

MINUTES
JOINT MEETING

**SENATE RESOURCES & ENVIRONMENT COMMITTEE
HOUSE RESOURCES & CONSERVATION COMMITTEE**

DATE: Wednesday, February 05, 2014

TIME: 1:30 P.M.

PLACE: Lincoln Auditorium

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

Chairman Denney, Vice Chairman Gibbs, Representative(s) Wood, Barrett, Moyle, Eskridge, Raybould, Andrus, Shepherd, Wood, Boyle, Vander Woude, Gestrin, Miller, Anderson, Pence, Erpelding and Rubel

**ABSENT/
EXCUSED:** None

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 joint meeting of the Senate Resources and Environment Committee (Committee) and the House Resources and Conservation Committee (Committee) to order at 1:33 p.m. He welcomed the audience of approximately 50 people, as well as both the Senate and House Committee members.

Chairman Pearce then asked Ms. Suzanne Budge, lobbyist for the gas and oil industry, to introduce today's speaker. **Ms. Budge** said that she was pleased to introduce Mr. Paul Powell, President of Petroglyph Energy and a member of the Idaho Petroleum Council Board, to the Committees. He has been around Idaho for several years in a number of other capacities and is not a stranger to a lot of people here today.

SPEAKER: **Mr. Powell** said that he represents a gas and oil exploration construction company headquartered here in Boise and their parent company is Intermountain Industries. He started his presentation by playing a four minute video that explained the terminology of the gas and oil industry, and it also showed how wells are drilled.

Mr. Powell also provided a PowerPoint presentation - "Overview of Oil & Natural Gas Well Drilling and Completion" (see attachment 1). The slides included a view of the Uinta Basin activity in Utah; a drilling rig; two types of drill bits - PDC and Tri-cone; Rotary Steering System; Importance of Mud System; Perforating; Perforation Penetration; Rock Porosity vs. Permeability; Well Stimulation; and Typical HF Fluids and Proppants. He explained each of the slides in relation to what their purpose is and what it has to do with drilling for gas and oil.

He stated that most of the gas and diesel that is used here in Boise probably comes from the refineries in Salt Lake City, Utah. Approximately 53,000 barrels of oil a day comes from the Uinta Basin in eastern Utah and 750 million cubic feet of gas is produced each day, also out of that Basin. At the present time, the company does not have any wells in Idaho, but will drill 60 wells this year in Utah. Currently, they are operating 250 working wells.

Time was allowed for a few questions from the Committees and that concluded the program.

Chairman Pearce thanked him for the information that was presented, then welcomed Mr. Jim Jones, Justice of the Idaho Supreme Court, who will speak about the "Swan Falls Agreement".

SPEAKER:

Justice Jones said he was asked by Speaker Bedke to give a little 'institutional memory' with regard to the Swan Falls Agreement. He stated that he wanted to make two disclaimers. Number one, because of his current position, he can only talk about historical occurrences, and number two, there may be some things that he says in historical context that could be construed as unfavorable to a party to the dispute at that time. **Justice Jones** also said that nothing is intended to be disrespectful to the other parties of the dispute.

He then gave some background information regarding Swan Falls. It was the first dam constructed on the Snake River in 1901 to provide water power to the mines in Silver City. About 1915, it was acquired by the Idaho Power Company and therefore, has a very old water right. The initial water right was 9,450 cubic feet per second (cfs), and historically, the flows had not been that great. The highest level had been 8,400 cfs.

A dispute arose because of the old water right, and subject to the depletion of water for the upstream uses, some ratepayers filed a proceeding with the Idaho Public Utilities Commission in 1977 saying that the Idaho Power Company was not protecting its water right at Swan Falls. The ratepayers felt they were being adversely impacted. In order to protect itself, the Power Company filed suit in district court in Boise asking for a declaration that they had the water right and that upstream users were depleting it.

The out-of-court deal in 1984, known as the Swan Falls Agreement, resolved years of political and legal wrangling. Involved were Governor John Evans; Idaho Power President, Jim Bruce; and Mr. Jones, who was the Attorney General at that time. Terms of that pact allocated Idaho Power a right to 5,600 cfs minimum flow during winter months and 3,900 cfs in the summer months. Without the agreement, farmers and other water users would have had to pay Idaho Power for water they had previously had a right to use. It also set in motion the legal review of all of the water rights in the Snake River basin. This review, called the Snake River Adjudication, has been working its way through state courts since 1987.

Idaho Power challenged the Swan Falls pact in 5th District Court in 2007. It claimed it was being shorted on the amount of water the agreement promised to deliver to the Swan Falls Dam. Utility lawyers argued that drought and a significant draw down of the Eastern Snake Plain Aquifer from groundwater pumping had reduced flows in the river and impinged on the utility's ability to generate power. Idaho Power also sought to clarify its rights to water above the seasonal minimum flows. Rights to those flows, as set forth in the Swan Falls agreement, have been held in trust by the State and used for irrigating crops and recharging the depleted aquifer upstream of the dam.

The proposed settlement clarifies that water rights held in trust by the state of Idaho can be subordinated for uses such as aquifer recharge. In return, the State has agreed to back Idaho Power if it seeks to raise consumer rates to recoup any lost revenue directly related to the State's decision to use trust water to recharge the aquifer.

The intent of the proposed "2009 Framework Reaffirming the Swan Falls Settlement" was to reconfirm, rather than change, any of the terms and conditions of the 1984 Swan Falls Settlement. It will resolve three issues regarding the interpretation of the 1984 Swan Falls Settlement. First, it will reaffirm that for the purposes of the determination and administration of rights to the use of the waters of the Snake River or its tributaries downstream from Milner Dam, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam are to be considered. Second, it will reaffirm the Swan Falls Agreement by decreeing the hydropower water rights for Idaho Power Company's facilities between the Milner Dam and the Murphy Gage. Finally, it will reaffirm that the 1984 Swan Falls Settlement does not preclude use of water for aquifer recharge.

In summary, the State and Idaho Power Company believe the terms of the proposed 2009 Reaffirmation Settlement are entirely consistent with the 1984 Swan Falls Settlement and provide an opportunity for the parties to set aside their differences and work in a cooperative manner to resolve other Snake River water management issues.

Following a short discussion, **Chairman Pearce** thanked Justice Jones for his comments, then announced that the House Committee will be remaining in the auditorium to conduct some committee business.

ADJOURNED: **Chairman Pearce** adjourned the meeting at 2:50 p.m.

Senator Pearce
Chair

Juanita Budell
Secretary