

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, March 18, 2015

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Vick, Senators Cameron, Siddoway, Brackett, Heider, Nuxoll, 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 Bair** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:35 p.m. Several members of the Committee had to testify in other meetings, but joined the Committee later.

HCR 12 **Senator Burgoyne** presented **HCR 12**. He said the resolution is requesting the Legislative Council to appoint a committee that will continue the study of endowment asset issues and will monitor the implementation of the recommendations of the Callan Report. He said that Senator Bayer is here with him and is a co-chair of the Interim Endowment Assets Committee (Interim Committee) that is the subject of **HCR 12**. This Concurrent Resolution rises out of the Interim Committee that was set up two years ago and met over the last interim period. Among other things, in addition to studying Idaho's endowment asset issues, the Interim Committee received the Callan and Associates Report on November 14, 2014. The report was very comprehensive with respect to endowment and Land Board issues. The Interim Committee voted to endorse the report and also recommended that they continue meeting for a period of time, as it will take a number of years to fully implement the recommendations within the Callan Report with respect to the Land Board and endorsement issues.

Senator Burgoyne stated that in his view, the endowments are a tremendous asset to the State of Idaho and they certainly generate a significant income. These assets need to be as best managed as possible for the current maximum investment for the beneficiaries. The work of this Interim Committee, in providing greater transparency, has the ability to shine a light on these issues.

Chairman Bair asked Senator Burgoyne to name two points from the Callan Report that he thinks are most important. **Senator Burgoyne** said he would like to defer the question to Senator Bayer. **Senator Bayer** said there are several, but as an example: multiparty land transactions; the stability of those investments; the expertise within the department; and the financial counsel to do those types of land investments.

MOTION: Following a short discussion **Senator Nuxoll** moved that **HCR 12** be sent to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **voice vote**. Senator Burgoyne will be the floor sponsor.

MINUTES: **Senator Stennett** moved to approve the Minutes of March 2, 2015. **Senator Nuxoll** seconded the motion. The motion carried by **voice vote**.

MINUTES: **Vice Chairman Vick** moved to approve the Minutes of March 4, 2015. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

MINUTES: **Senator Brackett** moved to approve the Minutes of March 6, 2015. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

MINUTES: **Senator Heider** moved to approve the Minutes of March 9, 2015. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: **Senator Nuxoll** moved to send the gubernatorial appointment of Brent Baker to the Lake Pend Oreille Basin Commission to the floor with recommendation that he be confirmed by the Senate. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**. Senator Keough will be the floor sponsor.

H 197

Mr. Jack Lyman, Executive Director, Idaho Mining Association, presented a PowerPoint slide program to help explain **H 197**. **Mr. Lyman** said that in 1989, the Legislature created the Groundwater Quality Council to develop a groundwater quality plan for the State. Mr. Lyman served on that Council and participated in the development of that groundwater plan. The work was completed in 1991 and approved by the Legislature in 1992.

In the plan, there was protection for the State, which said the policy of the State of Idaho is that existing and projected beneficial uses of groundwater shall be maintained and protected. The plan also covered mining by stating that the policy of the State of Idaho is to protect groundwater and allow for the extraction of minerals above and within groundwater.

Best Management Practices have and will be observed. The primary focus is to limit water running onto the site and limit water infiltration through mine features. It also:

- diverts clean run-on water around sites;
- cap/cover design constructed of native materials if possible and to limit infiltration;
- design of mine features to shed meteoric water as quickly as possible including ditches and various backfill designs; and
- utilize proper vegetation species to enhance evapotranspiration, increase reclamation value to wildlife, and decrease invasive species growth.

Mr. Lyman said the vertical surface where the Department of Environmental Quality (DEQ) determines the compliance with groundwater quality standards is what is called the point of compliance. Inside the mine area, water quality standards may not be met and are under no obligation to meet them, but it must be met at the point of compliance. The point of compliance shall be set so that outside the mining area boundary there is no injury to current or projected future beneficial uses of groundwater and there is no violation of water quality standards applicable to any interconnected surface waters. **Mr. Lyman** said they must manage the water to make sure they don't impact the groundwater.

A policy statement was made within **H 197**. It states that a mine operator shall protect current and projected future beneficial uses of groundwater at a point of compliance designated pursuant to rules of the DEQ that are consistent with the requirement of the Groundwater Quality Plan. The plan says to protect groundwater and allow for the extraction of minerals above and within groundwater. To resolve the potential conflict in the rules, **H 197** states that degradation of groundwater is allowed at a point of compliance if the mine operator implements the level of protection during mining activities appropriate for the aquifer category. **Mr. Lyman** closed his presentation by saying **H 197** is consistent with the Groundwater Quality Plan, is consistent with the 2009 rule changes regarding mining, and resolves the potential conflict that exists in the DEQ rules. The language of the bill was negotiated by the mining industry, along with DEQ, and they are in support of this bill.

TESTIMONY: **Mr. Curt Fransen**, Director of DEQ, testified that he wished to affirm that they met and discussed the existing groundwater rule. They reviewed and agreed on language to correct the perception that there was a problem, and he said they agree and support this legislation.

Chairman Bair inquired of Mr. Fransen if he thought there might be a problem with the Environmental Protection Agency (EPA) down the road at some point, saying that this language is not appropriate. **Mr. Fransen** replied no, he did not see any problem with the EPA.

MOTION: **Senator Heider** moved that **H 197** be sent to the floor with a **do pass** recommendation. **Senator Brackett** seconded the motion.

During the discussion, **Senator Heider** said that Mr. Lyman had been very kind to share with the Committee the mining operations and providing tours of the mines for the Legislators. **Senator Heider** stated that Mr. Lyman always has the policy of the environment foremost on his mind, whether it is reclaiming a mine, putting up fences, or building roads. Because of what Mr. Lyman and the Mining Association do to protect the environment around their mine sites, Senator Heider felt it bears commenting on.

The bill carried by **voice vote**. Chairman Bair will be the sponsor.

Chairman Bair welcomed Ms. Tina Wilson, Executive Director for the Western Alliance for Economic Development, who gave a presentation on "Southwest Idaho Juniper Utilization Working Group."

SPEAKER: **Ms. Wilson** said they are part of a group working with rural Idaho for economic development. In Owyhee County, a group has been formed called the Southwest Idaho Juniper Utilization Working Group. The reason they are working together is to help support the ecosystem restoration in southwest Idaho by eliminating the juniper.

Ms. Wilson shared the names of the stakeholders. They are:

- Owyhee County
- Bureau of Land Management
- Idaho Department of Lands
- Idaho Office of Energy Resources
- Idaho Department of Commerce
- Natural Resources Conservation Services
- SW Idaho Resource Conservation & Development
- Idaho Woody Biomass Utilization Partnership
- Western Alliance for Economic Development
- Growing Excellence, Inc.
- Parma Post and Pole
- Specialty Inc. Wood Products
- University of Idaho
- The Nature Conservancy

The group has been meeting for about one year, looking at the impact of junipers in Idaho and seeing if they could get some economic benefits by removing them. This issue of juniper encroaching on the State's natural resources is actually wider than just in the southwestern corner of the State. A mature juniper tree consumes 35 gallons of water per day and the roots are such that it will continue to grow downward until it reaches water. That amount of water per tree, per day, impacts the watershed and grasses.

There are three classifications of junipers. Phase I, the junipers are in low densities and sagebrush and herbaceous vegetation remains dominant. Phase II, the juniper cover has increased to a point where it now plays a co-dominant role in the ecosystem, causing sagebrush and herbaceous vegetation to decline. Phase III, junipers dominate the site causing significant declines in shrub and herbaceous vegetation.

Eradicating the juniper is easiest during Phase I because of their size. They can be pulled out or cut down. In Phase II, the trees are more established and the ground cover is receding. In Phase III, whatever is underneath the tree is destroyed, and the tree becomes more hard and it doesn't biodegrade very well at all.

As production goes down, it creates an economic impact. With Phase I, there was no change. Phase II showed a 36.97 percent loss, and in Phase III, there was a 60.19 percent loss. Currently, the Bureau of Land Management (BLM) and the Nature Conservancy have some programs on how to eradicate the juniper. The BLM awards contracts to people for removal of the trees. The juniper has invaded 600,000 acres of sage-grouse habitat, and the sage-grouse are listed as warranted but precluded by the US Fish and Wildlife service. The BLM's mission is to maintain and enhance the habitat. The Idaho Department of Lands (IDL) would like an economic benefit from the lands that they manage, as the juniper does impact them also.

The juniper not only affects the sage-grouse and its habitat, but they affect the rangelands, the watersheds, and restoration costs. They had a tour for approximately 30 stakeholders, where they walked through the Owyhees in several locations, looking at the impact. Since then, they have set up a partnership with an organization called Sustainable Northwest that is located in Oregon. Idaho National Laboratory (INL) has offered to provide technical assistance in testing for energy components. The U.S. Forest Service Region 4 biomass coordinator has been meeting with them also.

The State of Oregon received a grant last year to seek commercial status for juniper wood. In Portland, markets have been established for furniture, siding, decking, fence posts and landscape timbers. Through this grant, they have agreed to take 13 percent of samples from Idaho. With the wood from junipers not being biodegradable, they do not have to be treated if used for fence posts or sign posts; the wood has been proven to last. Parma Post and Pole is working closely with the Idaho Juniper Utilization Working Group to attain the commercial status.

Ms. Wilson introduced her coworkers: David New, Growing Excellence Inc.; Neil Rimbey, University of Idaho; and Justin Boeck, Fire Planner, BLM. She stated that they would be glad to answer any questions the Committee might have. As far as what is next, **Ms. Wilson** said they had several things yet to accomplish, and they are: 1) obtain grant applications for feasibility studies and pilot projects (which will require matching funds); 2) obtain a facilitator to manage this group; 3) continue to search for best practices in harvesting and commercial uses; and 4) continue to work closely with stakeholders.

ADJOURNED: **Chairman Bair** thanked Ms. Wilson for her presentation. He said future meetings would be subject to call of the Chair, then adjourned the meeting at 2:35 p.m.

Senator Bair
Chair

Juanita Budell
Secretary