

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, January 25, 2016

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Vick, Senators Siddoway, Heider, Nuxoll, Bayer, Hagedorn, 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 1:30 p.m. He welcomed Jack Lyman to present **S 1197**.

S 1197 **Mr. Lyman**, Executive Vice President, Idaho Mining Association (IMA), said that the IMA has represented the interests of the state's mining industry before the legislature for more than 110 years. He then presented **S 1197**, which revises certain required reclamation activities. Mr. Lyman provided a PowerPoint presentation to augment his talk (see attachment 1).

Mr. Lyman stated that the Surface Mining Act was originally passed in 1971. The Act required that surface mine operators post a performance bond to assure they would complete reclamation of the mine once mining was completed. Those bonds were to be set at the estimated cost for a third party to complete the reclamation work in the absence of the mine operator, plus an additional 10 percent.

The original bill set a mandatory cap of \$500 per acre for those performance bonds, and the Idaho Department of Lands (IDL) could not require a reclamation performance bond in excess of \$500 per acre. Over the years, that mandatory cap on bonding levels was increased and eventually rose to \$1,800 per acre.

Mr. Lyman said that in 1996, concerns arose regarding the impending patenting of the land encompassing the Thompson Creek Mine in Custer County. Patenting would convert that land to private ownership from federal ownership. State and federal officials, including Congressman Mike Crapo, and legislators, particularly Senator Laird Noh, were concerned that the Idaho law might leave mines on private lands either unregulated or under-regulated.

The IDL proposed legislation to address that situation. The final terms of that bill were negotiated by the IDL, the IMA, the Idaho Conservation League (ICL), Senator Noh (then Chairman of the Senate Resource and Environment Committee) and Senator Clint Stennett (then Minority Leader).

Several provisions were requested by the ICL, at the time, including: 1) IDL be given operating plan review and approval authority for plans that weren't subject to review and approval by federal land management agencies; 2) a statutory definition of reclamation that addresses waste characterization and waste management; 3) IDL be given authority to periodically adjust bonding levels when there were material changes in mining operations; and 4) elimination of the \$1,800-per-acre cap on reclamation bonds.

The IMA was concerned about the existing mines that had been bonded under the existing law. They were also concerned about the IDL requiring very large bonds without an opportunity to appeal those bond levels directly to the Land Board. The IMA agreed to the ICL provisions and asked for the following in return: 1) bonds for the existing mines would be grandfathered from the new bonding requirements for five years; and 2) operators would have a right to a hearing before the Land Board whenever a proposed bond was greater than \$2,500 per acre.

With that agreement between the ICL and the IMA, the IDL's bill became **S 1136**. It was sponsored by Senator Noh, passed the 1997 Legislature unanimously and was signed into law by Governor Phil Batt. Now, a \$2,500-per-acre bond level no longer represents a "large" bond. **S 1197** would increase that threshold bonding level to \$15,000 per acre.

The current law provides a process for an operator to request the return of a reclamation performance bond once the approved reclamation plan has been completed. The law specifies what happens when the IDL determines the plan has been successfully completed. It returns the bond to the operator. The law does not specify what happens when the IDL determines the plan has not been successfully completed. **S 1197** adds a new provision that specifies that IDL will notify the operator, in writing, when it determines the reclamation plan has not been successfully completed. That written notice will address the reasons for the rejection and what the operator needs to do to come into compliance. A similar provision is added in regard to the permanent closure bonds associated with facilities that use cyanide. **Mr. Lyman** said that these changes have been discussed with the IDL and they have expressed no concerns.

Mr. Lyman indicated that the current law is in conflict with the state's anti-degradation policy. **S 1197** amends the 1971 Surface Mining Act to eliminate that conflict.

TESTIMONY: **Eric Wilson**, Bureau Chief, Resource Protection and Assistance, IDL, testified in support of this bill.

MOTION: **Senator Siddoway** moved that **S 1197** be sent to the floor with a **do pass** recommendation. **Senator Lacey** seconded the motion. The motion carried by **voice vote**. Senator Lacey will be the floor sponsor.

RS 23980 **Sharon Kiefer**, Deputy Director, Idaho Department Fish and Game (IDFG) presented **RS 23980**. It amends section 36-1101 to clarify that hunting use restrictions for motorized vehicles and aircraft include unmanned aircraft systems (drones).

MOTION: **Senator Heider** moved to print **RS 23980**. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Bair passed the gavel to Vice Chairman Vick.

Vice Chairman Vick said that the rules of IDFG would be presented by Ms. Kiefer.

DOCKET NO. 13-0102-1501 **Rules Governing Hunter Education and Mentored Hunting.** **Ms. Kiefer** said that the purpose is to clarify the limits of the Hunting Passport for eight-year-old children to allow a second passport at age nine.

MOTION: **Senator Siddoway** moved to approve **Docket No. 13-0102-1501**. **Senator Nuxoll** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 13-0108-1501 **Rules Governing the Taking of Big Game Animals in the State of Idaho.** This rule is to clarify the disabled hunters who are eligible for designated hunter companion exceptions, and to clarify the eligibility of senior and disabled hunters to purchase leftover youth-controlled hunt tags.

- MOTION:** **Senator Siddoway** moved to approve **Docket No. 13-0108-1501**. **Senator Nuxoll** seconded the motion. The motion carried by **voice vote**.
- DOCKET NO. 13-0108-1502** **Rules Governing the Taking of Big Game Animals in the State of Idaho.** The purpose of this rule is to clarify eligibility requirements for controlled hunt tags designated to a child or grandchild, and to make technical corrections.
- MOTION:** **Senator Heider** moved to approve **Docket No. 13-0108-1502**. **Senator Hagedorn** seconded the motion. The motion carried by **voice vote**.
- DOCKET NO. 13-0109-1501** **Rules Governing the Taking of Game Birds in the State of Idaho.** The purpose of this rule is to increase goose hunting opportunities in the Hagerman Valley and to help reduce goose conflicts with agricultural producers. The goose hunting closure in the Hagerman Valley in Gooding and Twin Falls Counties is partially rescinded.
- MOTION:** **Senator Hagedorn** moved to approve **Docket No. 13-0109-1501**. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.
- DOCKET NO. 13-0109-1502** **Rules Governing the Taking of Game Birds in the State of Idaho.** This rule would allow one new method of take (crossbow) for forest grouse, which is already an approved method of take for certain other big game species in general hunts, so the weapon allowance does not represent new weaponry or new technology.
- MOTION:** **Senator Nuxoll** moved to approve **Docket No. 13-0109-1502**. **Senator Heider** seconded the motion. The motion carried by **voice vote**.
- DOCKET NO. 13-0111-1501** **Rules Governing Fish.** This rule establishes specific conditions to allow the removal of the heads and tails of trout, bass and tiger muskie for transit.
- MOTION:** **Senator Nuxoll** moved to approve **Docket No. 13-0111-1501**. **Senator Heider** seconded the motion. The motion carried by **voice vote**.
- DOCKET NO. 13-0111-1502** **Rules Governing Fish.** This rule would allow take and possession of coho salmon with an intact adipose fin in the Clearwater River drainage. Additionally, the rules are updated and obsolete language removed before the printing of the next triennial seasons brochure.
- MOTION:** **Senator Nuxoll** moved to approve **Docket No. 13-0111-1502**. **Chairman Bair** seconded the motion. The motion carried by **voice vote**.
- DOCKET NO. 13-0117-1501** **Rules Governing the Use of Bait and Trapping for Taking Big Game Animals.** This rule clarifies the definition of roads as related to the placement of black bear baiting sites.
- MOTION:** **Senator Heider** moved to approve **Docket No. 13-0117-1501**. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.
- PASSED THE GAVEL:** Vice Chairman Vick passed the gavel to Chairman Bair.
- Chairman Bair** thanked Ms. Kiefer and the Committee for their work regarding the rules. He said that it had been announced that the last rule for IDFG would be heard on Wednesday. It has been postponed until further notice.
- ADJOURNED:** **Chairman Bair** adjourned the meeting at 2:25 p.m.

Senator Bair
Chair

Juanita Budell
Secretary