

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, February 12, 2014

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Stennett and Lacey

ABSENT/ EXCUSED: Vice Chairman Bair

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 of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m.

PAGE RECOGNITION: **Chairman Pearce** announced that the last day for the Pages would be Friday, and he and the Committee wanted to recognize Jordan Price, the Page for the Committee. The Chairman presented Jordan with a letter of recommendation, signed by all the Committee members, and a gift card to Hastings bookstore, also from all the Committee members. **Chairman Pearce** then asked Jordan to talk about his experience here at the Capitol.

Jordan thanked the Chairman and Committee for the letter and gift card. He said that he had learned a lot about how government works and enjoyed being a Page. After he graduates, he plans to work for the Forest Service fighting fires, go on a mission, then on to college.

MINUTES: **Senator Tippetts** made a motion that the Minutes of February 5, 2014 be approved. The motion was seconded by **Senator Stennett**. The motion passed unanimously by **voice vote**.

Chairman Pearce said that consideration would be given to the five Oil and Gas Commissioners whose hearings were held on Monday, February 10, 2014.

GUBERNATORIAL APPOINTMENT CONSIDERATION: **Senator Cameron** made the motion for the approval of the Gubernatorial appointment of Chris Charles Beck to the Oil and Gas Commission. The motion was seconded by **Senator Heider**. The motion passed by unanimous **voice vote**. Senator Vick will be the floor sponsor of Mr. Beck.

GUBERNATORIAL APPOINTMENT CONSIDERATION: **Senator Tippetts** made the motion for the approval of the Gubernatorial appointment of Sidney "Sid" R. Cellan to the Oil and Gas Commission. The motion was seconded by **Senator Cameron**. The motion passed by unanimous **voice vote**. Senator Tippetts will be the floor sponsor of Mr. Cellan.

GUBERNATORIAL APPOINTMENT CONSIDERATION: **Senator Brackett** made the motion for the approval of the Gubernatorial appointment of Margaret "Marg" Gail Chipman to the Oil and Gas Commission. The motion was seconded by **Senator Heider**. The motion passed by unanimous **voice vote**. Chairman Pearce will be the floor sponsor of Ms. Chipman.

GUBERNATORIAL APPOINTMENT CONSIDERATION: **Senator Heider** made the motion for the approval of the Gubernatorial appointment of James S. Classen to the Oil and Gas Commission. The motion was seconded by **Senator Cameron**. The motion passed by unanimous **voice vote**. Senator Heider will be the floor sponsor of Mr. Classen.

GUBERNATORIAL APPOINTMENT CONSIDERATION: **Senator Cameron** made the motion for the approval of the Gubernatorial appointment of S. Kennard Smith to the Oil and Gas Commission. The motion was seconded by **Senator Heider**. The motion passed by unanimous **voice vote**. Senator Siddoway will be the floor sponsor of Mr. Smith.

GUBERNATORIAL APPOINTMENT HEARING: **Chairman Pearce** welcomed Charles Correll of Jerome, Idaho who is the Gubernatorial candidate for the Idaho Park and Recreation Board. His appointment is from June 30, 2013 and expires June 30, 2019.

Mr. Correll stated that he has been a lifelong resident of Idaho, growing up in Jerome. He has owned an accounting business for the past 40 years and has been heavily involved in the community. He has served as Mayor of Jerome and also served on the City Council.

Mr. Correll said that Idaho has a lot of assets that are very valuable to us and he is proud to have served on the Park and Recreation Board for the past two years and is looking forward to more.

Senator Siddoway asked for an update on which parks will be improved and which ones might be closed or "dropped". **Mr. Correll** said their primary focus is to keep all the parks open. To save money, they would have to close several and he feels that would have a huge impact on Idaho, so they are concentrating on keeping all the parks open for public use. However, in the future, they will be asking for some capital improvement money for some major repairs. When asked to identify "major repairs", **Mr. Correll** said an example would be the bridge at Ritter Island that has been condemned which needs replacing and/or major repair work done.

Chairman Pearce thanked Mr. Correll for coming today and also for his service on the Board. He then welcomed Director Nancy Merrill, Idaho Department of Parks and Recreation (IDPR) who will present an overview of the agency for the past year.

PRESENTATION: **Director Merrill** introduced the Communications Officer for IDPR, Jennifer Okerlund, who provided a colored booklet containing information about the agency (see attachment 1) and also introduced the Board members: Charles Correll, Chairman; Tom Crimmins; Randy Doman; Susan Buxton; Robert Hansen; and Jean McDevitt, Vice Chair. **Director Merrill** said their mission is "To improve the quality of life in Idaho through outdoor recreation and resource stewardship."

She then presented a PowerPoint program that provided the Committee with a lot of information. There are 30 state parks, from Priest Lake in the north to Bear Lake in the south that touches the Utah border. Service is provided to over 5.3 million park visitors annually. Students that were instructed in boat, ATV/motorbike, snowmobile and avalanche classes numbered 2,500. Over 2,000 miles of trails were maintained and with county partners, over 5,600 miles of snowmobile trails were groomed.

Director Merrill said the agency is responsible for the registration of over 300,000 ATVs, motorbikes, boats and snowmobiles that recreate in Idaho. With the registrations, it generates \$7 million that goes to ten different grant programs that are overseen by a ten citizen advisory committee. Those grants are awarded each year to counties, state, and federal agencies across Idaho. The registration program that collects information and registers all the ATVs, boats, etc. is wearing out and will need upgrading in the near future. This is one of the main issues that they are dealing with at this time, stated **Director Merrill**.

A task force was formed to identify the purpose and goals regarding new software for the registration process. It is to identify issues and process improvements to continue to meet registration program goals and constituent needs. It must maintain a retail based vendor system; it must maintain county DMV sales channels; and move from manual data collection to digital. It also needs to be simple and cost efficient. An outside consultant was hired to evaluate the current system and to give recommendations.

The task force also recommended short and long term goals. The short term goals include:

1. Change owner to operator;
2. Continue process until a new system is identified;
3. Direct the unused portion of administrative fees to help cover costs of system; and
4. Share legislation and intent with the agencies which are impacted.

Long term goals include:

1. Direct a portion of registration fees to cover system upgrade costs;
2. Board to review replacement options and costs; and
3. Board to consider raising registration fees to cover costs.

Director Merrill stated that both the task force and the Board came to some agreements. Those agreements were that the future process must maintain the vendor network, including county DMVs, be convenient, and protect program funding.

Some of the successes in 2013 included the Parks Passport Program which was successfully launched last year. It brought in over \$1 million in gross revenue. By being partners with Idaho Transportation and county DMVs, they are beginning to see success in the sale of the Parks Passport Program. Overnight occupancy increased by four percent and the overall visitation increased by three percent. The agency has further reduced spending by generating new revenue enhancements. Renovation of existing facilities to improve revenue potential include improvements at campgrounds and day use areas at Lake Cascade, campground loop enhancement at Henrys Lake, and entrance fee station installations.

Other revenue enhancements include sale of firewood; rental of paddle boards, canoes, and sand boards; and revised rental calendars for marina slips. Areas of parks are also rented out for weddings, special events, and other year round uses. Another way to reduce costs has been through the volunteer program, which has a full-time volunteer coordinator. This past year, there were over 68,000 hours of volunteer service within the state parks. Another cost-saving area was shifting to electronic payment services and conversion from electricity to natural gas in campground water heaters. Conversion from engines to batteries in park vehicles was also implemented. Trash service has been discontinued and visitors are told that if they "pack it in" to "pack it out".

Partnerships have been strengthened in a very positive way. In Hells Gate Park, park staff has been supplemented by using the Idaho Department of Labor Workforce Investment Act and the Nez Perce County Court Services. Some parks have vending machines, concession items, ice cream sales, and ice machines. The North Face Company has funded a new interpretive program at three state parks known as the "First Time Campus Program". **Director Merrill** said to not forget the partnerships with the Idaho Transportation Department and the county DMVs.

The State Parks Passport Program has been very successful. In the first 12 months, 95,900 passports were sold and that brought in over \$1 million. **Director Merrill** said that they would continue to market the passports this year, focusing on the populated areas, as well as areas close to the parks.

Of the 64 agencies, IDPR ranks 59th in the compensation ratio. When compared nationally, IDPR is ranked last. Costs, especially personnel costs, continue to increase dramatically each year. With every successful stride and every realized success, funds still had to be shifted to cover costs. Funds historically used for capital improvements and infrastructure and maintenance have been reallocated to meet operational needs. **Director Merrill** stated that their dedicated resources are "maxed" out and have been reallocated to keep parks open.

Director Merrill said she met with the Governor and shared with him IDPR's revenue enhancements, passport progress, cost efficiencies, and partnerships. She also shared with him their struggles and identified their most critical needs. The Governor is recommending funding from IDPR's general fund of \$1.8 million to fund those most critical needs. While it certainly helps, it does not replace the \$2 million that was used from the RV Fund to keep the parks open and maintained. **Director Merrill** said the agency has further reduced expenditures, increased fees, and implemented revenue enhancing programs. In spite of all these efforts, they are still relying on the use of \$1.5 million of the RV Fund for use of maintenance as allowed in Idaho Code, Title 67, Chapter 42.

Director Merrill closed her report by saying she and her staff enjoy taking care of the state parks and have worked hard over the past few years, and they take pride in keeping each of these special places open for all who enjoy the great outdoors of Idaho. **Director Merrill** said that she has always believed that if we have the right people, at the right time, and at the right place, we can do wonderful things and we can succeed.

Chairman Pearce thanked Director Merrill for the job she has done. She needs to be congratulated for what she has accomplished and her resilience.

Senator Siddoway said he wished to add his congratulations to Director Merrill for a stellar job. He then asked the Director to list projects that are in much needed repair. **Director Merrill** said the bridge at Ritter Island is a big ticket item - costing about \$500,000 to replace. She said that a few others that come to mind are: In northern Idaho, the Mission and old Parish House are in need of repair, especially a new roof; a request for \$150,000 to improve the septic systems within the parks across Idaho is very much needed; and major repair to some historic buildings located at Harriman State Park.

**GUBERNATORIAL
APPOINTMENT
HEARING:**

A conference call was received from Tom Long, an appointee to the Outfitters and Guides Licensing Board (OGLB). He was appointed to serve a term commencing April 20, 2013 and expiring April 20, 2016. Mr. Long is in southern Chile for the months of December, January, and February and that is the reason for the call, rather than appearing in person as is the usual custom. He stated that if confirmed, this will be his third term. The first term was a learning experience and after serving the second term, he has realized how important licensing is. As he travels, he has learned that other countries have looked to Idaho for leadership in outfitting and guiding.

Mr. Long said it is a great opportunity to serve on the Board, as well as to further develop the tourism aspect of outfitting. When asked what he is doing in Chile, the response was that he assists with the operations of Cascade Kayak School's adventure travel and kayaking trips. He also leads penguin tours and guides fishing and rafting trips. Because it is summer in Chile, Mr. Long moves his entire operation there and some of the activities there are very similar to what he does in Idaho.

Senator Cameron said that earlier this year, there was some controversy regarding some rules instituted by OGLB and inquired as to Mr. Long's thoughts regarding outfitting and guiding for water fowl, ducks, and turkeys. **Mr. Long** responded by saying that speaking to any of the licensed activities, he is a strong believer that having help in protection of the public is important. In dealing with the rules to clarify how to handle the outfitters that are providing that service, he feels is a good thing. The public at large benefit from the standards and from quality of care. **Senator Cameron** said he hoped that he is not hearing Mr. Long say that private individuals should not have the right to raft on their own, even though they may not be as experienced as a guide. **Senator Cameron** said that another concern that has been brought up is: Does an individual, on his own private property, have the right to allow someone to hunt ducks or turkeys on his property without being an outfitter or guide?

Mr. Long responded by saying that private lands should not be excluded, but there needs to be some caution regarding certain hazards that come about by being on private land. To have a restriction to ensure safety is a good thing to have in protecting the public.

Senator Tippetts inquired if it was a requirement of OGLB to belong to a certain political party. **Mr. Long** stated that it is not a requirement.

Senator Siddoway inquired about the division of power if confiscation of assets is involved. **Mr. Long** said there is a lot of cross-agency work. If OGLB is aware of a violation, the enforcement chief is advised, then he coordinates with whatever agency is appropriate. There is a definite protocol to follow, if in fact there is a violation. As far as Mr. Long could recollect, he has not been aware of any confiscations by OGLB in the past six years.

Chairman Pearce thanked Mr. Long for the interview and said that voting would be taken up next Monday.

He then asked Mr. Hunsucker, also a nominee for OGLB, to speak to the Committee.

Mr. Wayne Hunsucker is from Lucile, Idaho and is a licensed architect. His term commenced April 20, 2013 and will expire April 20, 2016. He represents the general public and has served on the Board since 1998. The Board is made up of three outfitters, one representative from the Idaho Department of Fish and Game (IDFG), and one representing the public. He would like to continue his service with the Board until they have a resolution to the current negotiated rulemaking process that they are involved in.

As a licensed architect, Mr. Hunsucker was a senior partner in Hummel Architects from 1976 to 2005, when he semi-retired. He has since had free time to serve on the Board. He is also a fisherman, hunter, snowmobiler, and also enjoys camping and other outdoor activities.

Mr. Hunsucker said that he would like to offer some background information regarding the rulemaking process. In 1989, the Board adopted an informal policy placing a moratorium on accepting applications from landowners and outfitters for waterfowl and turkey outfitting opportunities. This was in response to concerns from IDFG and sportsmen's groups over the possible loss of access to private landowners' property if additional licenses were issued.

This moratorium worked fine, according to **Mr. Hunsucker**, until approximately two years ago when the Board began to be pressured by some landowners and some outfitters to once again accept and address new applications. The Board's attorney advised them that should they be challenged in court, the moratorium stance most likely could not be successfully defended. The Board decided to address the issues. Jointly, with IDFG, they began a series of six workgroup advisory meetings over a period of one and a half years. The Advisory Group was made up of representatives of the Idaho Waterfowl Association, the Idaho Turkey Federation, ISCAC, private landowners, and the outfitting industry. These representatives were voting members. The non-voting members included OGLB, represented by Board members Mr. Alex Irby and himself; an IDFG Deputy Director and additional staff. The group outlined and addressed a lot of issues and developed six options to move forward with, but no consensus was reached that covered everyone's concerns. The Board decided to peruse the negotiated rulemaking process, and a draft rule was developed based on the final report. Five public hearings were held throughout the State. They are now in the process of compiling the comments and answering questions posed to them from those meetings.

In 1961, a statute was put in place giving authority to license outfitters for game and birds. It has been held in court since 1992 that OGLB has the authority to license private landowners as outfitters. At this time, there are two groups that oppose each other. There is a House bill that would completely exempt landowners from OGLB activities. The other side of the story, according to **Mr. Hunsucker**, are the waterfowl and turkey groups wanting no outfitting at all. He said the Board has been pushed and pulled to the point now where they are caught in the middle. At the present time, he feels waterfowl and turkey outfitting is a licensing activity and can be done on private lands.

Senator Cameron inquired as to why Mr. Hunsucker, who is appointed to represent the people, has a conflict by ignoring the public's opinion in a survey that showed 68 opposing the rule and only five in favor of it. **Mr. Hunsucker** responded by saying the Farm Bureau assisted OGLB in putting out a survey to 4,000 of their members. The return was a 23 percent response, with no outcry against what OGLB was doing.

Mr. Hunsucker feels that what is asked of him is to look at the broad spectrum of all of the issues. As he has watched this develop, his position is that there is room, somewhere within the state of Idaho, for outfitting of waterfowl and turkey. OGLB's policy is to take each case on an individual basis, analyze it, look at any conflicts that might be involved with that outfitter's application and make a judgment on that application.

Senator Cameron said his understanding of what Mr. Hunsucker said is that he acknowledged the majority of people who commented on the rule and who were opposed to the rule; he then took information from a separate survey from a separate entity that was more balanced, so he felt it was justified to support the rule and asked if that was a correct assumption. **Mr. Hunsucker** responded in the affirmative.

Senator Stennett said a survey done by the Farm Bureau may not be reflective of the public-at-large and she asked for an explanation. **Mr. Hunsucker** replied that he didn't feel they were a "lesser" group than the sportsmen, and out of their responses, there were no negative comments.

Chairman Pearce thanked Mr. Hunsucker for talking to the Committee and said voting would take place next Monday.

Mr. Hunsucker asked the Chairman if he could address the question brought up by Senator Siddoway regarding confiscation of property. **Chairman Pearce** gave his approval. **Mr. Hunsucker** said that OGLB has no authority to confiscate any property; however, they do work with other agencies, and unless it is a licensed outfitter coming before them, they have no authority over them and rely on prosecutors and prosecuting attorneys in the counties to hear those cases.

Chairman Pearce said due to time constraints, they would not have a discussion on recommendations to JFAC. If any Committee member has concerns about the budget that involves resources and the environment, he asked that they contact him after the meeting.

Chairman Pearce said the last item on today's agenda is to hear **H 406** and that will be presented by Alex LeBeau, Director of the Idaho Association of Commerce and Industry (IACI).

H 406:

Mr. LeBeau said he wanted to introduce the chairman of the IACI Environment Committee, Alan Prouty from the Simplot Corporation. Mr. Prouty has been very involved in dealing with the issue of the National Pollution Discharge Elimination System (NPDES). This is the last major environmental program that Idaho does not retain primacy over and it is something the Legislature has studied for 15 years with the Department of Environmental Quality (DEQ). **Mr. LeBeau** said IACI took this issue up last spring and felt it was the right time to go forward with it.

This legislation will start the process for Idaho to seek primacy for NPDES. Primacy means that Idaho would be taking over as the administrator and enforcement authority for the permits associated with this program. Currently there are just four states that do not have primacy.

In Sections 1 and 2 of the bill, it deals with penalties associated with this program and there are two types of penalties - civil enforcement and criminal penalties. Section 3 deals with legislative findings and purposes and Section 4 is the approval of the state NPDES program. This would give DEQ the authority to promulgate rules and seek primacy on September 1, 2016.

Mr. LeBeau said it was important to note that on page 7, number 5, it states that the director, as appropriate, shall establish agreements with other state agencies with expertise to administer the NPDES program. There are two other elements associated with the language that are important and are not in this bill, but will be in a future piece of legislation. The first deals with confidential business information. The other element is the hearing process. NPDES does not allow anyone who receives an income from anyone who has a NPDES permit to sit in a judicial role over any appeals associated with that.

The initial cost associated with this program is \$300,000 to be paid by the State. Estimates at full build out will cost approximately \$2.5 million, and **Mr. LeBeau** said it is their hope that the fees will be shared by the State, federal, and fee based funding. He said there are concerns associated with those fees, but it will be worked out in the rule processing.

Mr. LeBeau posed the question - "What is the benefit of having a state-run NPDES program?" He said it would be having local control and better flexibility. DEQ would provide control under a variety of other areas for implementing federal criteria.

TESTIMONY:

Mr. LeBeau said that he was asked by Mr. Norm Semanko, Executive Director of the Idaho Water Users Association, to express their support of **H 406**.

ADJOURNED:

Chairman Pearce said that the Committee was out of time and **H 406** would be continued on Friday, February 14. He then adjourned the meeting at 3:01 p.m.

Senator Pearce
Chair

Juanita Budell
Secretary