

MINUTES
HOUSE RESOURCES & CONSERVATION COMMITTEE

- DATE:** Tuesday, February 25, 2014
- TIME:** 1:30 PM or upon adjournment
- PLACE:** Room EW40
- MEMBERS:** Chairman Denney, Vice Chairman Gibbs, Representative(s) Wood(35), Barrett, Moyle, Eskridge, Raybould, Andrus, Shepherd, Wood(27), Boyle, Vander Woude, Gestrin, Miller, Anderson(1), Pence, Erpelding, Rubel
- ABSENT/
EXCUSED:** Representative(s) Moyle
- GUESTS:** Mackenzie Herrick, Veritas Advisors; Grant Simonds, IOGA; C. Wayne Hunsucker, IOGLB; Norm Semanko, Idaho Water Users Association; Sharon Kiefer, Idaho Department of Fish and Game; Jake Howard, IOGLB; Janey Bruesch, IOGA; Kara Demorest, IOGA; Tom Demorest, IOGA; Ron Reichert; Bryce Cook; Dan Butler, IOGA; Tyler Mallard, IOGA; John May, IOGA; Jim Lowe, Idaho Food Producers; Darren Coon, Nampa and Meridian Irrigation District; John Watts, Veritas Advisors; Bob Naerebout, Idaho Dairymen's Association; Stan Boyd, Idaho Cattle Association.
- Chairman Denney** called the meeting to order at 1:40 p.m.
- MOTION:** **Rep. Boyle** made a motion to approve the minutes from February 11, 2014.
Motion carried by voice vote.
- MOTION:** **Rep. Pence** made a motion to approve the minutes from February 13, 2014.
Motion carried by voice vote.
- S 1280:** **Norm Semanko**, Executive Director of Idaho Water Users Association, presented **S 1280** as a clean-up bill regarding the irrigation district director's eligibility requirements. He stated if a director becomes ineligible once elected and no longer meets requirements, the director would be disqualified, but continue serving until the vacancy is filled.
- MOTION:** **Rep. Wood(35)** made a motion to send **S 1280** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Wood(35)** will sponsor the bill on the floor.
- S 1281** **Norm Semanko**, Executive Director of Idaho Water Users Association, explained this legislation clarifies the irrigation district code by correcting all instances when an irrigation district director is mistakenly referred to as an officer.
- MOTION:** **Rep. Raybould** made a motion to send **S 1281** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Raybould** will sponsor the bill on the floor.
- S 1344:** **Norm Semanko**, Idaho Water Users Association, said **S 1344** provided clarification regarding a flood control district's authority to protect life and property from flooding, authorizes the district commissioners to compensation and expense reimbursement, and to clarify a flood control district's permitting requirements through the Idaho Department of Water Resources before responding to a flooding emergency.
- MOTION:** **Rep. Wood(35)** made a motion to send **S 1344** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Erpelding** will sponsor the bill on the floor.

H 468:

Rep. Boyle addressed **H 468** regarding reclaiming and protecting private property rights and to provide the Outfitter and Guides Licensing Board authorization to license outfitters and guides upon public lands within the state of Idaho.

Russ Hendricks, Farm Bureau, explained the current statute does not provide specific distinction between public and private lands for outfitters and guides so it is interpreted by outfitter and guides to require licensing on private property. He asserted the outfitters and guides have a carte blanche authority to regulate any activity on private property.

Mr. Hendricks provided an example of a private landowner offering, for a fee, a wagon ride to his pumpkin patch to select a pumpkin, and because he charged a fee, he would be required to purchase an outfitter and guide license.

Mr. Hendricks said this legislation would clarify legislative intent and apply to only public lands and not interfere with private property rights or recreational activities which conflicts with the Agri-tourism Act. He mentioned six western states who regulate their outfitters and guides licensing similar to this proposal that do not require private property owners to obtain an outfitters and guides license. He said Montana and Wyoming, like Idaho, consider their wildlife as state property, but these states exclude private property owners from outfitters and guides licensing regulations.

Mr. Hendricks said Farm Bureau insures outfitters and guides with business insurance requirements and indemnity. He said any prudent businessman would maintain insurance and safeguards voluntarily to protect customers and themselves. He further stated a licensed outfitter and guide on public land may have less assets for litigation recourse than does the private property owner.

Rep. Erpelding, Gibbs and Andrus invoked Rule 38. **Rep. Andrus** will not be voting on this legislation.

Grant Simonds, Idaho Outfitters & Guides Licensing Board, stated licensed outfitters and guides are bonded, carry vehicle insurance, receive first aid and firearm training, and competent to provide services to protect health and safety as they are qualified, reputable professionals. He stated the Outfitters and Guides Act was meant to include private land. Mr. Simonds does not support **H 468** and believes this legislation is bad public policy.

Sharon Kiefer, Executive Director, Idaho Department of Fish and Game, stated the bill needs recrafting and does not support this legislation in its current form. She would like to see a definition for landowner and to provide clarity whether an outfitter can continue an integrated public-private business pursuant to this bill?

Jake Howard, Executive Director of Idaho Outfitters and Guides Licensing Board, does not support **H 468** in its present form. He expressed his concern this legislation exempts all licensed outfitted and guided activity on private land. He stated licensed outfitters and guides have insurance, bonding, and liability protection as well as the benefits received from licensed professional outfitter marketing links. He explained the legislation will compromise the safety and welfare benefit the public now receives from professional licensing. Mr. Howard identified that criminal background checks would no longer be performed on anyone providing guided services on private land.

Rep. Gibbs disclosed **Rule 38** due to his past affiliation with the Idaho Outfitters and Guides Licensing Board, stated that outfitters and guides have specific areas designated and this has caused disputes in the past. He indicated a private landowner may start providing services on his own land and questioned the likelihood of the private landowner ability to obtain an outfitter and guide license if another licensed outfitter was already working in the area. **Jake Howard** Idaho Outfitters and Guides Licensing Board, indicated that if a current outfitter was working in the area, it would be difficult for a private landowner not to get a license. Mr. Howard further stated currently licensed outfitters who operate on private land would need to approach the landowner and identify intended activities, where, when and the duration of those activities he is able to provide on the private land.

Jim Lowe, Food Producers of Idaho, supports and tracks legislation for implications of private property rights. He was surprised to learn a private landowner had to be licensed through the Idaho Outfitters and Guides Licensing Board to conduct activities on private property and thought this licensing was only for public lands. He stated public lands have no liability, but private landowners can be sued for damages. He asserted that he is a crop farmer, owns and operates a pumpkin patch, and may be in violation of this law. He stated he receives visits throughout the year for his operations by many regulating agencies such as the Fire Marshall, Planning and Zoning, Ada County Highway District, Police Department, Building Inspector, Department of Agriculture, Central District Health Department, Idaho State Tax Commission, Idaho Humane Society, all without licensing and oversight of the Idaho Outfitters and Guides Licensing Board. As a businessman operating on private property, he feels it is in his best interest to protect himself and his assets from any liabilities with an abundance of caution and insurance. He stated his insurance company audits his equipment and practices for prevention measures. His opinion is to protect private rights and support **H 468**.

Bryce Cook, Idaho Waterfowl Association, opposes **H 468** proposed by Farm Bureau as it has no restriction from charging access fees and competing services with outfitters and guides. He stated private landowners would have no regulation, a large monetary incentive, and poses a public safety risk. Mr. Cook supports **H 469** regarding no outfitting or guiding for turkey and waterfowl hunting.

John Watts, Veritas Advisors, is representing his client, Tim Craig of Boulder Creek Outfitters, who has run an outfitters and guides business for thirty years. His client owns land, leases land, and conducts his outfitting and guide business on public lands too. His client is endorsed by the Buckmasters Program. He stated Boulder Creek Outfitter's clients look for outfitting and guide businesses with this endorsement. He stated the Buckmasters Program film hunting trips for television. He further stated it took his client twenty-five years to earn their way to a reputation as a responsible and safe outfitting business. Mr. Watts would like clarification on the term of lands (private, public and leased) and the definition of a landowner. He believes this legislation needs additional work and requested the bill be held in committee.

Dan Butler, farmer and rancher, conservative, owns an outfitting business in nine operating areas; with two operating areas on public lands and seven operating areas on private land including one property of his own. He stated a friend from Maryland paid for a hunt on private property in Wyoming, when he arrived at the airport, no one was there to pick him up, he had to find a motel. He contacted the Wyoming outfitter and was told there was an emergency and informed him that someone would be there to take him hunting in the morning. When the person arrived to take him hunting, the emergency relayed was the outfitter was watching a Denver Broncos game. He stated the outfitter was not required to be licensed in Wyoming. He further explained that when the outfitter could not locate the property, he started shooting prairie dogs. Mr. Butler stated these types of situations do not occur in Idaho due to the Idaho Outfitters and Guides Licensing regulation. He believes **H 468** is a stretch and needs additional work including insurance with this legislation.

Bob Naerebout, Idaho Dairymen's Association, supports **H 468** and believes it is congruent to the AgriTourism point of view.

Stan Boyd, Idaho Cattle Association and Wool Growers Association, supports the concept of **H 468**. He believes in free enterprise and private land owners who are successful would add value to their business and stand to profit from outfitting and guiding endeavors. He further stated Outfitter and Guides licensing is not considered an occupational license, protect private land and landowners can lease their property to outfitters if desired. He further stated Article 1 of the Idaho Constitution provides for private property protection.

Russ Hendricks, Farm Bureau, explained in proposing this legislation, he did not want to make a lot of changes to the current law, just clarify the intent and use as few words as possible. He stated a private landowner can obtain an Outfitters and Guides permit, but would not be required to, under the proposed legislation.

**ORIGINAL
MOTION:**

Rep. Shepherd made motion to send **H 468** to floor with a **DO PASS** recommendation.

**SUBSTITUTE
MOTION:**

Rep. Erpelding made a substitute motion to **HOLD H 468** in committee.

Rep. Gibbs spoke in support of the original motion.

Rep. Gestrin discussed the Idaho Constitution and how it relates to this legislation. He supports the original motion.

Rep. Wood(35) indicated she was surprised the Outfitters and Guides have authority over zip-lining. She stated there are private property rights to use and manage a person's property along with the right to income from that property. She supports the original motion.

**AMENDED
SUBSTITUTE
MOTION:**

Rep. Raybould made an amended substitute motion to send **H 468** to General Orders for the addition of the clause "for any activity other than hunting and fishing".

**ROLL CALL
VOTE:**

Roll call vote was requested. **Amended Substitute Motion failed by a vote of 7 AYE, 9 NAY, 1 absent/excused. Voting in favor of the motion: Reps. Eskridge, Raybould, Wood(27), Pence, Erpelding, Anderson(1), Rubel. Voting in opposition to the motion: Reps. Gibbs, Wood(35), Barrett, Shepherd, Boyle, Vander Woude, Gestrin, Miller, Chairman Denney. Rep. Moyle was absent/excused. Rep. Andrus abstained.**

**ROLL CALL
VOTE:**

Roll call vote was requested. **Substitute Motion failed by a vote of 5 AYE, 11 NAY, 1 absent/excused. Voting in favor of the motion: Reps. Wood(27), Pence, Erpelding, Rubel, Anderson(1). Voting in opposition to the motion: Reps. Gibbs, Wood(35), Barrett, Eskridge, Raybould, Shepherd, Boyle, Vander Woude, Gestrin, Miller, Chairman Denney. Rep. Moyle was absent/excused. Rep. Andrus abstained.**

**VOTE ON
ORIGINAL
MOTION:**

Chairman Denny called for a vote on the original motion to send **H 468** to the floor with a **DO PASS** recommendation. **Original Motion carried by voice vote. Reps. Anderson(1), Wood(27), Pence, Erpelding, Rubel** asked that they be recorded as voting **NAY**. **Rep. Boyle** will sponsor the bill on the floor.

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned at 4:10 p.m.

Representative Denney
Chair

Jennifer Smith
Secretary