

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Friday, February 19, 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.

MINUTES APPROVAL: **Vice Chairman Vick** moved to approve the Minutes of February 15, 2016. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

PAGE RECOGNITION: Liberty Stokes, page for the Committee, was given a letter of recommendation and a gift card to Barnes and Noble Bookstore for her work the past six weeks. After graduation from high school, Liberty plans to attend college at BYU for a year, go on a mission and return to complete college. **Chairman Bair** said he was pleased to have sponsored Liberty and added that she will be missed.

GUBERNATORIAL APPOINTMENT: **Vice Chairman Vick** moved to send the Gubernatorial appointment of Chris Beck to the Oil and Gas Commission to the floor with recommendation that he be confirmed by the Senate. **Senator Heider** seconded the motion. The motion carried by **voice vote**. Vice Chairman Vick will be the floor sponsor.

S 1237 **Barry Burnell**, Water Quality Division Administrator, Department of Environmental Quality (DEQ), presented **S 1237**. The federal Clean Water Act requires states to identify water bodies that do not meet water quality standards and to develop a water quality improvement plan, called a total maximum daily load (TMDL) for each. TMDLs are then prioritized by taking into account the severity of pollution and uses of the water bodies. Federal law permits states to take other factors, such as department resources or data quality, under consideration as well when setting priorities for TMDL development. Current Idaho Code language does not allow the DEQ to take advantage of this added flexibility. The purpose of this legislation is to make Idaho Code consistent with federal law and ensure the DEQ can fully utilize the flexibility allowed when prioritizing TMDLs.

MOTION: **Senator Heider** moved that **S 1237** be sent to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**. Senator Heider will be the floor sponsor.

S 1238 **Mr. Burnell** presented **S 1238**. Under the direction of the Legislature, the DEQ is seeking primacy over the National Pollutant Discharge Elimination System (NPDES) program currently administered by the United States Environmental Protection Agency (EPA). The purpose of this legislation is to amend the Idaho Public Records Law to ensure access to water quality records and the protection of trade secrets associated with the federal Clean Water Act and the new Idaho Pollutant Discharge Elimination System (IPDES) program.

- TESTIMONY:** **Jonathan Oppenheimer**, representing the Idaho Conservation League, testified in support of **S 1238**.
- TESTIMONY:** The Idaho Association of Commerce and Industry provided a letter of support for **S 1238**.
- MOTION:** **Senator Bayer** moved that **S 1238** be sent to the floor with a **do pass** recommendation. **Senator Hagedorn** seconded the motion. The motion carried by **voice vote**. Senator Bayer will be the floor sponsor.
- S 1239** **Mr. Burnell** presented **S 1239**. This proposed legislation is necessary for Idaho to submit a complete application to the EPA requesting authorization to implement a state NPDES program. The application will request authorization for what will be known as the Idaho Pollutant Discharge Elimination System (IPDES) program. This legislation also establishes the process for appealing IPDES permits issued by DEQ and it provides DEQ with the necessary minimum enforcement authorities.
- TESTIMONY:** **Jonathan Oppenheimer**, representing the Idaho Conservation League, testified in support of **S 1239**.
- TESTIMONY:** The Idaho Association of Commerce and Industry provided a letter of support for **S 1239**.
- MOTION:** **Senator Bayer** moved that **S 1239** be sent to the floor with a **do pass** recommendation. **Senator Hagedorn** seconded the motion. The motion carried by **voice vote**. Senator Bayer will be the floor sponsor.
- REORDER OF BILLS:** **Senator Lacey** requested that **S 1340** be heard now, rather than following **S 1339** as indicated on the agenda. He reasoned that the hearing for **S 1340** would be very brief as opposed to **S 1339**. **Chairman Bair** granted Senator Lacey's request.
- S 1340** **Senator Lee** presented **S 1340**. Currently, the Expendable Big Game Depredation Fund is only authorized to pay for the loss of honey due to the damage by bears and cougars. This legislation would allow for payment for loss of bees and beehives, as well as honey.
- MOTION:** **Senator Siddoway** moved that **S 1340** be sent to the floor with a **do pass** recommendation. **Senator Nuxoll** seconded the motion. The motion carried by **voice vote**. Senator Lee will be the floor sponsor.
- S 1339** **Kate Haas**, representing Alta Mesa, presented **S 1339**. **Ms. Haas** stated that this legislation would streamline the administrative permitting process for the oil and gas industry. Currently, an application can take more than 400 days to process. In other states, an application would be considered and processed in 45 to 60 days. This bill seeks to address that problem by clarifying the permitting process for drilling permits and also would bring Idaho's administrative processes into alignment with other producing states by creating a predictable decision-making framework and setting clear timelines.
- TESTIMONY:** Written testimony in support of **S 1339** was submitted by Michael Simplot, Payette Farms (see attachment 1).
- Written testimony in support of **S 1339** was submitted by Leland L. Mink, Worley, Idaho (see attachment 2).
- Written testimony in support of **S 1339** was submitted by Suzanne Budge, Executive Director, Idaho Petroleum Council (see attachment 3).
- Tom Schultz**, Director of Idaho Department of Lands (IDL) and Secretary of Idaho Oil and Gas Conservation Commission, testified next. **Mr. Schultz** stated that the Commission voted unanimously to support **S 1339**.

Mr. Schultz said this bill amends Idaho Code § 47-320, regarding permits to drill or treat a well. The IDL would have up to five business days to notify an applicant if an application is incomplete. Complete applications would then be sent to the Idaho Department of Water Resources (IDWR) for review. They would have ten business days to provide comments. Complete applications would also be posted on the website of IDL for a written comment period of 10 calendar days. The IDL must approve or deny an application within 15 business days of receiving a complete application. **Mr. Schultz** provided the Committee copies of a chart showing: 1.) Integration, Recent Hearing Processes and the Integration, Proposed Timeline; and 2.) State-by-state time frames for applications.

A copy of Mr. Schultz's full testimony is attached (see attachment 4).

Senator Stennett submitted a letter listing some concerns regarding **S 1339** as she was unable to be in attendance the first half of the meeting due to a speaking engagement (see attachment 5).

Senator Hagedorn asked Mr. Schultz if he, as a homeowner, would be comfortable if gas or oil would be found beneath his property, assuming he owned the mineral rights. Would these timelines would be adequate for him to have discussions as to how it would affect his township? **Mr. Schultz** replied that given his understanding of the process, he would seek outside counsel to represent him. Mr. Schultz suggested that individuals in this situation seek counsel. It would be difficult for someone not represented by counsel to participate. **Senator Hagedorn** then asked how would he know how much he should invest in legal counsel. **Mr. Schultz** said it is a personal decision and it is prudent to bring in advice and obtain representation.

TESTIMONY:

John Ponath, Middleton, Idaho, testified in opposition to **S 1339** for the four following reasons: 1.) It removes county planning and zoning authority and grants all authority to the IDL and the Oil and Gas Commission; 2.) It takes their property right to control activities on their property by creating the "deemed lease;" 3.) It limits his right to discovery by making the names of ownership part of the trade secrets and prevents him from getting information to defend his rights of property; and 4.) It creates an emergency act that goes into effect immediately after signing.

Nick Warden stated that he had been retained by a group of people (they relinquished their time) to represent them in objecting to this legislation.

Joli Eromenok said she is opposed to **S 1339** as she fears that she will lose her home.

Stephen Birk said he has five acres, does not own the mineral rights, but is opposed to the bill.

Janet Herrmann objects to **S 1339** because it affects mortgages, will poison the air and water, and does not protect the people.

Due to exceeding the time limit for the Committee by one hour, **Chairman Bair** said no more testimony would be taken and a motion would be in order.

MOTION:

Senator Siddoway moved that **S 1339** be sent to the floor with a **do pass** recommendation. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**. **Senator Stennett** asked to be recorded as voting nay. Senator Siddoway will be the floor sponsor.

ADJOURNED: **Chairman Bair** adjourned the meeting at 4:10 p.m.

Senator Bair
Chair

Juanita Budell
Secretary