

MINUTES
HOUSE RESOURCES & CONSERVATION COMMITTEE

DATE: Thursday, March 07, 2013

TIME: 1:30 P.M.

PLACE: Room EW40

MEMBERS: Chairman Denney, Vice Chairman Gibbs, Representatives Wood(35), Barrett, Moyle, Eskridge, Raybould, Andrus, Shepherd, Wood(27), Boyle, Vander Woude, Gestrin, Miller, Anderson(1), Pence, Erpelding, Ward-Engelking

**ABSENT/
EXCUSED:** None

GUESTS: Roger Chase, IDWRB; Shelley Dunn, BRS; Chuck Colter, Shoshone-Bannock Tribes; Norm Semanko, IWUA; Lynn Tominaga, IGWA; Peter Anderson, Trout Unlimited; John Simpson, Water User; Tom Arkoosh, SWR; Gary Spackman, IDWR; Randy MacMillan, Clear Springs Foods; Bert Stevenson; Brian Patton, IDWR; Marie Kellner, ICL; Courtney Washburn, ICL; Elizabeth Criner, NWFPA/J.R. Simplot; Pat Barclay, ICIE; Teresa Molitor, Great Feeder Canal Co.; John Ellsworth, Great Feeder Canal Co.; Viki Pursly, self; Bruce Grover, Great Feeder Canal; Luke Hicks, Burgess Canal Co.; Kent Lauer, Idaho Farm Bureau

Chairman Denney called the meeting to order at 2:22 p.m.

MOTION: **Rep. Erpelding** made a motion to approve the minutes of March 1, 2013. **Motion carried by voice vote.**

H 38: **Mr. Roger Chase**, Chairman, Idaho Department of Water Resources Board, stated hundreds of people have sent in comments and there was a great consensus on the Idaho State Water Plan. He thanked **Gary Spackman, Brian Patton, Helen Harrington, Harriet Hemsley and Clive Strong**. He stated the revision for the Idaho State Water Plan started in 2007. He said open meetings and hearings were held across the state to discuss and propose revisions and public comment was received. He stated that minimum stream flow policy, recharge, climate variability, legislative criteria, fishery, environmental policies, and funding policies were covered in the Idaho State Water Plan.

In answer to questions from the Committee, **Mr. Chase** stated their expectations were that the Legislature would review the Idaho State Water Plan. He said the Board is open to any thoughts the Committee might have.

Mr. Chase introduced **Mr. Clive Strong**, Attorney General's Office, to answer questions regarding instream flow. He clarified that the Attorney General's Office takes no position, but provides legal advice. He said instream flow refers to different uses and is protected through the minimum streamflow statute. He said the rationale for the climate variability provision is due to lower snow pack for water storage, so the intent is to take that variability into account.

Mr. Brian Patton, Idaho Department of Water Resources, said that riparian policy is very similar to the policy in the 1996 Idaho State Water Plan. The intent is to show federal agencies and others that the state does have a proactive policy to protect the landowner. He stated the weather cycles through wet and dry years, there is a revision on the standard snow pack charts based on a 30-year cycle.

In answer to questions from the committee, **Mr. Chase** said they are always aware of funding and keeping cost down is a primary concern of the Board. **Mr. Patton** said there is no intention in this Idaho State Water Plan to seek a water-user fee.

The Board makes loans to irrigation districts, cities, etc., they issue revenue bonds, and they want differential costs within the same irrigation system.

Rep. Shepherd requested the minutes show the Board would not use the Idaho State Water Plan as a way to institute fees.

Rep. Wood(35) explained to the Board that the Committee is prescribed by law to reject or amend the State Water Plan and that they take this charge to review the Plan seriously. The Committee wanted to make sure the work was legally acceptable and non-challenging. She said their aim was more emphasis on state water rights and prior appropriation doctrine. The Committee looked at the Idaho Water Resource Board Aquifer Management Plans as required by the law, has suggested some language changes and consolidated implementation strategies.

Rep. Andrus stated he appreciated the work the staff has done on the Idaho State Water Plan. He reviewed his concern with wetlands. He said he does not understand why removing the climate variability is a concern.

Rep. Wood(35) said other parts of the Idaho State Water Plan gives reference to climate variability and the recommendation was to pare that down.

Rep. Boyle stated they removed language they felt was redundant. She stated the language should be in the most simple terms for the public's use. They added in Idaho Code so the public will know what authority the board has and clarified wording in the safety measures program.

Rep. Wood(35) stated the Committee is aware that federal funding is being reduced, and there needs to be a better understanding of local and private funding.

Rep. Barrett stated the Legislature shall have the authority to amend or reject the Idaho State Water Plan in a manner that is prescribed by State law. She said they have looked upon the Board as partners and it was a learning experience to review this Plan.

In answer to Committee questions, **Mr. Strong** said he did not think the reference to Native Americans had been taken out. He also spoke regarding the authority for the Committee to change the Idaho State Water Plan as allowed by law. He said the Legislature had been given the required 60-days for review and **H 38** will go into effect tomorrow if no action is taken; however, the Board is amenable to discussing any concerns.

Rep. Miller said he feels there is a compromise on water rights for environmental concerns and there is no mention of Soil Conservation Districts that deal with these issues.

Mr. Chase stated the Constitution of the State of Idaho needs to be followed.

Rep. Anderson(1) clarified that the Idaho State Water Plan becomes effective tomorrow and stated he does not share the concerns of some of the Committee members. He requested the record show he does not share the Committee's angst.

Mr. Chad Colter, Fish and Wildlife Director, Shoshone-Bannock Tribes, stated the Tribes reserved, by ratified peace treaty, the right to hunt on unoccupied lands of the United States for resources to sustain themselves and preserve traditional cultural practices. He said it is in the best interest of the state, the Tribes, and the ecosystem experts not to set a blanket policy in a document designed to manage water resources.

Rep. Shepherd said his concern is for climate change rather than climate variability.

Mr. Norm Semanko, Idaho Water Users Association, **spoke in support of H 38**. He said the changes that were requested by the Committee had been made. He stated the Idaho State Water Plan does not change the law, but it recommends changes to the policy.

H 247: **Mr. Lynn Tominaga**, Director, Groundwater Appropriators, **spoke in opposition to H 247**. He said one problem in particular was incidental recharge. He said they reviewed the recharge from different distances from the river and determined the water stays in the aquifer longer when it is farther from the river. He said there are higher temperatures for longer periods of time, and higher periods of rain. He said 2004 to 2008 was worse than the great depression time period for drought. He explained the need to make sure that Idaho has the capability to build more reservoirs in the state.

Mr. Peter Anderson, on behalf of Trout Unlimited, **spoke in favor** of the Idaho State Water Plan. He said they appreciate the way the members of the board understand the critical ways water is related to the many forms of recreation.

Ms. Marie Kellner, Idaho Conservation League, **spoke in opposition to H 247**. She stated this bill removes entire policies and changes critical wording in the proposed Idaho State Water Plan. She said the bill removes references to climate variability, and removes a long-standing policy entitled "Riparian Habitat and Wetlands." She stated this sends a message to people that their views were not valued when they went through the process.

Mr. John Ellsworth, Vice President, Great Feeder Canal Board, expressed concerns that fees are a part of the Idaho State Water Plan. He stated the Great Feeder Canal Board is unique in that they divert 75% more water than is used.

Mr. Bruce Grover, Chairman, Great Feeder Canal Board, stated they are charged through District 1 by diversion rates, not by acreage. He said fees would be a double hit for them because they are already providing a tremendous amount of water.

Mr. Luke Hicks, Burgess Canal Co., **spoke in favor of H 247**.

Reps. Andrus, Raybould, Gibbs, Boyle, Pence, Wood(35), and Wood(27) invoked **Rule 38** stating a conflict of interest but they would be voting on the legislation.

Mr. Chase was called to answer questions, he stated they consider the Idaho State Water Plan a living document so they would be willing to meet with an interim committee this summer regarding revision.

MOTION: **Rep. Raybould** made a motion to send **H 38** to the floor with a **DO PASS** recommendation.

ROLL CALL VOTE: Roll call vote was requested. **Motion carried by a vote of 13 AYE, and 5 NAY.** **Voting in favor** of the motion: **Reps. Gibbs, Moyle, Eskridge, Raybould, Wood(27), Vander Woude, Gestrin, Miller, Anderson(1), Pence, Erpelding, Ward-Engelking, Denney.** **Voting in opposition** to the motion: **Reps. Wood(35), Barrett, Andrus, Shepherd, and Boyle.** **Rep. Raybould** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 4:18 p.m.

Representative Denney
Chair

Rosee Winder
Secretary