaction needs to happen with each tribe. **Ms. Darrington** stated that this was correct and that she would have more information later in the day.

**Dennis Smith** stated that half of the Shoshone-Paiute's Duck Valley Reservation is in Idaho and half in Nevada. He stated that representatives from Idaho have been reluctant to come to the reservation but that Nevada representatives were very responsive and visited their reservation. There was also an inter-tribal council meeting in Elko, NV where representatives from the Nevada exchange were present. **Mr. Smith** stated that it was a legal requirement for Idaho to consult with tribes and that health insurance is now a requirement because of the Affordable Care Act. Tribal members need to know potential tax obligations, and Nevada has been very good about communicating with the Shoshone-Paiute Tribes. **Mr. Smith** stated that he believed that Indian tribes were exempt from the individual mandate for health insurance but because the federal sequestration has lessened funding to IHS, the insurance exchange could benefit the tribes and could help with contract health services. **Mr. Smith** encouraged all of the tribes to get together and receive the consultation on the Exchange that is required by law.

**Tino Batt** stated that the meeting in Fort Hall in June was to address some of the concerns of the tribes. **Mr. Batt** agreed with **Mr. Smith's** earlier statement that the Exchange could help offset cuts to IHS and some of the contract support costs. The tribes want to be involved when the state is moving so quickly. They will share any information they receive with other tribes.

**Vice-Chair Whitman** asked how often the Exchange Board meets and when their next meeting is scheduled. **Mr. Bush** agreed to find out the date of the Board's next meeting and provide this information to the Council. **Ms. Broadsword** stated that she had spoken to Mr. Weeg earlier in the month and expressed concern about the lack of consultation on behalf of the tribes. **Ms. Broadsword** suggested to Mr. Weeg that he appoint a liaison to communicate with the tribes. **Ms. Broadsword** stated that in the rush to get the Exchange operational that they might forget some important requirements. **Ms. Broadsword** suggested that the tribes contact Alberto Gonzalez, the Operations Project Manager for the Exchange, directly to share their concerns. **Ms. Broadsword** agreed to provide Mr. Gonzalez's contact information to the Council.

**Mr. Smith made a motion that a letter from Chairman Gibbs and Vice-Chairman Whitman be sent to Mr. Gonzalez stating that tribal consultation on the Exchange is a requirement and that he consult with the tribes both individually and as a whole as soon as possible. The motion was seconded by Representative Pence, and the motion passed by unanimous voice vote.**

**Ms. Darrington** stated that Mr. Gonzalez met with representatives from the tribes' health care clinics on August 13 in Boise. At this meeting Mr. Gonzalez extended an offer for tribal representatives to receive the same training from the Exchange as in-person assisters or navigators in order to serve tribal members. Mr. Gonzalez also stated at this meeting that the Exchange will work with IHS to develop a formal tribal consultation policy. **Ms. Broadsword** confirmed that all 5 tribes were represented at the August 13 meeting with Mr. Gonzalez in Boise. **Senator Buckner-Webb** suggested that the letter to Mr. Gonzalez should acknowledge his meeting with the tribes on August 13.

The Council moved on to the topic of megaloads through the Nez Perce Reservation on Highway 12. **Vice-Chair Whitman** stated that the Nez Perce Tribe has filed a lawsuit against the U.S. Forest Service, and there is a hearing on August 27 in federal district court for declaratory judgment. **Vice-Chair Whitman** stated that they are in limited contact with the Forest Service at this time. Megaloads are scheduled to begin again in early September. The tribe has had no discussion with outside agencies. They are concerned with turning the Wild and Scenic River Corridor on treaty lands into an industrial highway.

**Chairman Gibbs** asked if the Nez Perce Tribe is opposed to all large shipments or just a particular number and if he could get a little more background on the issue. **Vice-Chair Whitman** stated that they are concerned with all shipments through the Wild and Scenic River Corridor. They began to have major concerns with major accidents dumping fuel into fishing corridors. Other shipments have contained cyanide. **Vice-Chair Whitman** stated that megaloads are like salt in the wounds. The commerce clause says the state must seek approval for megaloads and that the Nez Perce and other tribes have been rolled over for a hundred years. The Shoshone-Bannock Tribes have dealt with shipments of nuclear waste. The Nez Perce Tribe is seeing that care and maintenance of the corridor is in question. **Vice-Chair Whitman** stated that the tribes have been here before the state or any treaty, they have been sharing resources, and that enough is enough. Many tribal nations have similar issues throughout the country. Reservations and poor areas have been used throughout the country. Commerce, business and government operation has been guaranteed to the tribes, but they are trying to walk on the backs of the Nez Perce to fill someone's

pockets. They are standing up for principles. The corridor is precious under their original treaty rights and they want to preserve it.

**Dennis Smith** stated that he appreciates what **Vice-Chair Whitman** is doing in standing up for sovereignty. **Mr. Smith** asked if there is any way that other tribes can help support the Nez Perce Tribe. **Vice-Chair Whitman** stated that letters of support are always welcome and that all tribes will be fighting these battles eventually.

An audience member asked if the Nez Perce Tribe has reached out to other tribes in Canada or other states. **Vice-Chair Whitman** stated that they have not and that those tribes have their own problems. If those tribes need the help of the Nez Perce, then they will ask and vice versa. Megaloads are built in British Columbia, and a native community has objected there and has its own protests. The oil company does not want to traverse the British Columbia mountains, so they ship through Idaho. **Vice-Chair Whitman** stated that calls of support are coming from Texas and Oklahoma and throughout the Great Plains on how to help those in Canada.

**Chairman Gibbs** asked if the Nez Perce Tribe is unsuccessful in court, what their next move will be. **Vice-Chair Whitman** stated that they will go back to the drawing board and seek other forms of protest. They will up the ante. They will not roll over if they lose in court.

**John Abraham** stated that this reminds him of Coeur d'Alene megaloads and their problems. The Coeur d'Alene Tribe currently has a company that is dropping human waste from Washington on their reservation. Each tribe has a unique issue and the human waste is their version of a megaload. **Vice-Chair Whitman** stated that he was aware of the Coeur d'Alene situation and that it is exacerbated by barges of waste.

**Delbert Farmer** stated that in the 1990s he was chairman of the Shoshone-Bannock Tribes and that there was nuclear waste being transported via train. The state of Idaho reached agreement with the Department of Energy. The agreement was with the state, but since they are a sovereign nation, the Department of Energy also needed an agreement with the Shoshone-Bannock Tribes. **Mr. Farmer** stated that when it got to the reservation, a tribal police car stopped on the railroad tracks and would not allow it to move without an agreement. The next day the Department of Energy was on the reservation. They negotiated and recognized that an agreement was necessary. There was miscommunication between the federal government, the Governor and the tribe. They tried to get in on meetings in D.C. before the shipments began so that they could negotiate but were not allowed. **Mr. Farmer** stated that Governor Batt told him that he had negotiated money on their behalf, but it was never relayed to the Shoshone-Bannock Tribes. **Mr. Farmer** wished the Nez Perce Tribe good luck.

**Vice-Chair Whitman** stated his hope that one of the legislators will relay this issue to Governor Otter. **Vice-Chair Whitman** stated that he has seen similar issues over the years at the Fort Hall and Duck Valley Reservations. Even their holy mountain was being used as a sighting device for fighter planes on a bombing run before then flying over Duck Valley. Both the Nez Perce and the Shoshone-Paiute Tribes were able to stop this. **Vice-Chair Whitman** stated that they have been approached by companies wanting to use unoccupied land for dumping waste. Their lands are not for sale and that all of this points to manifest destiny. They will continue to fight, and tribes will support each other.

**Mr. Smith** remembered a statement from former Senator Daniel Inouye of Hawaii who said that sovereignty is why you exist. Senator Inouye said they have to put their life on the line and step up for the tribe. Tribes on other reservations have fought these issues. The Western Shoshone protested and somebody in the system respected putting a life on the line. **Mr. Smith** stated that he put his life on the line as a veteran of the Vietnam War. **Mr. Smith** stated that if you look at history, Martin Luther King began to change things and now we have a black president. **Mr. Smith** stated that he and the Shoshone-Paiute Tribes are willing to support the Nez Perce Tribe however they can.

The Council then discussed the effects of the federal sequestration and budget cuts to the Department of Health and Human Services (HHS). **Mr. Bush** informed the Council that he had reached out to Carrie Glover of HHS and invited her to speak to the Council on this subject, but she was unavailable. Ms. Glover told **Mr. Bush** that she would be happy to answer any questions via e-mail that the Council may have. **Mr. Batt** stated that their lobbyists in D.C. informed them that there will be a continuing resolution on the sequestration for the next fiscal year. There will also be a bill in January on the debt ceiling. NCI is keeping tribes up to date on these issues.

**Representative Pence** asked about particular cuts from sequestration and what those cuts entail. **Mr. Smith** discussed the importance of self-governance and economic development for the tribes and responded that his tribe on the Duck Valley Reservation is isolated and dependent on the Bureau of Indian Affairs and Indian Health Services. When their budgets go down, the tribe has tough decisions to make. There was a straight across-the-board 5% cut to these services. **Mr. Smith** stated that when he was recently in D.C., a senator told him that Congress will not pass any budget this year. Next year, the discussion is 7.5% cuts. There is no money for contract health services (CHS), and they are in dire need. **Mr. Smith** then discussed contract support costs. Whatever it cost the federal government to run a hospital through IHS, the tribes want this exact amount. These contract support costs are a signed contract between tribes and the federal government. The Supreme Court previously ruled unanimously in the tribes' favor and ordered the government to pay these costs. Now the federal government is trying not to pay contract support costs, and it will likely go back to the Supreme Court. People are dying while the federal government refuses to pay.

**Ms. McElfresh** stated that their tribal clinic supports Medicaid expansion and that many tribal members are eligible. This enhances their ability to provide services, especially since their tribal clinic budget went down by \$1 million.

**Mr. Batt** stated that in Fort Hall, in BIE they had to freeze personnel hiring including teachers. Funds to support staff have reduced, and they are cutting staff hours. This doesn't just affect tribes but businesses outside of the reservation and surrounding communities. Fort Hall's irrigation project was exempt this year fortunately, but cuts could affect them going forward. **Mr. Batt** stated that his tribe supports Rep. Mike Simpson and his efforts to help the tribes of Idaho

**Mr. Hancock** stated that IHS is one of the only federal health benefits being cut. Social Security and Medicaid are not impacted by the sequestration. This is hurting local clinics substantially. **Vice-Chair Whitman** stated that he has asked for specific analyses on where direct cuts are occurring. They are not being reimbursed for contract support costs. Over 3,000 cases are unaccounted for. IHS has been singled out and no one wants to talk about it.

**Chairman Gibbs** stated that the Bureau of Indian Affairs is one of many federal agencies that is facing cuts and asked if the budget cuts are from their yearly budgets or is it a 5% cut for growth in programs. **Mr. Hancock** stated that IHS is one of the only federal medical programs being cut. **Ms. McElfresh** stated that the budget for growth was not part of the cuts. Clinics are absolutely losing money.

**Mr. Smith** stated that the federal government would not cut contracts with big companies like General Electric or Boeing, but tribes are being cut on legally binding contracts.

**Senator Buckner-Webb** asked **Mr. Bush** if it was possible for a general update from Carrie Glover on federal budget cuts including things that the Council did not cover today. **Mr. Bush** stated that he would ask Ms. Glover for this update.

**Vice-Chair Whitman** stated that every size clinic on a reservation is receiving direct cuts. Tribes are losing services that are treaty-oriented and wondered how they are going to recover.

The Council recessed for lunch at 11:40 p.m. and reconvened at 1p.m.

**Vice-Chair Whitman** led a discussion on the recent Idaho fish consumption survey. He stated that this is a critical issue to the tribes and the issues that they are charged with managing. At this time, tribal responsibility is for ecology and fish production. There are various concerns with water quality and how it relates to fish health and the ecosystem and use of water. These issues have been tried in courts on behalf of tribes. There was a meeting with the EPA in Boise with all of the tribes on the Council. **Vice-Chair Whitman** stated that Idaho water quality standards are among the lowest in the nation. Tribes have tried to produce research to care for the fish in their rivers. **Vice-Chair Whitman** stated his belief that Idaho needs to increase water quality standards to sustain the tribes' way of life. Each tribe has its own initiative that requires protection for clean, clear and cold water. All tribes have their own unique issues. **Vice-Chair Whitman** stated that there needs to be consistent application of water quality standards. They have asked the EPA to intercede and begin a study on how to deal with data from NOAA on ambient water temperatures in Hell's Canyon that says that the fish are not in danger when the tribe feels otherwise. The tribes want to maintain what they have for fish survival. **Vice-Chair Whitman** stated that Brownlee Reservoir has high mercury levels that right now cannot support fish native to Idaho.

**Vice-Chair Whitman** stated that the fish consumption survey determined that the amount of fish that tribes eat is inconsequential and not necessary for better water quality standards. The Nez Perce Tribe is asking the EPA to intercede to strengthen the fish consumption survey on how it relates to sub-populations. The EPA needs to test those dependent on fish and seafood and bring these people back as the focus. Tribes need to unanimously show that minimum standards are, at a minimum, as strict as Oregon. Idaho tribes are trying to get their issues heard fairly and get an acceptable standard for tribes.

**Mr. Abraham** discussed how this has been a big issue for the Coeur d'Alene Tribe. Many of their members will not eat fish from their waters because of mining pollutants. Tribes have not collected data like this in the past. Tribal members are dying of cancer, but they cannot connect this to mining pollutants in waters. However, members are reluctant to eat fish from their own waters. They will, however, eat fish from the Nez Perce Tribe which may hurt survey results and their water quality standards. **Vice-Chair Whitman** heard from the Columbia River tribes such as the Yakima Tribe who said that they have always

been Yakima and will die that way. Their fish may be polluted, but it is part of who they are. The Creator did not poison the fish or create the conditions, so they will continue to consume these fish and die Yakima. According to **Vice-Chair Whitman** the Yakima believe that the survey should be 100 percent, now let's go fix the water. They are not willing to compromise and there is no in between. All concerned tribes are salmon tribes with salmon as a huge part of their diet. Salmon have been blocked off and polluted. **Vice-Chair Whitman** stated that it is going to take a lot to undue these problems in the water causing health problems like cancer and lupus. The fish consumption survey will hopefully point out something that will put balance back into the wheel of life and that all tribes are on board.

**Mr. Smith** stated that this issue is similar to megaloads. Fish are part of tribal life, belief and ceremonies. **Mr. Smith** asked why everyone cannot come together to keep waters clean. Clean water is a means of life for fish, animals and people, and something like a megaload can contaminate a river. **Mr. Smith** asked **Chairman Gibbs** what the Legislature has done to keep water clean in Idaho. **Chairman Gibbs** stated that everyone wants clean water. Jobs, economic development and population growth can affect water standards, and there is some limited risk. The number of cattle is significant and the population of Idaho has grown. This all affects water quality. **Chairman Gibbs** stated that there is no way to defend dirty water but wondered how clean is clean enough. Sometimes you have to weigh risk with things like fish consumption and he would like to know more from a scientific perspective as to what is acceptable. We need to evaluate data and take into account the growth to determine what is possible economically. We are in a global economy now that can be a factor and this needs to be taken into consideration. **Mr. Smith** thanked **Chairman Gibbs** and stated that his answer shows him that the Legislature is concerned about clean water.

**Mr. Smith then made a motion that the Council come out publically and support clean water.**

**Chairman Gibbs** responded and said that his previous comments were not meant to imply in any way that he thought Idaho's current water standards were inadequate.

**Senator Buckner-Webb** stated that she is in favor of clean water but she needs to look at the issue and do more research.

**Ms. Broadsword** stated that during her time in the Legislature she was on the germane committee that discussed mercury in water. Priest Lake has no surrounding industry or agriculture but had mercury in its water. This mercury was from pollutants in the atmosphere due to coal plants in China. Some things in Idaho's water cannot be changed by the state. **Ms. Broadsword** stated that **Chairman Gibbs** was correct in his statement that the global economy is a factor and that the Legislature does take this issue seriously.

**Vice-Chair Whitman** stated that many of their mountain lakes and springs are contaminated and cannot be used anymore. Water temperature has been rising. Some lakes are sterile but there are increases in chemicals that cannot be explained. **Vice-Chair Whitman** wondered if this was because of factors such as global warming. Small tribal lakes such as those on the Duck Valley Reservation have not been tested. There are many mitigating factors that affect water quality. **Vice-Chair Whitman** then discussed the importance of tending to water, land and agriculture and how these need to be respected.

**Senator Buckner-Webb** then suggested language for a letter from the Council supporting continued exploration of factors contributing to water quality. This language was supported by **Mr. Smith**.

**Senator Johnson** asked who this letter would go to and what it would say. **Mr. Smith** responded that this letter should say that we have an asset in Idaho's water and that it should make people in Washington D.C. aware of this issue.

**Chairman Gibbs** said that it was his belief that the Council should report to the Governor. He differs from what President Obama might do about clean water. We all support clean water, but he is not saying that Idaho's standards are insufficient. **Mr. Smith** responded that only the President can address this since it is a global problem. **Vice-Chair Whitman** stated that a letter should go to the Governor and federal agencies such as the EPA and NOAA who are vested with the responsibility for clean water. **Chairman Gibbs** stated that he is comfortable sending a letter to the Governor, but that meeting with federal agencies is beyond the scope of this Council and his authority. **Mr. Smith** stated that he would not disrespect the Governor by excluding him from this letter.

**Senator Buckner-Webb made an amended motion that a letter be sent to the Governor voicing the Council's support of clean water in Idaho. This motion was seconded by Mr. Smith. This motion was passed on a voice vote.**

**Senator Buckner-Webb** then presented a video that demonstrated the virtual tours of the Capitol that can be done during a legislative session. **Senator Buckner-Webb's** video can be found online at: <http://www.legislature.idaho.gov/sessioninfo/2013/interim/indaff.htm>

**Senator Buckner-Webb** described how the Legislative Services Office has set up a program that allows tours of the Capitol via videoconferencing. This allows people who don't have the ability to come to Boise to see the Capitol. **Senator Buckner-Webb** stated that she would like to see students use this opportunity to ask legislators hard questions or use this as an opportunity to pursue an internship. These tours can be set up through the Legislative Services Office and their office can even schedule a tour for those who do not have a computer through a local library. The tours are not only for students but can be done by anyone including senior citizens.

**Lyn Darrington** then updated the Council on an individual income tax issue. Last session the Legislature passed HCR 32 that fixed an individual income tax problem that was created by the Tax Commission's rule change in 2011 by not notifying tribes or employers. HCR 32 was a temporary fix and legislation in 2014 will be necessary. **Ms. Darrington** stated that she has been working with Commissioner David Langhorst of the Tax Commission and various tribal lobbyists. They have also worked with the Governor's office to codify this issue next session. Once legislation is prepared, it will be circulated to the Council for their information.

**Senator Buckner-Webb** asked for further explanation of this issue. **Ms. Darrington** explained that in 2011 the Tax Commission made a rule change that went to the 2012 Legislature. Previously, federally registered members of tribes who worked for federally registered tribes were exempt from state income tax. This exemption in the rule was taken out in 2012, unbeknownst to the tribes, and the Tax Commission failed to notify tribes as withholders, so nothing was withheld. This was an error on the Tax Commission's part. The Legislature and Governor had great sympathy. There was a temporary fix in 2012 with HCR 32, and this will be permanently codified in 2013.

**Vice-Chair Whitman** asked about tribal members who had already paid state income tax because of this error and before the correction in HCR 32. **Ms. Darrington** suggested that tribes should check with their members who did pay and then contact the Tax Commission.

**Russell Westerberg** asked if anyone had information on the recent Supreme Court decision regarding the way cigarettes are delivered to reservations. **Mr. Batt** suggested that the tribes should have their own caucus on this issue.

**Tim Olson** thanked **Chairman Gibbs** for his help in getting the Clearwater River Casino and Lodge its liquor license. **Vice-Chair Whitman** discussed the success of the casino and event center and how all events are booked through the rest of the year.

**Darren Williams** stated that through the Council, all tribes on the Council got data on their economic impact to the state of Idaho in 2010 to Dr. Steven Peterson at the University of Idaho. Dr. Peterson produced a document that discussed the cumulative effect that tribes have on the state's economy. **Mr. Williams** informed the Council that they would like to update this study and would like to receive up-to-date info from the tribes since this impact could be around \$800 million. The researchers would like a point person from each tribe.

**Bill Goesling** of the State Board of Education stated that they would like to share information at the next meeting of the Council. The University of Idaho got a \$20 million grant from the National Science Foundation for a water quality study. **Mr. Goesling** suggested that maybe the Council could invite Dr. Jack McIver, V.P. of research for the University of Idaho, to find out what educational institutions in Idaho are doing so that the Council can let these institutions know the needs of the tribes.

The Council then discussed the date of its next meeting. It was agreed that early December was likely the best time to meet to coincide with a separate meeting in Boise of all of the tribes on the Council. **Mr. Smith** stated that he was pleased that the Council was meeting, regardless of the location. **Vice-Chair Whitman** suggested a meeting in Mountain Home since it is in close proximity to the Duck Valley Reservation. **Mr. Bush** stated that after consulting with **Mr. Hancock** he would send out a range of meeting dates and places at a later time for the Council to decide upon.

**Chairman Gibbs** thanked **Vice-Chair Whitman** and the Nez Perce Tribe again for hosting the meeting at their facility.

**Chairman Gibbs** adjourned the meeting at 2:15 p.m.