

MINUTES  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**

**DATE:** Wednesday, February 11, 2015

**TIME:** 1:30 P.M.

**PLACE:** Room EW40

**MEMBERS:** Chairman Raybould, Vice Chairman Gestrin, Representatives Moyle, Andrus, Shepherd, Wood, Boyle, Vander Woude, Gibbs, Miller, Bateman, Burtenshaw, Mendive, VanOrden, Youngblood, Pence, Erpelding, Rubel

**ABSENT/  
EXCUSED:** None

**GUESTS:** The sign-in sheet will be retained with the minutes in the committee secretary's office until the end of the session. Following the end of the session, the sign-in sheet will be filed with the minutes in the Legislative Services Library.

**Chairman Raybould** called the meeting to order at 1:30 p.m.

**RS 23488:** **Rep. Erpelding** stated the biannual Outdoor Retailer Show, a convention for retailers and representatives from the outdoor industry, contract location in Salt Lake City expires in 2016. He stated Idaho's rich outdoor heritage presents an economic opportunity for the outdoor industry and Idaho. He further explained this would create 77,000 Idaho jobs and attract employers, such as retailers and manufacturers, to Idaho.

**MOTION:** **Rep. Gibbs** made a motion to introduce **RS 23488. Motion carried by voice vote.**

**RS 23509:** **Chairman Raybould** requested the interim committee on natural resources be allowed to continue to jointly meet with the Senate to address issues from Idaho resource agencies, such as the Idaho Department of Water Resources and the Idaho Department of Fish and Game, when the legislature is not in session.

**MOTION:** **Rep. Moyle** made a motion to introduce **RS 23509. Motion carried by voice vote.**

**RS 23527:** **Senator Rice** stated the Oil and Gas Conservation Commission should be exempt from the contested case provisions of the Administrative Procedures Act and the commission will adopt the administrative procedures that were in place prior to July 1, 1993. He explained this change for the Oil and Gas Conservation Commission will align with the current practice of the Land Board.

**MOTION:** **Rep. Moyle** made a motion to introduce **RS 23527. Motion carried by voice vote.**

**RS 23529:** **Rep. Boyle** stated **RS 23529** will define the shape and size of the spacing of units of oil and gas in accordance with the public land survey system. Rep. Boyle explained exceptions to spacing units require the consent of a majority of mineral interest owners and will provide exclusion of federal mineral acreage from unit operations upon application to the Idaho Oil and Gas Conservation Commission should the federal government fail to lease.

**MOTION:** **Rep. Gibbs** made a motion to introduce **RS 23529. Motion carried by voice vote.**

**RS 23578:** **Senator Lee** explained **RS 23578** will include the word "condensate" to the definition of the word "gas" which was inadvertently omitted in 2012 and provides restoration of the original language in Title 47. She stated this proposed legislation is necessary since definitions are relied upon in Idaho Code.

**MOTION:** **Rep. Erpelding** made a motion to introduce **RS 23578. Motion carried by voice vote.**

**H 51:** **Rep. Shepherd** stated there was a joint meeting regarding dredge mining issues in the Lincoln Auditorium last session that created a great deal of interest. He explained many areas of our state in rural communities need jobs and means to support their families and valuable gold lays in the bottom of creeks. Rep. Shepherd states that new wealth circulates seven (7) times and even though this industry is small, it has a significant impact on the economy. Rep. Shepherd deferred to **Don Smith** of Rocky Mountain Mining Rights, an expert in dredge mining, and the main presenter for today on **H 51**.

**Don Smith** with Rocky Mountain Mining Rights is a small group dedicated to the education of mining rights. Mr. Smith explained **H 51** is a clarification of Idaho Code 47-1317, as mining technology has dramatically improved and the code should reflect the improved methods of small scale mining.

Mr. Smith stated the legacy of mining with big bucket line dredges follows the small scale dredge miners today with a negative connotation of the word "dredge". He states the perception must change through education. Mr. Smith said a small scale suction dredge fits into the back of a pickup truck and no remediation is necessary for the movement of riverbed materials. He stated the EPA and NPDES permit is for a discharge of pollutants in the waters under the U. S. Clean Water Act requiring disposal of pollutants shall be by permit only. Mr. Smith indicated no pollutants are discharged into the water and there is no harm to human health, safety, or fish with small suction dredge mining. Mr. Smith claimed the EPA should have rescinded this rule when it was discovered as scientifically indefensible.

Mr. Smith referred to Federal law stating "citizens are entitled to enter public lands for the purpose of prospecting and removing mineral deposits." Mr. Smith said state agencies must not use unreasonable regulations to frustrate Federal law and nullify the 1872 Mining Act when permitting schemes are not prejudiced with proper oversight. Mr. Smith stated the intent is not to diminish the authority of managing agencies, but to work with them for amendments to allow small scale suction dredge miners the ability to obtain appropriate permits in a timely manner that any business owner might expect. With respect to Federal mining laws, Mr. Smith suggested this bill will return the suction dredge miner to policies that were put in place by past legislatures and provide a fair and open process essential to the continuation of a prosperous nation.

**Jim Chmelik**, Idaho County Commissioner, stated the county is economically struggling and when road blocks are thrown up, resourceful people adapt. Mr. Chmelik stated the Idaho Conservation League is assaulting our freedoms and free enterprise and man should be allowed to utilize his talents in industry. He referred to wildfires and large timber fires from dead and rotting trees in our forests. He stated the Idaho Conservation League is content with destroying communities and streams with more laws and pseudo-science. He explained that dredge miners remove thousands of pounds of lead from fishing gear and debris in our waterways. He believes that dredge mining works with nature and not against it, miners support their local economy and families. Mr. Chmelik stated that Idaho County is a victim of bad judgement by the environmental community and believes they should govern themselves and not govern the county.

**Jon Menough** from Elk City is a civil engineer and has a masters in chemistry engineering in Idaho and Alaska. He has worked closely with water, EPA regulations, and its effects with large and small communities. Over the past twenty years, he has seen the EPA making life better for people, but has also seen foolishness by the EPA by doing more harm than good. Mr. Menough stated Idaho should recognize that small suction dredge mining has no significant impact.

**David Seyer**, the small suction dredge miners are frustrated and feel they are locked out of what they love to do as streams are closed and permits delayed. Mr. Seyer stated small suction dredge miners are not doing any harm and would like to get back to work.

**John Crossman**, Southwest Mining Association, stated small suction dredgers have a vested right from the 1872 Mining Act. He stated many dredge miners have traveled from other states and from within Idaho to today's committee meeting expressing concerns about receiving letters from the Environmental Protection Agency (EPA). Mr. Crossman suggested passing a law to control the EPA as small suction dredge miners have families to support. Mr. Crossman stated that tons of lead from fishing lures are in the Salmon River and small suction dredge mining removes the lures from the river along with other trash, and puts money into the economy.

**Gay Richardson**, a small suction dredge miner from Elk City, indicated large companies, such as Dupont, are interested in a mineral called gilmenite titanium ore located only in Idaho and Florida. Mr. Richardson indicated the gilmenite titanium ore is used by 3D printers and airplane parts in a titanium powder and the mineral deposits are going to be valuable.

**Rep. Shepherd** requested an amendment to page 1, line 19, beginning at "Additionally ....." to end of sentence and requested **H 51** be sent to General Orders with the recommended committee amendments.

**MOTION:**

**Rep. Andrus** made a motion to send **H 51** to General Orders with amendments attached.

**SUBSTITUTE MOTION:**

**Rep. Gibbs** made a substitute motion to **HOLD H 51** in committee.

**Rep. Wood** indicated that no one enjoys dealing with the Federal government, and in light of the Idaho Attorney General's opinion on **H 51**, doesn't believe Idaho passing a law would cause the EPA to change their direction. Rep. Wood further stated Idaho has a proven methodology in dealing with the Federal government such as Idaho did with the wolves. Rep. Wood encouraged the small suction dredge miners to contact **Congressman Simpson** as he has influence with the EPA and could sway the EPA to change their direction in dredge mining. Rep. Wood said Congressman Simpson has been able to delist the wolves in Idaho. Rep. Wood believes contacting Congressman Simpson is a far better approach to encourage the EPA to change some of their erroneous rules as the Idaho Legislature cannot set aside federal law.

**ROLL CALL VOTE:**

Roll call vote was requested on the substitute motion. **Substitute motion failed by a vote of 9 AYE and 9 NAY. Voting in favor** of the substitute motion: **Reps. Wood, Gibbs, Bateman, Burtenshaw, Van Orden, Pence, Erpelding, Rubel and Chairman Raybould. Voting in opposition** to the substitute motion: **Reps. Gestrin, Moyle, Andrus, Shepherd, Boyle, Vande Woude, Miller, Mendive and Youngblood.**

**VOTE ON ORIGINAL MOTION:**

**Chairman Raybould** called for a vote on the motion to send **H 51** to General Orders with committee amendments. **Motion carried by voice vote. Rep. Shepherd** will sponsor the bill on the floor.

**ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 2:25 p.m.

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Representative Raybould  
Chair

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Jennifer Smith  
Secretary