

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

- DATE:** Monday, February 24, 2014
- 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:** 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 Senate Resources and Environment Committee (Committee) to order at 1:30 p.m.
- PRESENTATION:** **Chairman Pearce** said today's presentation is about the sage-grouse/raven project. He then referred to a handout (see attachment 1) referencing last year's S 1171. On page 4, Section 3, he read: "It is the intent of the Legislature that the Department of Agriculture work together with the Department of Fish and Game to fund up to \$100,000 for a project to evaluate and monitor the impacts of raven control on sage-grouse survival." He stated that the Committee asked to do a follow-up on the intent language of the agriculture appropriation last year.
- SPEAKER:** **Mr. Virgil Moore**, Director of the Idaho Department of Fish and Game (IDFG), spoke first on behalf of his Department. He stated that the legislative intent for this fiscal year, starting in July, was to work with the Department of Agriculture to implement a sage-grouse/raven evaluation and implement some control of ravens in the State. **Director Moore** introduced Mr. Don Kemner, Sage-grouse Coordinator for IDFG, and asked for the Chair's permission for Mr. Kemner to provide the presentation.
- SPEAKER:** **Mr. Kemner** provided a handout (see attachment 2) listing their actions taken since they were given this directive. First, they identified three potential areas for raven control management. They are: the West Central, Curlew Valley, and northern INL and Birch Creek Valley (see map on reverse side of handout). They used the steps in the predation section of the Conservation Plan for Greater Sage-grouse in Idaho (2006) to evaluate these areas and determined that further management may be appropriate for those areas.
- Mr. Kemner** said they went to the United States Department of Agriculture, Animal Plant Health Inspection Service (USDA APHIS) Wildlife Service and asked if it was feasible for them to work in those areas over the next two years. They made their evaluation and determined that they could work in those three areas over the next two years, 2014 and 2015. IDFG submitted an application to the U.S. Fish and Wildlife Service asking for a permit allowing the taking of ravens in the name of sage-grouse management. The permit asked for up to 1,750 birds, 50 nests, and 250 eggs annually for two years - 2014 and 2015. If the permit is issued, it would have to be renewed each year. Wildlife Services and IDFG were working under the assumption that Wildlife Services would be the permit holder from the U.S. Fish and Wildlife Services, just as it has been in adjacent states (Nevada and Wyoming). In early December, it was indicated that IDFG had to be the permit holder. In December, an application was submitted by IDFG. Right now, they are waiting on a response from the U.S. Fish and Wildlife Service.

Senator Tippetts inquired as to how IDFG arrived at the number of birds referred to in the application and also, what percentage of ravens are in those areas. **Mr. Kemner** said that some past studies had been done and in areas where the raven density was above .47 ravens per square kilometer, they were likely to have an impact on sage-grouse nest survival. Studies in the INL and Curlew Valley found raven densities to be 49 to 81 percent higher than other areas.

Mr. Kemner said that ravens are territorial and if they are removed they move back in the following year. That is why they remove the territorial ravens during the sage-grouse nesting season. **Chairman Pearce** asked how 1,750 birds can be killed with only 250 eggs. **Mr. Kemner** said the 1,750 ravens are the adult birds that they propose to take with chicken eggs laced with DRC-1339, a corvidicide. They are also proposing that if they find raven nests in the management action area, they would have a permit that would allow them to remove those nests during the sage-grouse nesting season. Within those nests, they could take up to 250 eggs.

Senator Lacey inquired about the timeline, as to when it starts. **Mr. Kemner** said they are proposing to start next month; however, it all depends if they get the permit approved. March is when the sage-grouse nesting season starts.

Senator Brackett said the areas closed to hunting seem suitable for control and asked Mr. Kemner to comment. **Mr. Kemner** said there is one area that has been closed to hunting since 1984 and that is the West Central area, near Midvale and Weiser. He said they look at the population trend over a three year period compared to a base line and that determines what areas are closed to hunting.

Senator Siddoway said that in his perspective, very little has happened in trying to reduce the number of ravens in the sage-grouse areas. He expected some work to be done last year after the money was appropriated, and is disappointed in his expectations. Some of his questions were: 1) Did they run into problems with the permit system? 2) Was it too much ground work on the ravens? **Mr. Kemner** stated that his understanding was that it applied to their FY 2014 budget and that was beyond the sage-grouse nesting season. When the intent language was passed, it would not have given them time to get a permit from the U.S. Fish and Wildlife Service and for the Wildlife Services to get an environmental assessment conducted.

Director Moore said if there was any misunderstanding about the legislative intent, he will take responsibility for that. He stated that the staff followed through with the direction they had and it has given them a chance to get everything in place.

TESTIMONY:

Mr. Todd Grimm is with Wildlife Services (WS) and he said they are going to do a supplemental environmental assessment. In October, they sent it out for agency review and received extensive comments, mostly from the Bureau of Land Management (BLM). They are now incorporating those agencies' comments into the document and will send it out for public review either this week or next week. It will be out for 30 days and then they will review any additional comments. It is hoped that IDFG will have received their permit by that time and work can begin.

Mr. Grimm said in the second week of March, some experts from Nevada will come to train staff and share information that they have found helpful. Late March or early April, WS will start preparing 10,000 eggs - treating them and placing them in fields. **Mr. Grimm** stated that six or seven employees will be doing this work until early June.

Senator Tippets said the testimony sounds rather optimistic and asked Mr. Grimm to give him his assessment of the likelihood that the permits will be in place in time to meet the schedule that he is hoping for. **Mr. Grimm** said that if the Fish and Wildlife Service Region follows through the way other Regions have, he doesn't anticipate any problems in getting the permit. This type of work has been done in Utah, Wyoming, and Nevada for several years, so nothing new is being proposed. **Senator Tippets** then inquired if Mr. Grimm was optimistic in meeting the timelines. **Mr. Grimm** replied that he feels they will, but wishes they had started the process earlier or been more aggressive in getting the agency comments back. **Mr. Kemner** was asked his opinion regarding the timeline and he responded by saying it seems logical that their permit should be approved as they are not adding anything new to the program.

Vice Chairman Bair inquired as to why Nevada and Wyoming were given permits and IDFG is not moving in the permitting process. **Mr. Grimm** said that in his experience with working with different Wildlife Service Regions around the country, they all have their own rules that they follow.

Senator Siddoway asked about toxicants that will be used and how they will be administered. **Mr. Grimm** said it is the same that is used at dairies and feedlots where ravens are killing calves and sheep already. It is DRC-1339. The way it is used to kill ravens is different than the way it is used to kill starlings and pigeons. They inject poison into the soft membrane of the hard boiled eggs, then they put the eggs out in artificial nests where they expect the ravens to be. They also put out carcasses of roadkill to attract ravens to the immediate vicinity and as the ravens are pecking on the carcasses, they will find these artificial nests and take the eggs. He said it takes approximately four eggs to kill one raven, as they steal them, fly away and make a cache, but may not necessarily eat all of them. **Senator Siddoway** asked why the amount of toxicant per egg is not increased. **Mr. Grimm** said one raven steals the eggs from one nest (other ravens stay away) and has a cache, so it wouldn't make any difference how much toxicant the eggs were filled with.

Senator Stennett inquired if there was a monitoring system that they watched (the artificial nests with the laced eggs) to observe which species might be taking the eggs, other than the ravens. She feels the concentrate in the eggs would affect other species differently. Also, how do they litigate incidental poisoning of other species? **Mr. Grimm** stated that the poison is only effective against birds. The reason they use eggs is because there are only a few birds that are attracted to the eggs. He feels it is mainly limited to ravens, crows and magpies.

Chairman Pearce thanked the presenters for their information this afternoon. He stated that the Committee's concern regarding the sage-grouse is an important issue to them and one that they want to see move ahead.

S 1279:

Mr. Norm Semanko presented **S 1279** and thanked the Committee for rescheduling the hearing. This legislation updates the process relating to the sale of personal or real property of an irrigation district and has no fiscal impact. This statute has not been addressed for 40 years and the numbers are very old and antiquated. When an irrigation district wants to sell property, the board members determine if it is no longer needed. If the board decides that the value exceeds \$2,000 then there is an elaborate process prior to any sale, which includes getting three independent appraisals, giving notice in each of the precincts of the district and posting in three different places.

The \$2,000 number is so low that by the time they go through the process, it is not worth it. Research has been done and this is not like the procurement law - that being a uniform standard across the board for everyone. Disposal laws are different among all the different kinds of political subdivisions. **Mr. Semanko** said that he is most familiar with the city, having been a city official for five years. There is no requirement of any kind to get bids to sell it. The number the legislative committee of the irrigation district proposed was \$50,000.

TESTIMONY: **Senator Stennett** inquired as to what process brought them to this number. **Mr. Semanko** said it was the irrigation districts' board members and managers from 50 to 70 different districts from around the State at a legislative committee meeting. They wanted it at a level from which you would want to be getting appraisals. There were 99 people present at the meeting and 80 percent were Irrigation District Canal Company board members or managers. Canal companies are not affected by this legislation, only irrigation districts.

TESTIMONY: **Mr. Harold Mohlman**, Chairman of the Board for A&B Irrigation, testified in support of this bill. He said that the past couple of years, they have had old equipment come up for surplus. In the process, they found out that some of the surplus equipment is actually scrap material. Scrap is more valuable. It is very hard to get three farmers to come in and determine what the surplus price might be, knowing the value of scrap. By raising the amount to \$50,000, it would alleviate their problem and speed up their ability to get rid of the surplus equipment. To get advertising done and pay for an auctioneer, it probably would cost more than \$2,000.

MOTION: **Senator Siddoway** moved that **S 1279** be sent to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by unanimous **voice vote**. Senator Cameron will be the sponsor of the bill.

H 424: **Mr. Semanko** presented **H 424**. This legislation came from the irrigation districts' legislative committee. It clarifies that an election for the office of irrigation district director is not required when the district's secretary verifies that there is either: (1) only one qualified candidate for the office of director, in which case the qualified candidate is declared elected; or (2) no qualified candidate for the office, in which case the incumbent director's term continues until a successor is elected and qualified, as provided by law. This legislation also removes the outdated requirement of immediate delivery of a certificate of election. Pursuant to Idaho Code § 43-202, a certificate of election is presented to an irrigation district director on the date the director's term of office begins.

MOTION: **Senator Heider** moved that **H 424** be sent to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. The motion carried by unanimous **voice vote**. Senator Heider will be the sponsor of the bill.

H 425: **Mr. Semanko** presented **H 425**. He said this legislation would increase the minimum water user fee that water districts may assess individual water users for water master services. Any change in the minimum water user fee requires a vote of the water users by resolution at the annual meeting of the water district. This bill has not been touched in 34 years and there was a provision put into the code 34 years ago that there would be a water users minimum charge. That charge was according to the proportionate share. A minimum charge 34 years ago was \$20.00. Fourteen years ago it was increased to \$50.00. **Mr. Semanko** said there are two points: 1) it is not an automatic charge to the minimum level; and 2) it has to be voted on by the water users of the district at the annual meeting. The water users fee has worked, but they feel they need to adjust the maximum fee for the minimum user.

TESTIMONY: **Mr. Rex Barrie**, Water Master for Water District #63, testified in support of the proposed changes for **H 425**. Water District #63 is comprised of the Boise River Basin and five counties, all located within the boundaries of the Basin. Currently, water districts in the State are only allowed to charge \$50.00 as a minimum for water master services. In the Boise River Basin, the average cost to monitor the 60 sites below Lucky Peak average \$600.00 per year.

Each site must be visited in person once a week to record the data and a physical measurement must be made periodically during the irrigation season to qualify that data. On average, it takes 10 minutes to record the data at each of the 60 sites. There are approximately 28 weeks during the irrigation season when the data is collected. The physical measurement requires two hours on average to perform. Assessments for Water District #63 are calculated based on total cubic feet diverted; these totals are divided by the budget amount required for the year and assessments range from over \$40,000 to the Boise Project Board of Control to as low as \$1.50 to the Meads Ditch.

The water users at their annual 2011 meeting voted by resolution to adopt the \$50.00 fee for all diversions using below the minimum cubic foot per second. This was to help offset the cost associated with recording the data weekly and helped to relieve some of the burden from the large users.

In 2013, the Director of the Department of Water Resources signed an order expanding the administrative duties of Water District #63 to include diversions above Lucky Peak Reservoir. An increase of the minimum allowable assessment will help offset costs associated with the administration of these surface rights. The travel time alone, to and from areas like Pine and Featherville, will far exceed the current allowable minimum assessment. **Mr. Barrie** asked that the Committee support these changes.

Senator Brackett inquired if once the water leaves one of the measured sites, are there any further measurements on down the ditch or stream. **Mr. Barrie** replied that they measure strictly at the point of diversion off the river. If any further measurement is taken below that point, it would be the irrigation company or irrigation district, represented by "ditch riders".

TESTIMONY: **Mr. Richard Durrant** testified on behalf of the Boise Irrigation District and the Boise Project Board of Control, of which he is chairman. He stated that they are in support of **H 425** and it will help to cover some of the expenses incurred above Lucky Peak.

TESTIMONY: **Mr. Semanko** stated that he appreciated the testimony that helped explain the situation and he recognized Mr. Barrie for taking the lead and calling the watermasters throughout the State. He also said others in support of this legislation are Kevin Lakey of the Wood River Valley and Water District #1.

MOTION: **Senator Brackett** moved that **H 425** be sent to the floor with a **do pass** recommendation. The motion was seconded by **Senator Cameron**. The motion carried by unanimous **voice vote**. Senator Brackett will be the sponsor.

H 371: **Ms. Betty Munis**, Idaho Forest Products Commission, provided a letter listing the four changes that they are proposing for **H 371** (see attachment 3). The four changes in **H 371** would involve the advisory members, commission members, forest landowner assessment, and clerical. It was signed by Commission members: Jack Buell, Chairman, Buell Trucking, St. Maries; Michael D. Boeck, Tri-Pro Forest Products, Orofino; Shannon Fuchs, Idaho Forest Group, Grangeville; Darin R. Ball, Potlatch Corporation, Lewiston; and Jerry Ikola, Ikola Logging, McCall. Other written information provided by Ms. Munis were two brochures (see attachments 4 and 5).

The advisory members had five non-voting advisory members. It would remove the Idaho Forest Association (IFA) advisory member because of disbandment in 2010 and add two advisory members, one from the Idaho Department of Commerce and one from the Idaho Department of Agriculture.

The Commission has five voting members from four districts and two members are from district four. This legislation would provide only one member from district four and one more member from any district.

In the forest landowner assessment, there are three categories of assessments which fund IFPC's activities. **H 371** would reduce the forest land ownership, remove the manufacturing facilities clause, remove reduction of assessment by volume, and reduce and limit the assessment level.

In the clerical category, name corrections would be made to U of I College of "natural resources" rather than forestry, wildlife and range sciences and to the department of labor rather than department of employment.

**WRITTEN
TESTIMONY:**

Written testimony (see attachment 6) was received from **Jeffery Sayer**, Director of Idaho Commerce, stating that they had been asked to appoint a member of their staff to the Commission. He stated they are in support of the changes and are excited to help contribute to this vital industry.

**WRITTEN
TESTIMONY:**

Written testimony (see attachment 7) was received from Celia Gould, Director of the Department of Agriculture. They are in support of **H 371** and said they would gladly participate in an advisory capacity.

**WRITTEN
TESTIMONY:**

Mr. Paul Buckland, Forest Resource Manager for the Inland Empire Paper Company, also provided written testimony (see attachment 8). He stated they fully support the measures included in **H 371** and believe it is a thoughtful approach to resolving industry changes.

TESTIMONY:

Ms. Jane Wittmeyer, Wittmeyer and Associates, testified on behalf of the Food Producers and said they are in support of **H 371**.

Senator Tippetts questioned the word "withstanding" on page 2, line 5. He asked if the words "not withstanding" would have been a better choice. **Ms. Munis** said if it needed corrected, then she would agree to an amendment.

TESTIMONY:

Mr. Jeremy Pisca, representing the Potlatch Corporation, said they stand in support of this legislation. Regarding the words under discussion, Mr. Pisca believes the wording is correct as it is written; however, he suggested contacting the legislative writers and holding the bill until the Committee gets a clarification.

MOTION:

Vice Chairman Bair moved that **H 371** be held until Wednesday, so that they may speak with the bill drafters and get a clarification. The motion was seconded by **Senator Siddoway**. The motion carried by unanimous **voice vote**.

H 372:

Mr. Eric Wilson, with the Idaho Department of Lands, said this legislation relates to mineral exploration and leasing activities on state lands. Public trust lands include the beds and banks of Idaho's navigable waterways. These lands are used for multiple purposes, including commercial, navigational, recreational, and other public uses. Endowment trust lands are lands granted at statehood for the purpose of generating maximum long-term financial returns from the use of these lands. These lands are managed for public schools and other state institutions. **Mr. Wilson** provided a handout (see attachment 9) that he reviewed for the Committee. It included some history and the proposed three changes.

**CONFLICT OF
INTEREST:**

Senator Tippetts declared a potential conflict of interest as his employer likely has had state leases regarding mineral exploration.

Vice Chairman Bair inquired if the suction miners are in favor of this bill. **Mr. Wilson** said he discussed the changes with two of the local groups. They indicated they would get back with him if they had any concerns, and he has not heard back from them.

MOTION: **Senator Siddoway** moved that **H 372** 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.

H 373: **Director Tom Schultz**, Idaho Department of Lands, presented **H 373**. He said it is a simple bill. The legislation clarifies that the Oil and Gas Conservation Commission resides within the Idaho Department of Lands for purposes of compliance with the organizational structure of state government outlined in Article IV, Section 20 of the Idaho Constitution.

MOTION: **Vice Chairman Bair** moved that **H 373** be sent to the floor with a **do pass** recommendation. The motion was seconded by **Senator Heider**. Vice Chairman Bair will be the sponsor.

ADJOURNED: **Chairman Pearce** adjourned the meeting at 3:05 p.m.

Senator Pearce
Chair

Juanita Budell
Secretary