

MINUTES
HOUSE RESOURCES & CONSERVATION COMMITTEE

DATE: Tuesday, February 17, 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:** Representative(s) Shepherd

GUESTS: Laurel Sayer, Idaho Organization of Land Trusts; Coleen Erickson, Idaho Organization of Land Trusts; John L. Erickson, Idaho Organization of Land Trusts; Lynn Tominaga, IGWA; Darrel Ker, Enterprise Canal; Wyatt Johnson, ITLA; Jerry Rigby, Upper Valley Irrigation Company; Gary Spackman, Idaho Department of Water Resources.

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

MOTION: **Rep. Youngblood** made a motion to approve the minutes of February 5, 2015. **Motion carried by voice vote.**

Chairman Raybould identified a privileged letter from **Speaker Bedke** for the committee to hear and vote on the following three RSs. (See attachment 1.)

RS 23517: **Rep. Beyeler** said the federal government is dedicating as a national monument for Boulder-White Clouds area which includes Gem, Boise, Lemhi, and Custer Counties with public lands. He said Custer County has 92% of its land mass under federal management. He stated public land policy decisions or management changes will have a significant impact on families and the economy. Rep. Beyeler said **RS 23517** calls upon the U. S. President to listen to the citizens of Idaho. Rep. Beyeler indicated the federal government should refrain from unilateral action and embrace the collaborative process with Idahoans.

MOTION: **Rep. Bateman** made a motion to introduce **RS 23517**. **Motion carried by voice vote.**

RS 23526: **Rep. Wood** stated the purpose of **RS 23526** is for irrigation districts to find alternative approval to incur debt as current law authorizes the irrigation districts to incur debt only after an election and irrigation districts need the ability to manage funding as demonstrated by the Rangen Call from earlier this year.

MOTION: **Rep. Andrus** made a motion to introduce **RS 23526**. **Motion carried by voice vote.**

RS 23634: **Chairman Raybould** presented **RS 23634** as a rule rejection on Rule 50, Idaho Department of Water Resources, that eliminates the current boundary lines with inadequate technical data to evaluate underground water resources and effects on various sections of the aquifer.

MOTION: **Rep. Wood** made a motion to introduce **RS 23634** and recommend it be sent directly to the Second Reading Calendar. **Motion carried by voice vote.** **Chairman Raybould** will sponsor the bill on the floor.

H 94:

Rep. Nate stated **H 94** would exempt canal and irrigation operators who are required by law to maintain water delivery systems in safe operating conditions and to prevent flooding. He said water entities continue to face lawsuits for flooding events caused by old growth trees that fall over and plug waterways causing flooding. He explained that water entities are sued under the timber trespass statute allowing for treble damages. He stated this change will leave the reasonable and necessary standards to protect property owners from flooding while upholding the requirement of water deliver entities to maintain canal banks and right-of-way easements. Rep. Nate indicated support by the Water Users Associations, Idaho Food Producers, and Farm Bureau.

Darrell Ker belongs to a group of irrigators in Ririe, Idaho. Mr. Ker indicated the local water entity has spent countless dollars defending themselves while performing their civic duty and stewardship to irrigators. Mr. Ker expressed concern over the tree trespass statute and treble damages. He stated **H 94** will reasonably allow for canal companies and water entities to prevent flooding and to deliver water to farmers to support their families and farms. Mr. Ker stated the law is not clear and hinders the water entities' ability to perform maintenance for the water delivery system. Mr. Ker expressed his concern about the unfortunate situation canal companies are subjected to in the current process to get water to patrons and this unfortunate situation has become an enormous financial burden to water entities.

Wyatt Johnson, Idaho Trial Lawyers Association, stated **H 94** is attempting to solve a problem, but will create several other problems. Mr. Johnson indicated the trespass statute is a legal defense and people have a right to post no trespassing signs to protect their property. Mr. Johnson explained the breadth of the language exempts everybody and there is no remedy under the trespass statute which may encourage mischief makers. Mr. Johnson agrees water entities should have the right-of-way to manage ditches and canals, but **H 94** needs to be fine tuned.

Norm Semanko, Executive Director of Idaho Water Users Association, stated Chapter 11 and Chapter 12 govern adequately the regulation and for lawsuits. Mr. Semanko indicated the applicability applies to anyone who owns a ditch right-of-way and uses surface water. Mr. Semanko explained an individual cannot access the right-of-way without the irrigation district's permission.

Jerry Rigby, Attorney in Rexburg, Idaho, represents water right holders and feels there is a need to change the statute, but not in an attempt to resolve water right holders of any liability. Mr. Rigby referred to the ambiguity in statutes regarding timber trespass and it was never meant for water entities or canal companies. Mr. Rigby stated "reasonable and necessary" is sufficient and if a boundary is crossed, it should be evaluated on a case-by-case basis.

MOTION:

Rep. Youngblood made a motion to send **H 94** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Rubel** requested to be recorded as voting **NAY**. **Rep. Nate** will sponsor the bill on the floor.

HCR 7:

Rep. Erpelding stated the Outdoor Industry Association is in the renegotiation process for its location and looking at other venues outside of its Utah location by considering Denver, Colorado, and Las Vegas, Nevada as possible future prospects. Rep. Erpelding suggested Idaho should support **HCR 7** in expressing an Idaho interest to inform the Outdoor Industry Association that Idaho is open for business. Rep. Erpelding pointed to the fact that Idaho is famous for outdoors and outdoor activities and has many outdoor manufacturers and retailers. He said the industry will bring in billions of dollars to the state and is supported by Outfitters and Guides as 77,000 Idahoans work in the outdoor industry.

MOTION: **Rep. Van Orden** made a motion to send **HCR 7** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Erpelding** will sponsor the bill on the floor.

HCR 8: **Chairman Raybould** stated **HCR 8** is a resolution allowing the continuation of the interim committee on natural resources that meets in the off legislative season. He stated this committee deals with water resources, fish and game, and pending legislation and rules to give advice to state departments.

MOTION: **Rep. Gibbs** made a motion to send **HCR 8** to floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Chairman Raybould** will sponsor the bill on the floor.

Laurel Sayer, Executive Director of the Idaho Coalition of Land Trusts, provided a presentation regarding Conservation Easements and explained it is a statewide nonprofit organization assisting with the resources necessary for conservation easements.

Coleen and John Erickson elected to have a conservation easement on their property after John's father, owner of the property. Mr. Erickson explained it took three years to complete, but it was a positive experience and recommends conservation easements to others. **Mrs. Erickson** stated there is not enough profit in farming alone and the land trust pays a dividend. She indicated that conservation easements allow a land owner to remain on the property, keep grazing and farming rights, preserve the scenic value of the land, and minimize farm and family debt to create additional opportunities.

Kristen Troy, Lemhi Regional Land Trust, lives in Salmon, Idaho and has worked on 11 conservation easements and is celebrating the 10th anniversary. She indicated many people in the area are land rich and cash poor, but there isn't adequate resources to serve all requests received for conservation easements.

Rep. Beyeler provided information regarding his family entering into a conservation easement. Land was valued as agricultural land and did not reduce the tax base in the county.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 3:45 p.m.

Representative Raybould
Chair

Jennifer Smith
Secretary