

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, February 02, 2015

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Senators Cameron, Brackett, Heider, Nuxoll, Stennett and Buckner-Webb

ABSENT/ EXCUSED: Vice Chairman Vick and Senator Siddoway

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

MINUTES: **Senator Heider** moved to approve the Minutes of January 21, 2015. **Senator Stennett** seconded the motion. The motion passed by **voice vote**.

RS 23380 **Senator Keough** presented **RS 23380** for printing. She said the purpose of this legislation is to bring consistency to the residency requirements for obtaining fishing and hunting licenses in Idaho.

MOTION: **Senator Cameron** moved to print **RS 23380**. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 20-0702-1401 **Rules Governing Conservation of Oil and Natural Gas in the State of Idaho.** **Chairman Bair** announced that time had been allowed for additional testimony regarding these rules. The Chairman presided during the rules hearing due to the excused absence of Vice Chairman Vick.

WRITTEN TESTIMONY: **Chairman Bair** announced that written testimony had been submitted by Joe Morton, Emmett, Idaho, regarding these rules and a copy had been given to each Committee member (see attachment 1).

TESTIMONY: **Former U. S. Senator Larry Craig** thanked Chairman Bair for the continuation of the hearing, and he spoke on behalf of these rules. **Former Senator Craig** said that Director Schultz did an excellent job of explaining the regulations that are before the Committee and that they are extremely important for the State.

Former Senator Craig now represents Northwest Operating Corp., based in Helena, Montana. They are currently in state leasing potential gas properties in the Payette and general Canyon County area. **Former Senator Craig** stated that in working with IDL and the Commission to bring the State into national standards, these kinds of regulatory changes and adjustments are critically necessary.

Former Senator Craig said that his client strongly supports these rules and believes it is important to create a competitive environment that enhances the opportunity for greater lease sales for state properties.

TESTIMONY: **Ms. Suzanne Budge** said that she is here on behalf of the Idaho Petroleum Council. They represent a large group of interested parties that support these rules. **Ms. Budge** said they were involved when the rules were first developed in 2011. She believes it is in the State's best interest to ensure rational and thorough development of the industry and feels these rules are a good continuation of that process.

Senator Stennett said she was concerned about the effect that oil and gas leases might have on people's loans and mortgages. Because of that possibility, she called two banks and talked with their loan officers. They indicated that it is regular language in Freddie Mac and Fannie Mae that it does potentially undo loans and mortgages on private property if the people have not received prior written consent from the lender. **Senator Stennett** provided a document from US Bank that stated one cannot remove oil or gas without the prior written consent of the lender. Per their mortgage representative, the mortgage deed has the same stipulation (see attachment 2). **Senator Stennett** asked Ms. Budge to address her concern. **Ms. Budge** stated that her understanding was that it was not part of the rule process. She asked to defer the question to someone with more expertise on the subject.

TESTIMONY:

Ms. Alma Hasse said that she has 14 years of mortgage banking background, primarily in Southern California, and some loans do affect homeowners that have gas and oil leases. Leases are recorded against real property, and having pipelines on one's property is an automatic reduction of a loan from certain lending institutions. **Ms. Hasse** stated that there were serious private property rights that she tried repeatedly to bring up at the negotiated rulemaking sessions and was brushed aside each time, as were others. She said the integration language, as it stands now, needs to go. She suggested that property owners be given extra time to go to their lenders to receive a release.

Chairman Bair inquired of Ms. Hasse if she has personally seen a mortgage denied because of an oil and gas lease. **Ms. Hasse** said no, she had not.

TESTIMONY:

Ms. Joli Eromenok testified in opposition to the gas and oil rule. She is concerned about the air quality as well as her private property rights.

TESTIMONY:

Mr. Jim Plucinski said that he does not represent any special group but speaks for the people who are concerned about their property rights. Another concern of his is the penalty. Only one other state has a higher penalty. He is not in favor of this rule and has provided the Committee with Exhibits A-F, which he referred to in his testimony (see attachment 3).

1. Exhibit A, page 62 of the Rule Book, referenced the nonconsenting working interest owner regarding the royalty to not exceed one-eighth until the operator has recovered up to 300 percent.
2. Exhibit B listed the penalties assessed by Utah, Wyoming, Texas, and Washington.
3. Exhibit C, page 62 of the Rule Book, referred to Section 131, Subsection 04, Lease. The owner's interest will be deemed leased under the terms and conditions in the integration order.
4. Exhibit D, page 61 of the Rule Book, referred to Section 130, Subsection h. At least 55 percent of the mineral interest owners in the spacing unit support the integration application by leasing or participating as a working interest owner.
5. Exhibit E, a report from Alta Mesa Holdings, LP.
6. Exhibit F, a copy of Idaho Code § 47-328, Title 47, Mines and Mining.

There was no further testimony from the audience. **Chairman Bair** asked Director Schultz, Idaho Department of Lands (IDL), to speak.

Director Schultz said that he feels the hearings went well. During the summer, they had lots of debates and discussions. Not everyone got everything that they wanted in the process, but he appreciates the comments that were received.

Director Schultz addressed the issue of mortgages and loans and thanked Senator Stennett for her research. He provided a handout with HUD requirements (see attachment 4). HUD does not consider an oil/gas well a hazard. HUD does note the presence of operating or abandoned oil/gas wells looking for three things. 1) Are existing structures 300 feet from an active or proposed drilling site boundary? 2) Is new/proposed construction 75 feet from an operating well? 3) Is an abandoned well 300 feet from construction (10 feet allowed with letter from the State authority)?

When the oil and gas industry started operating in Idaho in 2010, local mortgage and title companies were not familiar with oil and gas leases and easements that would show up on the titles. The notation on titles would only relate to the mineral portion of the property, not the surface property, but caused confusion and hesitation for local lending institutions.

Director Schultz stated that local title companies and lending institutions have been educating themselves on oil and gas lease and easement issues in relation to lending practices and HUD requirements. Several symposiums have been held around the State with the results bringing more confidence in mortgage lending.

Director Schultz reviewed the hazards that HUD stipulates (taken from the HUD Handbook 4150.2). The property must be free of all known hazards and adverse conditions that: 1) may affect the health and safety of the occupants; 2) may affect the structural soundness of the improvements; and 3) may impair the customary use and enjoyment of the property. These hazards include toxic chemicals, radioactive materials, other pollution, hazardous activities, potential damage from soil or other differential ground movements, ground water, inadequate surface drainage, flood, erosion, excessive noise and other hazards on or off site.

Director Schultz said that the Oil and Gas Conservation Commission has approved these rules and sets Idaho on a predictable path for both industry and landowners and allows for development to occur. He asked that the Committee approve the rules.

**DOCKET NO.
15-0301-1401**

Rules of Administrative Procedure of the Idaho Forest Products Commission.

Ms. Betty Munis, Director, Idaho Forest Products Commission (IFPC), presented this rule. The 2014 Idaho Legislature passed H 371 which requires changes to the rules. Pursuant to H 371, changes address the nomination and vacancy of the at-large Commission member and amends the assessment basis of forest landowners.

Two advisory members have been added to increase their partnerships with other state organizations, specifically the Idaho Department of Commerce and the Idaho Department of Agriculture. **Ms. Munis** said that she has received no objections or comments to the rules and asked the Committee to approve them.

Chairman Bair said voting was in order on the following rules:

MOTION:

Docket No. 13-0108-1402 failed for lack of motion.

MOTION:

Senator Heider moved to approve **Docket No. 15-0301-1401**. **Senator Cameron** seconded the motion. The motion carried by **voice vote**.

MOTION:

Senator Heider moved to approve **Docket No. 20-0702-1401**. **Senator Nuxoll** seconded the motion.

**SUBSTITUTE
MOTION:**

Senator Stennett moved to approve **Docket No. 20-0702-1401**, with the exception of Section 130 - Integration and Section 131 - Integration Orders. **Senator Buckner-Webb** seconded the motion. The motion failed.

Voting was then held on the original motion which passed by **voice vote**.

ADJOURNED: With no further business to come before the Committee, **Chairman Bair** adjourned the meeting at 2:45 p.m.

Senator Bair
Chair

Juanita Budell
Secretary