

MINUTES

## SENATE RESOURCES & ENVIRONMENT COMMITTEE

- DATE:** Monday, February 25, 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 1:33 p.m. He welcomed Ms. Teri Murrison, Administrator of the Idaho Soil and Water Conservation Commission, who will present the Commission's annual report. (See Attachment 1).
- SPEAKER:** **Ms. Murrison** introduced several people. They included: Jan Webster, with the Conservation Commission; Bret Rumbeck, Executive Director of the Idaho Association of Soil Conservation Districts; Conservation Commissioners; and a number of Conservation partners.
- Ms. Murrison** said that "soil and water conservation" is a little misleading. They are about a lot more than just soil and water, although those tend to be their priorities. They are a leading force in Idaho for the conservation of soil, water, air, plant and animal resources. The commission dates back to 1939 when it was established in response to the Dust Bowl era of the 1930's. During the 1930's, there were dust and erosion issues caused by what were, at that time, common agricultural and land management practices. In 1934, Idaho had:
- Over 27 million acres - 51 percent of the state - affected by sheet erosion;
  - More than 27 million acres lost over one-fourth to three-fourths of their top soil;
  - Severe gullying affected almost 13 million acres; and
  - Wind erosion affected nearly eight million acres.
- In 1935, the U.S. Soil Conservation Service, now the Natural Resource Conservation Service (NRCS), began working with farmers, states, and local groups to address the problem. Idaho joined the effort, establishing the Commission in 1939, and a few years later, soil conservation districts. That was the beginning of the partnership that persists today. The Commission and NRCS supply technical expertise, funding, and other resources to empower conservation districts to be the "boots on the ground" of voluntary conservation, undertaking locally led projects with private landowners.
- Ms. Murrison** stated that in regards to conservation, the Commission means using the natural resources of the state to benefit the people, but simultaneously maintaining those resources in the same condition or better. Their focus is on voluntary, cooperative efforts with local people - often ranchers and farmers.
- Ms. Murrison** said that their office has had to do more with less, but they are proud of what their staff of 16 full-time members, two part-time and some temporary employees have done. The Commission focuses on three core functions in their strategic plan. They are: 1) Technical and other support services; 2) Conservation programs; and 3) Administration.

The technical support services assist Idaho's fifty conservation districts. The assistance includes conservation planning, engineering, services, project implementation and construction inspections. There are also other services that strengthen districts and help build their capacity. Trustee and benefit funds, as directed by statute and rule, are distributed and allow districts to take on administrative and project responsibilities. In Fiscal Year 2012, the Commission helped 35 districts with projects, initiated 47 new projects, worked on 45 ongoing projects, and worked with their conservation partners to serve 271 landowners.

With regards to the conservation programs, their flagship incentive program is the Resource Conservation and Rangeland Development Program. It provides low interest loans to purchase equipment and install projects that provide conservation benefits. In exchange for low interest loans, landowners operate under a conservation plan - improving practices and/or replacing equipment to produce conservation benefits such as water savings, erosion reduction, etc. They currently have 131 active loans totaling about \$5 million dollars. These loans enabled conservation on more than 40,000 acres last year. Under the general conservation programs, the Commission managed the Conservation Reserve Enhancement Program. This means leading state efforts to conserve water use on marginal farm ground in the Eastern Snake River Plain Aquifer. Participating landowners receive modest payments in exchange for not farming such lands. Last year, 158 Conservation Reserve Enhancement Program (CREP) contracts were signed in the Eastern Snake River Plain region, with more than 17,000 acres enrolled.

**Ms. Murrison** explained the Cooperative Conservation Partnership Initiative grant from the Natural Resources Conservation Service. She said their work to address pollutants in Nitrate Priority Areas resulted in 40,000 acres treated with Best Management Practices. That meant more than a 150,000 pound reduction in nitrates, almost 29,000 pounds in phosphorus reduction, and roughly 144,000 pounds of sediment reduction.

The Commission is the designated lead agency for the agricultural and grazing components of the Total Maximum Daily Load (TMDL) implementation plan for water quality impaired surface waters in the state. Since 1998, they have completed 85 plans. In Fiscal Year 2012, only three TMDL Implementation Plans were completed. In 2009, eleven were completed. **Ms. Murrison** said they have reevaluated both their workload and backlog and have streamlined the planning process, with it taking less time now to complete the plan. They are currently working on ten backlogged plans, eight of them long overdue to the Department of Environmental Quality (DEQ). The Commission has been advised that DEQ may not release any new TMDLs this year; however, DEQ plans to evaluate adding to the existing plans, as many as 13 this year (which could generate seven "new" plans). **Ms. Murrison** stated that it will be a significant challenge for the Commission next year.

Regarding communication and outreach, the legislature previously let them know that they needed to improve their relationships with the districts. **Ms. Murrison** said that they have taken proactive steps and can confidently say that they have improved. In the last several years, they have focused on being transparent and inclusive, as well as increasing their district visits.

Idaho's urban growth is creating land use conflicts and means the Commission continues to lose agricultural land and open space. As their needs grow, money and resources for voluntary conservation continues to shrink. Water quality continues to be a major concern and is pushing other funding priorities aside. They also are faced with increased federal regulatory and endangered species issues, which forces them to dedicate time and staff at the expense of other needs.

**Ms. Murrison** said she wanted to assure the committee that they will continue to pursue conservation the Idaho way. That means non-regulatory, voluntary, local cooperative efforts. It means using the state's great natural resources to the benefit of our farmers, ranchers, and the public. And also to the benefit of our economy and our state, promoting the use of the resources in a way that protects and improves them for the benefit of future generations.

**SPEAKER:**

**Ms. Murrison** then asked Mr. Rumbleck to report on the Soil Conservation Districts. **Mr. Rumbleck** stated that their organization continually improves their outreach, both internally and externally. They started a monthly newsletter that reaches 400-500 people. He said they are continuing the relationship to work with the Soil and Water Conservation Commission and NRCS. His closing comment was "the work that the districts do each day keeps the private landowners in the drivers seat when it comes to their land."

**Senator Siddoway** inquired as to the relationship between the Commission and the Districts, if there are concerns, and how the money is being spent. **Ms. Murrison** said the relationship was not always good, but as they have worked together and have become more transparent, it has worked into a good relationship. **Mr. Rumbleck** added that because they were both new to their organizations, they didn't have "baggage", but instead, when in meetings, they could ask how to improve situations and find out what needed fixing. He said that the relationship is very strong. With regards to the money, districts get \$8,500 to start each fiscal year and the match fund is divided by a formula.

**Senator Brackett** inquired about the backlog of TMDL programs and asked what the consequences are if not completed on time. **Ms. Murrison** replied that they brought in a contractor who streamlined the process and now they have a strategy with existing resources to retire the backlog and stay on top of the workload. With regard to the ramifications, she said they have spoken to the Environmental Protection Agency (EPA) and also with DEQ. They have advised the Commission that they are satisfied that they are making a good faith effort and on track. If for any reason the state of Idaho fails to meet a legally mandated settlement, they would be subject to litigation.

**Chairman Pearce** asked about the loans from DEQ. **Ms. Murrison** said they have one state revolving fund loan that they borrowed from DEQ to loan out for a large project. It will pay out in 20 years. They charge their client four percent interest and the Commission pays two percent interest to DEQ.

**Chairman Pearce** thanked Ms. Murrison and Mr. Rumbleck for their presentation. He said next on the agenda is **H 50** with Director Gary Spackman from the Idaho Department of Water Resources (IDWR) explaining it.

**H 50**

**Director Spackman** said **H 50** is a bill that arose out of a court case that was heard by the Idaho Supreme Court regarding the licensing of Idaho Power's hydroelectric facilities for Brownlee Dam and Reservoir. As part of that proceeding, the ability of IDWR to establish a term of years for hydropower water rights was refused by the court. As a result of that court case, IDWR began negotiations with Idaho Power and also with owners of hydropower facilities, in particular, the Boise Project Board of Control. **Director Spackman** said they were trying to figure out how to address the outcome of the court case and one of IDWR's Deputy Attorney Generals, Garrick Baxter, was directly involved in the negotiations. The **Director** then deferred his time to him.

**TESTIMONY:** **Mr. Garrick Baxter** said that Section 42-203B(6), Idaho Code authorizes the director of IDWR to limit a hydropower water right to a specific term. The director does this by adding on what is called a term condition on the water right. It does not set a fixed termination date. The concern with a fixed termination date is that it sends the water right holder back to square one. The water right terminates and the water user has to come in, file for a new application for a permit, pay the fees associated with a new application permit, go through the whole advertising, permitting process, and submit proof of beneficial use, then the water right gets licensed again in the future. It not only puts a burden on the user, but also puts a burden on the staff of IDWR. From IDWR's standpoint, a fixed termination date does not make sense because it makes IDWR re-license a water right that has already been licensed.

If the goal is to maintain state control over the water right, it could be accomplished through a better mechanism. With **H 50**, IDWR is adding a term condition to allow for the automatic renewal of the water right license unless the director deems it necessary to revisit the water right. This allows the water right to continue on and still preserves the state's authority over the hydropower water rights. **Mr. Baxter** stated that he wanted to make it clear that this legislation only affects hydropower water rights and does not affect any other types of water rights. This legislation has the support of the Idaho Water Users Association.

**TESTIMONY:** **Mr. James Tucker**, who is with the Idaho Power Company, said he just wanted to verify what Director Spackman said and that Idaho Power supports the legislation.

**TESTIMONY:** **Mr. Norm Semanko**, Executive Director, Idaho Water Users Association, also testified in support of this legislation.

**MOTION:** **Vice Chairman Bair** moved that **H 50** be sent to the floor with a **do pass** recommendation. **Senator Brackett** seconded the motion. The motion carried by **unanimous voice vote**. **Vice Chairman Bair** will be the sponsor.

**H 47** Presenting **H 47** was **Mr. Tim Luke**, IDWR. The purpose of this legislation is to provide authority to the director of IDWR to appoint a water district watermaster if a duly elected or appointed watermaster resigns or is otherwise unable to perform the duties of the position during the elected or appointed term of service. This legislation amends Section 42-605(10), Idaho Code. Two watermasters have died and last year one resigned after a month into the season. They have the support of the Idaho Water Users Association and have conversed with a number of water districts in the state.

**MOTION:** **Senator Siddoway** moved that **H 47** be sent to the floor with a **do pass** recommendation. **Vice Chairman Bair** seconded the motion. The motion carried by **unanimous voice vote**. **Senator Siddoway** will be the sponsor.

**ADJOURNED:** **Chairman Pearce** adjourned the meeting at 2:30 p.m.

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Senator Pearce  
Chairman

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Juanita Budell  
Secretary