

MINUTES
Approved by the Committee
Natural Resources Interim Committee
Wednesday, November 08, 2017
9:00 A.M.
EW41
Boise, Idaho

Co-chair Senator Steve Bair called the meeting to order at 9:00 a.m.; a silent roll call was requested. Members present: Senators Jeff Siddoway, Lee Heider, Bert Brackett, Michelle Stennett (by phone), and Maryanne Jordan [ad hoc]; Co-chair Representative Dell Raybould and Representatives Marc Gibbs, Ilana Rubel, Terry Gestrin [ad hoc], and Paul Shepherd [ad hoc]. Absent and excused: Representatives Scott Bedke (Speaker of the House) and Mike Moyle; Senators Shawn Keough [ad hoc] and Jim Patrick [ad hoc]. Legislative Services Office staff present: Katharine Gerrity, Rob Sepich, and Jennifer Kish.

Other attendees: Norm Semanko - Parsons, Behle, & Latimer; Crystal Callahan, Graham Zickefoose - UI McClure Center; David Groeschl, Mick Thomas, Eric Wilson - Idaho Dept. of Lands (IDL); Douglas R. Jones - Idaho Water Engineering (IWE); Lynn Tominaga - Idaho Groundwater Appropriators Assoc. (IGWA); Darrell Early - Idaho Attorney General's Office; Dennis Tanikuni - Idaho Farm Bureau (IFB); Pete Hanebutt - North Dakota Farm Bureau (NDFB); John Foster - Kestrel West; Brian Patton, Matthew Weaver, Dale Van Stone, Roger Chase - Idaho Dept. Water Resources (IDWR); Russell Westerberg - Rocky Mountain Power (RMP); Colby Cameron - Sullivan & Reberger; Sharon Kiefer - Idaho Fish & Game (IDFG); Mike Dimmick, Bill Clayton - Boise River Flood Control District #10; Jim Pardy - City of Boise; Paul Arrington - Idaho Water Users Assoc. (IWUA) .

NOTE: presentations and handouts provided by the presenters/speakers are posted to the Idaho Legislature website: <https://legislature.idaho.gov/sessioninfo/2017/interim/>; and copies of those items are on file at the Legislative Services Office located in the State Capitol.

Idaho Water Users Association

Co-chair Bair called upon Norm Semanko, former Executive Director for the Idaho Water Users Association, for an introduction of the new Executive Director, Paul Arrington. Mr. Arrington began his presentation with comments on the Hells Canyon relicensing issue: relicensing has been in progress over the last decade; a dispute between Oregon and Idaho occurred last year prior to the 2017 session regarding the introduction of salmon and steelhead above the Hells Canyon complex; a number of pieces of legislation were passed that session reaffirming Idaho's sovereignty over its water, wildlife, and resources; since then, the governors of Idaho and Oregon have met and discussed the issues in an attempt to reach a resolution, however no solution had been reached to date.

Mr. Arrington then discussed the Columbia River Treaty modernization process. The Columbia River Treaty (CRT) was ratified in 1964 for the purpose of regulating the Columbia River's flow for flood control and hydropower generation. The treaty requires a ten-year notice to terminate, with the original term expiring in 2024 (no notice has been given as yet.) Recommendation for the modernization of the treaty (regarding hydropower, flood control, and ecosystems) has not been fulfilled in any formal manner. Due to requests to terminate and reevaluate the hydropower usage on the river by public organizations, political and caretaker entities have developed a [Statement](#) generally known as the Idaho position on the CRT. This Statement is composed of four points of focus: I - Hydropower; II - Flood Control; III - Ecosystem Function; and IV - Negotiation Process & Potential Termination. Mr. Arrington commented that his biggest concern was the "call upon" designation regarding flood control, which would occur in 2024. He wanted to emphasize the necessity of having negotiations with Canada now rather than later, suggesting that the US State Department threaten to terminate the CRT to get Canada into talks. Mr. Arrington noted that a coalition of water and

power users attended a meeting in September in the District of Columbia with members of the White House, the State Department, the Department of the Interior, and others to discuss this Statement and to emphasize Idaho's position; another meeting will occur in December of this year where Idaho's delegation will share how Idaho's economy would be affected by changes to the flood control operations. He noted that in October he was notified by the US State Department that the lead negotiator on the modernization of the CRT, Brian Doherty, would be replaced by Jill Smail.

- Sen. Stennett inquired whether Mr. Arrington had been in regular contact with Jim Yost, Idaho's appointed negotiator for the CRT. Mr. Arrington reported that Mr. Yost and other key individuals were very involved in developing the Statement and other discussions related to the issue.

Idaho Department of Lands - Forestry

At 9:22 a.m., Co-chair Bair called upon David Groeschl, Deputy Director and State Forester for the Department of Lands, for his presentation. Mr. Groeschl first gave a report on the [2017 Fire Season](#). Mr. Groeschl noted that IDL protects approximately 6.3 million acres of state and private forest lands in Idaho, which includes the ten IDL districts and the two timber protective associations, the Clearwater-Potlatch Timber Protective Assoc. (CPTPA) and the Southern Idaho Timber Protective Assoc. (SITPA.) Within those districts, the IDL also protects approximately 800,000 acres of federal land under conditions of an off-set agreement with the US Forest Service (USFS) and the Bureau of Land Management (BLM) in an attempt to efficiently respond to proximity acreage; the USFS and BLM in turn responds to 800,000 acres of IDL land within their districts. As of October 1, 2017, fire suppression costs tallied \$22 million dollars for the state of Idaho, with \$5.6 million of that cost being reimbursable; \$22 million is also the 10-year average cost. Mr. Groeschl noted that the 2015 year cost for fire suppression was \$72 million; since it exceeded normal operating costs, the IDL requested the Legislature and JFAC to prefund the warrant deficiency account (which pays the fire suppression costs). He reported that the fund currently held \$40.1 million, all of which was already obligated to partners from previous years' costs (2015-2017.) Mr. Groeschl explained that the occurrence of the August 21st solar eclipse and related social activities caused the department to reallocate fire fighting resources to areas of the state where people were more concentrated, in the event that a fire might occur. he noted that the benefits of the reimbursable expenses with other agencies allowed IDL's obligations to be reduced with use of the partnerships, enabled firefighters to maintain training standards by having the opportunity for more exposure, and fostered camaraderie and goodwill with the other states.

- Rep. Rubel asked whether it was true that the fire season was longer each year and, if true, why. Mr. Groeschl explained that the fire season was indeed longer - starting earlier and occurring later. He noted that there was no single reason but rather was a multitude of factors: better waterfall leads to earlier and more abundant vegetation growth, which creates more fuel available for a fire; more population finds homes being built in forested areas, increasing the occurrence of human-caused fires; and decadal or decennial weather patterns such as La Nina and El Nino, which we are now more aware of and are better able to study. He also reported that the costs seemed greater because homes had higher values, improved technology to fight fires was more costly, and just general inflation.
- Sen. Heider inquired whether the recent mass destruction in California due to wildfires would influence the availability of federal funds for other states. Mr. Groeschl explained that once the federal agencies exceed their allocations for fire suppression costs, the agencies borrow from the land management side of their agencies. While the efficiency of this process is continually being discussed, the federal government traditionally provides additional funds to cover the fire suppression costs. Mr. Groeschl reported that he has never had expenses unpaid; he noted that the billing process did have a delay, but it was allowed a 12-month period for invoicing.
- Rep. Gibbs asked for clarification on the difference between Type 1 and Type 2 teams, as mentioned in the report. Mr. Groeschl summarized that the Type 1 and Type 2 teams were composed of interagency management staff that were deployed in either the Northern Rockies

Zone or the Great Basin Zone (Idaho was split between the two); Type 2 teams handle the more difficult and complex fires (i.e. Craig Mountain fire) with advanced-skills staff. Additionally, he noted that the Type 3 teams were composed of local interagency resources, who could respond quickly to smaller, proximity fires.

Mr. Groeschl then gave his presentation on the [Idaho Good Neighbor Authority](#) (GNA) program. He noted how the program was founded with the passage of the 2014 Farm Bill [HR2642 - Agricultural Act of 2014] by Congress, in addition to the efforts of the amendment [Public Law 115–31, 2017] to the Healthy Forests Restoration Act [Public Law 108–148, 2003.] The program allows the states to enter into cooperative relationships with federal agencies to complete work across ownership boundaries. He reported that Idaho focuses mainly on working with the USFS on federal national forest lands to mitigate the growth/harvest/mortality rates that are occurring (slides 2-4.) Mr. Groeschl noted that the work was non-revenue generating as funds from the sale of timber returns to the program. His presentation outlined Idaho's immediate GNA goals, highlighted some in-progress projects, and identified future needs for staffing and budget. Mr. Groeschl explained that the GNA was different than stewardship in that 25% of the money paid to the USFS for minimum stumpage value goes to the county, i.e. it goes back into the local economy, which helps gain support of the local community and effectively creates goodwill. He said the program effectively created healthier forests, benefited local economies, and was self-sustaining in a financial manner.

- Sen. Brackett asked whether IDL had made any agreements with the BLM in light of SCR 126 [2015], which provided that the Legislature seek the assistance of Idaho's congressional delegation in asking the federal government to develop a model to sustain and increase funding for the management of federal lands within the state. Mr. Groeschl reported that the department did make a financial agreement with BLM within the past two weeks to assist with a backlog of grazing permit renewals; additionally, he said, Region 4 of the USFS recently expressed an interest in assistance with grazing permits on USFS land.
- Sen. Brackett asked whether juniper removal was a project on IDL's horizon, and if there were any other collaborative projects on which he could report. Mr. Groeschl shared the department's involvement with the Paradigm [Fuel Break] Project, which included the cooperative efforts of IDL, the BLM, and private land owners, in attempting to establish fuel breaks on the rangeland. He also spoke to efforts with federal partners and the Governor's Office of Species Conservation for juniper removal projects on private, IDL, and BLM land and restoration of the sage steppe ecosystem.
- Rep. Rubel inquired about the cause of the increased insect infestations and whether it was an increasing trend. Mr. Groeschl responded that most diseases and insect infestations were a normal and cyclical issue; but the productivity of the cycles was definitely influenced by weather. He noted that mild winters would not inhibit larvae survival or kill off diseases. Also, if the forests are densely populated, the insects and disease more easily affect trees just by reason of proximity; and, the health of a densely populated forest was more easily susceptible to stress due to the overcrowding and competition for resources. He concluded that it was a variety of factors that make the infestations seem to be increasing in volume, whereas better management on the density of the forest could curtail the impact of those diseases and insects. Rep. Rubel queried whether the manner of thinning the forest had changed in the last decade and whether the infestations could be controlled with just the thinning process. Mr. Groeschl submitted that when management was allowed - and not all places needed to have it - the proof of healthy stands was evident in the data; less management had proven an increase in mortality of the stands.

Idaho Department of Lands - Oil and Gas

At 10:24 a.m., Mick Thomas, Oil and Gas Division Administrator for the Idaho Department of Lands, was called to the podium for his [presentation](#). Mr. Thomas was hired as a result of the Legislature requesting a specialist to the state's growing gas and oil needs; Mr. Thomas has been with the department since July 31 of this year. Mr. Thomas detailed the staff positions that now comprise

the structure of the O&G Division; provided a basic description of the geology of the areas where horizontal drilling and testing were occurring in Idaho; reported on the current revenue from drilling efforts; and outlined future goals and projects. He noted that other states were very willing to assist Idaho in the infancy of its program and reported that the fluctuation of wells was never truly calm and a 12-24-36 month program would establish trends.

- Sen. Jordan asked Mr. Thomas to compare the Bonneville County project geology to that of the Weiser-Payette Basin. Mr. Thomas explained that the Bonneville County project was an exploratory well (unlike Weiser-Payette, which was an operational well) and there is some shale along with the sand in that area. He did not anticipate any need for horizontal drilling but was waiting on the drill samples.

Mr. Darrell Early, Division Chief, Natural Resources Division, Office of the Attorney General

At 10:40 a.m., Darrell Early, Division Chief of the Natural Resources Division for the Office of the Attorney General, was called to the podium for his comments to the committee. Mr. Early introduced himself as a replacement of the recently retired Clive Strong and briefly shared his experiences within the AG's office for the last eighteen years with the Department of Environmental Quality.

The committee went on break from 10:44 until 11:00 a.m.

Idaho Department of Fish and Game

At 11:00 a.m., Co-chair Bair called upon Sharon Kiefer, Deputy Director of Programs/Policy for the Idaho Department of Fish and Game, for her [report](#) on the department's proceedings. Ms. Kiefer spoke to depredation compensation claims and efforts to prevent depredation; reported on attempts for price lock advertising and results of other license sales; outlined the scope of focus for the newly hired web-vendor for the department; provided comparative sales of licenses from the last three years; submitted a report on the wolf population and related control efforts; reported on the health and herd populations of mule deer, elk, and bighorn sheep and techniques to prevent depredation of pastures and stored forage related to those species; and provided salmon and steelhead data as collected by the department.

- Sen. Brackett asked why the wolf harvest numbers for trapping were so low for the 2017 season. Ms. Kiefer responded that she could not report on the exact reason but noted that the issue would continue to be monitored.

The committee recessed for a lunch break at 11:40 a.m. until 1:30 p.m.

Idaho Department of Water Resources

Co-chair Bair called Brian Patton, Chief of Planning Division for the Idaho Department of Water Resources, to the podium for his [presentation](#) regarding the 2017 water supply conditions (slides 2-11) and the Eastern Snake Plain Aquifer recharge efforts (slides 12-28.)

- Co-chair Bair commented that the Bureau of Reclamation had recently suspended its water savings contract for use of the canals during this winter and wondered how that would impact the planned recharge. Mr. Patton explained that since the Surface Water Coalition (SWC) had re-directed its annual share from the Idaho Ground Water Users (IGWA) to the recharge effort - 50,000af - that, as of today's meeting, the recharge had exceeded over 90,000af already for the year. He stated that the program was in a really good position and was well on its way to attaining the required annual average of 250,000af. He surmised that the suspension of the use of the canals by the Bureau would not be an issue this year.
- Sen. Siddoway asked about the hierarchy of water rights with regard to American Falls and those areas above it, and who made the decision on allowing water to be used for recharge rather than the filling of a reservoir. Mr. Patton reported that the initiation of the recharge process to the reservoir system required a lot of research on water rights. He reported that American Falls' rights of 1921 preceded the water recharge rights established in 1980; additionally, Lake

Walcott (below American Falls Reservoir) had a hydropower right from 1909, which gave Lake Walcott senior rights to the filling of American Falls; so, once those two rights were met, then the water could be diverted for recharge.

At 2:07 p.m., Matthew Weaver, Deputy Director of the Idaho Department of Water Resources, addressed the committee regarding the Eastern Snake Plain Aquifer settlement agreement between the members of the Surface Water Coalition (SWC) and the Idaho Ground Water Users (IGWA), the aquifer's content to date, and the Class II Underground Injection Well (UIC) program with his [presentation](#).

- Co-chair Bair inquired about the SWSI measurement on slide #20 regarding sentinel wells. Mr. Weaver explained that it was the Surface Water Supply Index (SWSI) and that a positive number was better than the negative and it was relative to the necessary water storage.
- Co-chair Bair asked, in response to Mr. Weaver reporting that a letter had been sent by the director of the Dept. of Water Resources to Region 10 of the EPA requesting that the EPA administer Idaho's Class II program, about the date the letter was sent. Mr. Weaver reported the date as August 25, 2017.
- Co-chair Raybould asked about the responsibility of Idaho's Department of Environmental Quality (DEQ) in the negotiations and in the administering of permits. Mr. Weaver explained that DEQ participated in the rulemaking of the UIC program rules and noted that it had a formal process in the exemption of a receiving aquifer under DEQ safe-drinking water rules.
- Rep. Gibbs requested the defined depth of a shallow well in relation to a Class V Well. Mr. Weaver submitted that a shallow well was 18 feet or less.
- Co-chair Bair questioned whether the state should begin attempts to obtain primacy of an official Class II Well Injection program. Mr. Weaver suggested that it should consider that but not in the immediate future.

Boise Flood Control District #10

At 2:45 p.m., Bill Clayton, Chairman of the Boise River Flood Control District #10, was called to the podium for his [report](#) on flood management of the Boise River. Mr. Clayton summarized the previous year's efforts to control flooding from the Boise River due to the excessive amounts of snow accumulation and additional contributing factors. He noted that the river had a run-off in excess of 350% its normal flow and was in flood stage for 101 days from to March to mid-June. He concluded with a brief summary of 2017 and predictions for 2018.

Mike Dimmick, District Manager of the Boise River Flood Control District #10, added that the district was reaching out to work cooperatively with the other districts in recognition that everything upstream affects those downstream. District #10 begins at Lucky Peak and ends at the Glennwood Bridge, which has a gauge for reading water flow. He commented on the critical structure of the river at the head of Eagle Island where gravel deposits, if not continually monitored and cleared, prevented diversion of water to the canal system. He also noted that the maximum flood stage this year did not reach the predicted maximum for the 100-year flood mark.

- Sen. Brackett asked about the primary source of District #10 funding. Mr. Dimmick explained that the funding was from a special taxing on owners along the Boise River within the district.
- Rep. Rubel inquired about ways to limit building within areas that were susceptible to flooding. Mr. Clayton opined the need for laws that were enforceable to limit such building and noted that his department was willing to be part of future conversations about ways to limit potential flooding and limit the impact.

The meeting was adjourned at 3:20 p.m.