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STATE BOARD OF LAND COMMISSIONERS
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October 2, 2017

The Honorable members of the Administrative Hearing Officer Interim Committee:

Sen. Steve Vick, Co-Chair
Sen. Jim Rice
Sen. Mary Souza
Sen. Kelly A. Anthon
Sen. Grant Burgoyne

Rep. Gary E. Collins, Co-Chair
Rep. Lynn M. Luker
Rep. Stephen Hartgen
Rep. Lance W. Clow
Rep. John Gannon

Re: Proposed changes to the Idaho Administrative Procedure Act

Dear Co-Chairmen Vick and Collins and Members of the Administrative Hearing Officer Interim Committee:

Thank you for allowing me the opportunity to provide to your committee my thoughts about possible changes to the Idaho Administrative Procedure Act that will alleviate the risk of bias in contested case proceedings as directed by Senate Concurrent Resolution No. 122.

I have just recently had the opportunity to review draft legislation posted on your website. While I appreciate the intended goals of this proposal – to give parties contesting agency actions the opportunity for a fair hearing in front of a decision-maker who is free of biases or incentives to rule in favor of one party over another – I would note that the draft proposes significant changes to IDAPA that will affect the traditional roles and functions of agency staff, directors and governing bodies.

Many of these changes will have little effect on the perceived issue of "bias" but will have the unintended consequence of making the administrative process more burdensome to the public and raising costs to the taxpayers. Furthermore, this draft holds numerous incongruities and ambiguities of concern to me and my agency staff. I have concerns that the draft legislation may not achieve its intended purpose.

My staff and I are willing to work with members of the committee and others to develop changes to current processes that would meet this goal.

I therefore respectfully request that the interim committee recommend that a collaborative effort be initiated involving legislators, persons impacted by agency decisions, state agencies and other stakeholders so that legislation may be carefully crafted to resolve the issue of concern without creating havoc within agency processes that are otherwise functioning smoothly and to which there have been no complaints of agency bias. The Department of Lands is willing to participate in such process.

Thank you for your consideration.

Sincerely,

Handwritten signature of Thomas M. Schultz, Jr.

Thomas M. Schultz, Jr.
Director