

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, March 16, 2016

TIME: 1:00 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 1:00 p.m.

MINUTES APPROVAL: **Senator Hagedorn** moved to approve the Minutes of March 2, 2016. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

Vice Chairman Vick moved to approve the Minutes of March 7, 2016. **Senator Nuxoll** seconded the motion. The motion carried by **voice vote**.

Senator Heider moved to approve the Minutes of March 9, 2016. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

H 569 **Senator Siddoway** presented **H 569** and said this legislation allows for the dissolution of a watershed improvement district that fails or has ceased to function for two or more years. **H 569** allows the county commissioners the ability to disband the watershed improvement district.

Chairman Bair inquired as to the difference between a watershed improvement district and a water district. **Senator Siddoway** replied that the watershed improvement districts go through a conservation commission, and they are totally different from an irrigation water district.

MOTION: **Senator Heider** moved that **H 569** be sent to the floor with a **do pass** recommendation. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**. Senator Siddoway will be the floor sponsor.

H 595 **Representative Wood** said that **H 595** makes two changes. It clarifies that the director of the Idaho Department of Water Resources (IDWR) shall not curtail a participant in an approved water management plan so long as they are in compliance with the approved water management plan. The other change pertains to the deadline. The September 1 deadline is too far in advance of the irrigation season to allow for an accurate determination by the director as to whether there is sufficient ground water to meet demands.

Representative Wood said he is not aware of any opposition to the bill. It is supported by the Idaho Water Users Association, Idaho Ground Water Appropriators and IDWR. **Representative Wood** asked for support from the Committee.

MOTION: **Senator Hagedorn** moved that **H 595** be sent to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **voice vote**. Chairman Bair will be the floor sponsor.

GUBERNATORIAL APPOINTEE HEARING:

A conference call was arranged for Ford Elsaesser, Priest River, Idaho, to call in at 1:15 p.m. Mr. Elsaesser was reappointed to the Lake Pend Oreille Basin Commission (Commission) to serve a term commencing July 24, 2015, and expiring July 24, 2018.

When Mr. Elsaesser called in, **Chairman Bair** asked him to tell the Committee what the Commission had accomplished in the past year, what he foresees in the future for the Commission and to provide some personal background.

Mr. Elsaesser said he has been an attorney in Priest River and Sandpoint since 1978 and has been chair of the Commission since its inception in 2003. Their mandate is to be an advisory board to the State of Idaho with regard to water quality issues and water quantity issues involving Priest Lake and Pend Oreille Lake drainages, which include the Clark Fork River in Idaho, the Pend Oreille Lake and River in Idaho and the Priest River coming out of Priest Lake. The Commission has been active in preserving the maximum recreational and fisheries lake level in Pend Oreille Lake. **Mr. Elsaesser** said this has been a critical issue because the level is managed by the U.S. Army Corps of Engineers. There is also a strong demand among the various interest groups and water users for the water that comes through Idaho via the Clark Fork River and Pend Oreille River systems.

Mr. Elsaesser stated that Senator Keough was instrumental in working with then-Governor Kempthorne in setting up the Commission with concerns about the demands from downstream users that might impact the recreational lake level on Pend Oreille Lake.

Over the past 18 months, substantial progress has been made with help from the State, the Idaho Department of Fish and Game, the Governor's office and Bill Booth from the Northwest Power and Conservation Council in assisting with an agreement with the U.S. Army Corps of Engineers for a recreational season, which now extends through October 1. Drawdowns formerly started the day after Labor Day and made a lot of the lake unusable for many lakefront owners.

Mr. Elsaesser said another major significant accomplishment, with the help of the State of Idaho and the Governor's office, was obtaining a modification in the agreement with the Kalispel Tribe, the Bonneville Power Administration (BPA) and the U.S. Army Corps of Engineers in the possibility of a drawdown as early as August to cool water for fish propagation in the Pend Oreille River below the Albeni Falls Dam, which flows through the tribal areas as well as the reservation of the Kalispel Tribe. That provision was removed.

Issues have arisen out of Priest Lake because of the low stream flows into the Priest River. That was caused by the drought conditions last summer, which had never occurred before. **Mr. Elsaesser** said the Commission has talked to the IDWR regarding the methodology that might be available to avoid a repeat of that. The Priest Lake's water level is guaranteed by statute to be three feet over the minimum dam level throughout the summer recreational period. The Commission is also working with the stakeholders of Priest Lake with regard to the access area of Upper Priest Lake, which is a very popular area for the tourist industry. They want assurance that boat access continues.

Senator Heider inquired if there was any Navy or submarine testing on the lake and if it would affect anything the Commission has to do with the lake. **Mr. Elsaesser** replied that the Navy has their own secured facility and has not been a participating party with regard to lake level. He said that he is not sure of the full extent of their operations but has been told they are a good neighbor to the surrounding area.

Mr. Elsaesser said that he wants to recognize the Commission's two employees, Molly and Erin, who do a superb job of communication with the public. Attendance at Commission meetings has been the best in years, and now there is a Lakefront Users Association, which helps provide support for the efforts of the Commission.

He stated that he wanted to thank the Legislators, the Idaho Department of Fish and Game, IDWR, the Governor's office and particularly Mr. Booth with the Northwest Power Council for their support of the Commission. **Mr. Elsaesser** said that he would be happy to serve another term if that would be the Committee's desire. **Chairman Bair** thanked Mr. Elsaesser for the call and said the Committee would take his reappointment to the Lakes Commission under advisement.

A conference call was also arranged for Linda Mitchell, Sagle, Idaho, to call in at 1:30 p.m. Ms. Mitchell is currently in Mexico. Ms. Mitchell was reappointed to the Lake Pend Oreille Basin Commission to serve a term commencing July 24, 2015, and expiring July 24, 2018.

Ms. Mitchell called in immediately following Mr. Elsaesser's call. **Chairman Bair** welcomed her to the meeting. **Ms. Mitchell** said she has been on the Commission since its inception and is the owner of Lake Pend Oreille Cruises. **Ms. Mitchell** said she has spent thousands of hours cruising the lake, knows the waterways intimately and has a personal stake in its future.

Ms. Mitchell said the Commission has been given the opportunity to continue their work on water issues in North Idaho. One of the issues that has come up is working with the federal government and the Kalispel Tribe. They were successful in modifying a memorandum by getting them to eliminate further analysis that could have led to the dewatering of Lake Pend Oreille during the summer months, which is their prime recreational season. They also succeeded through a grassroots movement to generate the lake level through late September. The demand for water is going to continue to give cause for great concern and **Ms. Mitchell** said they would always have to be diligent in that regard.

Ms. Mitchell said she wanted to thank the Governor, the Legislators and the Committee for the continued support of the Commission. She feels it is vital to the State of Idaho to continue this work.

Senator Stennett inquired of Ms. Mitchell how she catches up on the meetings she misses due to her travels. **Ms. Mitchell** responded by saying that Erin, who works in the office for the Commission, keeps her apprised of what is going on, as she does for all the commissioners. When possible, she uses teleconference calls.

Chairman Bair said the usual procedure for voting on the candidates takes place at the next Committee meeting. **Senator Heider** suggested the Committee vote now as there will not be meeting on Friday, March 18, 2016. **Chairman Bair** gave his approval.

MOTION: **Senator Heider** moved to send the Gubernatorial appointments of Ford Elsaesser and Linda Mitchell to the Lake Pend Oreille Basin Commission to the floor with recommendation that they be confirmed by the Senate. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**. Senator Keough will be the floor sponsor for both of them.

ADJOURNED: **Chairman Bair** adjourned the meeting at 1:40 p.m.

Senator Bair
Chair

Juanita Budell
Secretary