

MINUTES  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**

**DATE:** Friday, January 18, 2013

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

**PLACE:** Room WW55

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

**ABSENT/  
EXCUSED:**

**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.

**CONVENED:** **Chairman Pearce** called the meeting to order at 1:30 p.m.

**MINUTES:** The minutes of January 14, 2013 were presented; the motion to accept them as written was made by **Vice Chairman Bair** and was seconded by **Senator Siddoway**. The motion carried by **unanimous voice vote**.

**PASSED THE GAVEL:** **Chairman Pearce** then passed the gavel to **Vice Chairman Bair** who called on **Mr. Jake Howard**, Executive Director, Idaho Outfitters and Guides Licensing Board (IOGLB), to present their rule.

**DOCKET NO. 25-0101-1202** **Mr. Howard** stated that **Docket No. 26-0101-1202** is a pending rule regarding the trapping of wolves, which is relatively new to Idaho. There has been a need determined for licensing outfitters to help the State of Idaho and the Idaho Department of Fish and Game (IDFG) properly manage Idaho's wolf population. Therefore, the purpose of this rule is to allow outfitters and their guides to trap wolves during hunting trips and to allow hunting clients to accompany them.

The outfitter or designated agent must have wolf hunting and wolf trapping properly amended to their outfitter license prior to providing services to the public by submitting a major amendment along with certification of completion of the mandatory wolf trapping education class. Guides must be properly employed by and licensed as a guide to a specific outfitter responsible for big game hunts and incidental wolf trapping. In addition to other training requirements, hunting guides must have completed the mandatory wolf trapping education class and have a certificate of completion on file with the outfitter prior to the activity taking place and available for inspection by IOGLB. Clients must possess the appropriate tags to participate in a hunt. Clients may hunt and kill any free ranging animal for which they have an appropriate license and tag but cannot kill an animal in or within 200 yards of their outfitter's or the guide's trap line. A trapped animal must be killed quickly and humanely. Animals cannot be released, then "hunted", and then killed. Clients may accompany a properly licensed guide who is checking his outfitter's traps and must be directly accompanied by the guide at all times. Clients may not handle or be involved with handling traps or trapped animals, and may only observe the handling of trapped animals by properly licensed guides.

**Mr. Howard** said negotiations took place with the representatives of IOGLB, IDFG, and industry representatives with the United States Forest Service (USFS). There have been no issues of concern and one letter was received regarding overall hunting and trapping in Idaho.

**Senator Tippetts** said that he sees many prohibitions mandated by USFS and inquired about them. **Mr. Howard** said that he and Director Moore, at the direction of their respective Boards, have responded to the USFS and have asked for reconsideration and will meet with them on February 5th.

**MOTION:**

**Senator Siddoway** made the motion to adopt **Docket No. 25-0101-1202**. The motion was seconded by **Senator Heider**. The motion carried by **unanimous voice vote**.

**Vice Chairman Bair** said the next rule to be heard is the Idaho Department of Lands' rule pertaining to the Idaho Forest Practices Act. Presenting it will be **Ms. Ara Andrea**, Regulatory Program Manager in Forestry Assistance, Idaho Department of Lands (IDL).

**DOCKET NO.  
20-0201-1201**

**Ms. Andrea** stated that the Idaho Forest Practices Act Advisory Committee (FPAAC) which is statutorily charged with providing technical advice to the State Board of Land Commissioners (Land Board) and IDL crafts and approves amendments and additions to the Forest Practices Act administrative rules. These committee members, after many years of collaborative work with IDL, scientists, and the interests they represent, have developed and approved several substantive rule changes, resulting in the amendment of nine existing rules and the addition of one new rule.

Following approval by the Land Board in May, negotiated rulemaking began in June to amend the Forest Practices rules. Proposed rulemaking was subsequently conducted in October, and final Land Board adoption of these pending rules occurred on November 20th.

**Ms. Andrea** indicated that these rule amendments were the result of FPAAC's responses to multiple requests and issues brought before the committee from various forestry interests over the course of six years, primarily in response to recommendations brought by the Idaho Department of Environmental Quality (DEQ) following three different water-quality audits, conducted every four years by DEQ. **Ms. Andrea** said they think these rule amendments are biologically and operationally sound, and economically viable for all forestland owners and managers.

Pending rule changes include:

1. Recognition of all formal land-management agreements with federal regulatory agencies.
2. Protection of soils and riparian areas from any ground-based equipment usage in steep, unstable or stream-adjacent areas.
3. Clearer definitions of wet areas and the associated equipment-exclusion areas.
4. Increased flexibility of landowners and operators to perform timber-salvage operations following wildfire, insect infestations and wind events.
5. Lower stocking minima for drier, southern forest types, to promote more successful plantings following harvests.
6. Assignment of reforestation responsibility to the landowner at the time of harvest.

The remaining pending Forest Practices rule amendments have all received positive support from all interested parties, and slight modifications were made to these rule amendments as a result of comments received during negotiated and proposed rulemaking. The most significant changes include a change in the required minimum stocking levels to more closely align with stocking levels observed in the field which have resulted in successful regeneration. Also, the inaccurate definition of the term "clear cut" was removed and a corrected definition of "clearcutting" was inserted into a later rule where this term was referenced.

**Ms. Andrea** closed by saying these pending Forest Practices rule changes will give significant clarity to existing rule verbiage, provide necessary water and resource protections, and will also promote more successful regeneration of forest stands in our drier, southern forest types. (A copy of Ms. Andrea's testimony is on file.)

**Vice Chairman Bair** complimented Ms. Andrea on her presentation and also on the rulemaking process by having all stakeholders present and taking their advice, making changes when necessary, and leaving other sections alone. The **Vice Chairman** stated that is how the rulemaking process should be conducted and said that he deeply appreciated that.

**Chairman Pearce** inquired as to what groups were involved. **Ms. Andrea** stated that the groups included the Idaho Forest Owners Association, the Coeur d'Alene Tribe, the Environmental Protection Agency (EPA), and DEQ.

**Senator Tippets** inquired if a policy change is involved in changing "ground-based skidding" to "ground-based equipment" or is it just a different way of prohibiting that same practice? **Ms. Andrea** answered that it is a way of clarifying the intent of the rule, and that is to protect the unstable soil and the soil next to the streams.

**MOTION:** **Senator Heider** made the motion to adopt **Docket 20-0201-1201**. The motion was seconded by **Senator Tippets**. The motion carried by **unanimous voice vote**.

**PASSED THE GAVEL:** **Vice Chairman Bair** returned the gavel to Chairman Pearce.

**Chairman Pearce** said the next order of business is to hold the confirmation hearing for **William M. Naillon**, Idaho Fish and Game Commission appointee.

**HEARING:** **Mr. Naillon** has been appointed to the Idaho Fish and Game Commission (Commission) and is to serve a term that commenced July 1, 2012 and will expire June 30, 2016. He is from Challis and will represent Region 7. He stated that he feels this is a position where he could have a constructive voice and a positive impact. He has a vested interest in the welfare of the natural resources of our state from both an economic standpoint and from personal heritage. **Mr. Naillon** feels it would provide him with the opportunity to be more directly involved in the management and welfare of our wildlife resources.

**Mr. Naillon** was born in Salmon, Idaho and is a fifth generation Custer County miner. He has worked in all areas of mining from underground development to final reclamation and water treatment. He has been with Hecla Mining Company for 18 years and some of his responsibilities range from managing people to project planning.

As a miner and an avid fisherman, he believes that a balance concerning Idaho's watersheds and water quality can be achieved while supporting agriculture and industry in the state. He has been an ambassador and instructor for five years for the Idaho Fish and Game Hunter Education Program, mentoring youth, and would like to continue that work on a larger scale. **Mr. Naillon** was named the *Salmon Region Hunter Education Instructor of the Year for 2011*.

**Mr. Naillon** stated that he has an understanding of all the disciplines of hunting, participating in archery, centerfire and muzzleloader seasons, and has pursued all the big game species in all forms of pursuit and retrieval in the State, as well as hound hunting, using baits, and bird hunting. He feels all these experiences have given him a unique insight into this appointment.

One of the questions asked was that at times there seems to be a disconnect between the Department and the Commission, and also between the public. Mr. Naillon was asked how he viewed the role of the Commission, and how will he address the disconnect that occurs between the general hunting public and sometimes the Department and/or the Commission. **Mr. Naillon** said that what he has observed so far, is a lack of education regarding laws and rules and not understanding them.

**Senator Cameron** asked Mr. Naillon about the appropriate use of All Terrain Vehicles (ATVs) and the role of the Department in regulating ATVs. **Mr. Naillon** responded by saying there are two land managers and the Department does not need to act as another land manager; however, when ATV use is in question, he would hope that issues would come from the land manager, not the Department.

**Chairman Pearce** asked what the three biggest issues are facing the Commission. **Mr. Naillon** replied that he thinks financing, sage grouse and wolves top the list.

**Senator Brackett** asked Mr. Naillon to share his thoughts about wolves in Idaho. **Mr. Naillon** said he feels that Idaho has a very sound wolf management plan and it is important to move forward to attain the goals within the management plan and to keep the number of wolves requested in that plan. **Senator Brackett** said as a livestock owner, he would like to protect his property anytime, anywhere, with any means and asked if he could do that with wolves and if not, why not? **Mr. Naillon** replied, "Absolutely. Everyone has a right to protect their property, as far as I know, with any means possible". **Senator Brackett** then asked Mr. Naillon what his thoughts are on the Landowner Appreciation Program tags (LAP) and if they can be sold or not. **Mr. Naillon** stated that in Custer and Lemhi counties, the elk are becoming quite a problem - coming into the fields in low ground and not leaving. He said that he is not in favor of selling the tags and putting a price tag on the animals.

**Senator Siddoway** asked Mr. Naillon to share his philosophy on wildlife, species in decline, ideas on disease transmissions, and how to reach out. **Mr. Naillon** responded by saying that as far as management on declining species, if guidelines were followed instead of making it a "lands use issue", that is the biggest thing that would help. Regarding the disease issue, he feels that should be left up to the biologists.

**Senator Siddoway** asked Mr. Naillon to provide thoughts pertaining to sage grouse. **Mr. Naillon** said that habitat is very important and is a long-term project and also, predators (especially birds) are certainly an issue. The **Senator** asked Mr. Naillon if he would ask Fish and Wildlife Service to give permission to hunt some particular birds in certain areas. **Mr. Naillon** said that in other states, kill permits have been granted in experimental areas.

**Senator Siddoway** then inquired about species in decline with hunting opportunities. **Mr. Naillon** said that when sportsmen don't like what the biologists are doing, they will get involved by shortening the season themselves. He stated that in his opinion, that is the right thing to do.

**Senator Stennett** said that in looking over Mr. Naillon's resume, he does not have a degree, and she asked what could he bring to the table as a commissioner for the Fish and Game. **Mr. Naillon** replied that he does not have a formal education, but feels that his life experiences have prepared him for the job.

**Senator Siddoway** had one last question and that was regarding winter feeding of wildlife. **Mr. Naillon** said that he is not a fan of supplemental feeding, if it can be avoided. There are times when elk and deer get trapped in an area and might need it. He also feels that it creates "wolf feeding stations" and it also causes the elk to become dependent upon food being brought to them.

**Chairman Pearce** said there are some game managements that don't rate Idaho very high and he asked Mr. Naillon if he would look for new ideas and use "out of the box" thinking as to how we can make it better in Idaho for fish and game. **Mr. Naillon** said that he has read about mismanagement in Idaho. Two weeks ago, he attended the Western Association of Fish and Wildlife Agencies meeting and learned what they are doing and he is very excited about what is working, as well as what is not working.

The **Chairman** thanked Mr. Naillon for his participation, then invited the other members of the Commission to sit at the chairs with microphones for further discussion.

**DISCUSSION:** Idaho Fish and Game Commissioners present, in addition to Mr. Naillon, were Mr. Randy Budge, Mr. Bob Barowsky, Mr. Tony McDermott, and Ms. Joan Hurlock. Unable to attend were Commissioners Mr. Fred Trevey and Mr. Kenny Anderson.

**Chairman Pearce** invited Commissioner Budge, Commission Chairman, to update the committee regarding their activities.

**Commissioner Budge** said they appreciated the opportunity to have a dialogue with the committee and to talk about some issues, which he will address later. He then asked each commissioner to introduce themselves.

**Commissioner Budge** reported on the "Summit" meeting and thanked those on the committee who attended the event. He stated that the issue of the day was "sportsmen" and the Commission realizes that it is the start of a long-term discussion. It is their plan to continue discussions and dialogues with sportsmen on the local level. Subjects to be covered will be the quality on hunting and fishing, opportunity, access, and funding issues. The Commission is being very proactive with the Department on predator management and they are in the process of developing a comprehensive predator management program that will look at all predators in the State. Pelicans are a problem in eastern Idaho.

**Commission McDermott** said that he will be stepping down from the Commission in May, after serving eight interesting years, and there has never been a dull moment. Speaking on the subject of predators, he addressed the issue of wolves in the area south of I 90. Wyoming's wolf population has been delisted and in 60 plus percent of that state, they have been declared a predator. He said Idaho is not prepared to do that yet, but there is a good chance, south of I 84, that in the future wolves will not be welcome and will be declared a predator.

Two years ago, the Department did not have a wolf management program. Today, it is formalized and a brochure tells how Idaho manages predators. On the cover is a picture of a fish, pelican, and wolf. He said that predators have to be managed or there will be problems. Nearly 200,000 fish were eliminated in Lake Pend Oreille. The Idaho wolf program is a three-legged program which includes hunting, trapping, and predator control. There is a wolf problem in eight of our 28 big game management zones. The wolves in zones 10 and 12 have nearly decimated the herds there. In the 1990's, there were about 15,000 elk and now there are about 2,000. In 2010 and 2011, 43,000 wolf tags were sold. In 2012, about 37,000 tags were sold and less than half of one percent harvested a wolf. In 2011 and 2012, there were 41 trapping classes and over 900 trappers were trained. The projection for this year's trapping training is 450. In 2012, 422 wolves were harvested and in 2011, 296 wolves were harvested.

**Commissioner McDermott** said it is the intent of the Commission and the Department to return elk populations in several zones back to what sportsmen expect. He feels the elk population is doing very well in areas where there are not wolf problems.

**Commissioner Barowsky** reported on the mortality rate of animals on Idaho's state highways, which is about 6,000 animals a year. He said they are working with the Department of Transportation to identify trouble spots. There are seven different areas where work is being done and another 12 have been identified as problem areas with a high mortality rate. Underpasses and overpasses have been built, as well as fences; lights and motion detectors are being considered to slow traffic.

**Senator Tippetts** directed his remarks to Commissioner Budge regarding the negotiated rulemaking process and asked him to not dismiss that process because of possible controversial issues. It is the feeling of the committee that the negotiated rulemaking process be used, where appropriate. The **Senator** stated that the committee will be watching in the future and hope to see a change. **Commissioner Budge** said they had received the message very clearly.

**Senator Brackett** inquired about the board that interviews candidates for the position of a commissioner. **Commissioner Budge** said there are two individuals from the Governor's Office, two from the Commission and four individuals from sportsmen's groups, making a total of eight.

Due to time constraints, **Chairman Pearce** ended the discussion with the commissioners and thanked them for their attendance and participation.

**ADJOURNED:** The **Chairman** adjourned the meeting at 3:12 p.m.

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Senator Pearce  
Chairman

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Juanita Budell  
Secretary