

MINUTES  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**

**DATE:** Monday, February 18, 2013

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

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, 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.

**PAGE INTRODUCTION:** He introduced Kyra Perron, the Committee's Page for the second half of the session. She is from Hagerman. When asked why she was interested in becoming a Page, **Kyra** responded by saying it was the involvement in Girls State that triggered her interest.

**MOTION:** **Chairman Pearce** said a motion was in order regarding the gubernatorial appointment of Louise Stark to the Outfitters and Guides Licensing Board. **Senator Tippetts** moved to send the gubernatorial appointment of Louise Stark to the Outfitters and Guides Licensing Board to the floor with recommendation that she be confirmed by the Senate. **Senator Stennett** seconded the motion. The motion carried by **unanimous voice vote**. **Senator Stennett** will be the sponsor.

**GUBERNATORIAL APPOINTMENT:** **Chairman Pearce** said the next order of business would be to hear from Dustin Miller who has been appointed Administrator to the Office of Species Conservation (OSC). He was appointed July 18, 2012 and will serve at the pleasure of Governor Otter.

**Mr. Miller** said he is originally from North Dakota where his family had deep roots in agriculture. He graduated from the University of Idaho where he received a Bachelor of Science degree in Environmental Science, and after college, he began working for the Idaho Farm Bureau Federation. Most of his time was focused on natural resource issues and public land issues that impacted Idaho Farm Bureau ranching and farming members.

After his time with the Idaho Farm Bureau, Mr. Miller started employment with U.S. Senator Larry Craig as a state natural resources field coordinator, based in Boise. In 2008, he was hired on by OSC as a project manager and also served in an outreach liaison capacity focusing most of his efforts on wildlife issues. In March 2012, he became interim administrator for OSC.

Since his appointment, **Mr. Miller** said they have had two recent successes at OSC. One was regarding slickspot peppergrass. In 2009, Governor Otter filed suit against the U.S. Fish and Wildlife Service (USFWS) over the listing of the plant. Last fall the court remanded and vacated the listing rule for slickspot peppergrass and now the species is no longer receiving the federal protection under the Endangered Species Act (ESA) and is being managed by the state of Idaho. OSC provided a great deal of legal work on this litigation.

**Mr. Miller** said that OSC was recently successful in helping to convince the USFWS to scale back the amount of acres proposed as critical habitat for caribou in the Idaho Panhandle. The current designation is more scientifically based, more workable for local communities and small businesses and is more consistent with USFWS's own policies.

Greater sage-grouse is their most significant wildlife priority right now. Governor Otter set up a sage-grouse task force almost a year ago to come up with recommendations. Those recommendations were rolled into a federal alternative for incorporation into the Bureau of Land Management (BLM) and the U.S. Forest Service's (USFS) land-use planning efforts.

**Mr. Miller** is an avid hunter, fisherman and outdoorsman. He is a member of the Idaho Cattle Association - Industry Supporter, a volunteer for Leukemia and Lymphoma Society's Team in Training and a drummer/musician. In the news release about Mr. Miller, Governor Otter said, "The Office of Species Conservation is our first line of defense for responsibly protecting and restoring plant and wildlife populations, and Dustin understands the extraordinary and potentially devastating impacts that federal listings under the Endangered Species Act can bring." **Mr. Miller's** response was that it's a big responsibility, but one that he is prepared and eager to embrace for the people of Idaho.

At the close of his talk, **Mr. Miller** introduced his wife, other family members and office staff. **Chairman Pearce** thanked Mr. Miller and said the Committee would consider his appointment at the next Committee meeting.

The **Chairman** then called on Senator Guthrie to present **S 1062**.

**S 1062**

**Senator Guthrie** explained that the purpose of this legislation is to amend Sections 18-7008 and 36-1603, Idaho Code, and to give property owners more options that their property is not to be trespassed on. Posts are to be painted with high visibility shades of orange paint with a minimum of 100 square inches. If metal posts are used, the entire post must be painted with a high visibility shade of orange. He stated that he had checked with law enforcement, and also IDFG, and neither had any problems with the legislation.

**Senator Siddoway** had a concern regarding the painting of the entire metal post. He suggested that a designated length be painted on the post, rather than the entire post. **Senator Guthrie** said he was agreeable to have the bill sent to the amending order.

**TESTIMONY:**

**Ms. Sharon Kiefer**, IDFG, said the use of high visibility orange paint benefits both the landowner and the outdoor recreationist to clearly delineate posted land and that the Commission supports this bill. (See Attachment 1).

**MOTION:**

**Senator Siddoway** moved that **S 1062** be referred to the 14th Order for amendment. **Senator Heider** seconded the motion. The motion carried by **unanimous voice vote**. **Senator Guthrie** will be the sponsor. **Chairman Pearce** requested that Senators Guthrie and Siddoway work together on the amendment.

**S 1061**

**Senator Brackett** presented **S 1061**. He said it is in regards to threatened and endangered species and is to provide that the state asserts primacy over the management of its fish and wildlife. Any introduction or reintroduction of any federally listed species without state consultation and approval is against the policy of the state of Idaho. **Senator Brackett** said this legislation compliments existing Idaho Code 67-6302 and requires involvement with OSC.

**TESTIMONY:**

**Ms. Kiefer** testified that the IDFG Commissioners are in support of this bill. It codifies in Idaho Code a policy position of the state of Idaho that has been expressed by the state of Idaho in various forums and is currently expressed in the Comprehensive State Water Plan (**H 38**). (See Attachment 2).

**TESTIMONY:** **Mr. Andy Brunelle**, U.S. Forest Service, said he is attending today's hearing to better understand **S 1061** and its intent of how it will affect the Forest Service throughout Idaho. He stated that they are replacing culverts and addressing fish passage problems. **Mr. Brunelle** said the Forest Service is not actively introducing species, but they are reconnecting habitat. He feels the different agencies can work together if a situation arises.

**TESTIMONY:** **Mr. Norm Semanko**, Executive Director of the Idaho Water Users Association (IWUA), said that IWUA is in support of **S 1061**. They feel it is an important piece of legislation.

**TESTIMONY:** **Mr. Dustin Miller**, OSC Administrator, stated that the governor and the OSC office are in support of **S 1061**. The language in the bill is complementary to the existing statutes and also allows for another check.

**MOTION:** **Senator Heider** moved that **S 1061** be sent to the floor with a **do pass** recommendation. **Vice Chairman Bair** seconded the motion. The motion carried by **unanimous voice vote**. **Senator Brackett** will be the sponsor of this bill.

**H 48** **Mr. Tom Neace**, Manager of the Ground Water Protection Program, Idaho Department of Water Resources (IDWR), presented **H 48**. The purpose of this legislation is to provide bonding authority to decommission Class II injection wells in the event the owner or operator of any such well is financially unable to do so. Class II injection wells are deep injection wells used primarily to inject waste fluids associated with the production of conventional oil or natural gas.

A bond would be established of \$10,000, plus \$1 per foot for any Class II injection well, associated with the oil and gas industry. This is consistent with the bond already in place by the Oil and Gas Commission for any oil and gas production wells. They did go through the negotiated rulemaking process and everyone supported this amount.

**Senator Tippetts** felt the language on page 2 regarding the director's discretion was very broad and asked for an explanation. **Mr. Neace** replied that it was written in this way in case there was a company that had some financial problems, or other issues of noncompliance in other states, and this gives the director sufficient reason to require a larger bond.

**Senator Stennett** inquired as to how the dollar number was reached. **Mr. Neace** said the reason the dollar number was chosen was because during the negotiated rulemaking process, the oil and gas industry brought up a variety of incidents where they had to close wells that were not producers. In order to close those wells, it was under \$10,000. This bond is the same as what the Oil and Gas Commission had come up with during their time of negotiated rulemaking. The Idaho Conservation League was at the table and after discussion, it was agreed by all that \$10,000 was a reasonable number to go with.

**MOTION:** **Senator Siddoway** moved that **H 48** be sent to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **unanimous voice vote**. **Senator Siddoway** will be the sponsor of this bill.

**H 49** **Mr. Tom Neace** presented **H 49** and said that this bill does two things. It provides a definition for Class II injection wells associated with the oil and gas industry and it also establishes a fee of \$2,500 per well for any Class II injection well that is applied for in the state of Idaho. This is a one-time fee for the life of the well and it covers review and evaluation permits, over-site of the well construction, periodic inspections and review of mechanical integrity tests, at least every five years, as well as any kind of problems or complaints. This was discussed at the negotiated rulemaking process.

**Senator Stennett** inquired as to who would be doing the checking, the oil and gas industry or IDWR? **Mr. Neace** said on any Class II well, it would be IDWR.

**TESTIMONY:** **Mr. Norm Semanko**, Executive Director, IWUA, stated that their legislative committee reviewed this bill in January and they support it. Their main reason for supporting it is because there has not been Class II injection wells and IWUA relies on the programs of IDWR. There will be a cost to administer the program and **Mr. Semanko** stated that the user fees will support the program.

**MOTION:** **Vice Chairman Bair** moved that **H 49** be sent to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **unanimous voice vote**. **Vice Chairman Bair** will be the sponsor of this bill.

**ADJOURNED:** **Chairman Pearce** adjourned the meeting at 2:55 p.m.

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Senator Pearce  
Chairman

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Juanita Budell  
Secretary