

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, February 20, 2017

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Vick, Senators Siddoway, Brackett, Heider, Bayer, Johnson, Stennett, and Jordan

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 Senate Resources and Environment Committee (Committee) meeting to order at 1:30 p.m.

MINUTES APPROVAL: **Vice Chairman Vick** moved to approve the Minutes of February 8, 2017. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

RS 25334 **Chairman Bair** announced that a RS was given to him just prior to the meeting, so therefore it is not on today's agenda. **Chairman Bair** said that he agreed for the RS to be presented.

Senator Brackett asked for unanimous consent to send **RS 25334** to the State Affairs Committee, a privileged committee, for a print hearing. There were no objections.

Chairman Bair announced that there is a briefing paper from the U.S. Forest Service in the blue folder. It is in regards to the trail maintenance in the Frank Church River of No Return Wilderness. At a previous meeting, it was indicated that the trails were barely maintained and this briefing paper provides statistics showing that is not the case.

INTRODUCTION OF PAGE: **Chairman Bair** welcomed and introduced Melissa Freeman, the Committee's Page for the second half of the Session. Melissa is a student at Caldwell High School and is active in choir and theater. Melissa said that after visiting the Capitol when she was in the fourth grade, she always wanted to be a legislative Page. Her future plans include serving in the military, followed by an aerospace career.

GUBERNATORIAL APPOINTEES CONSIDERATION: **Senator Siddoway** moved to send the Gubernatorial appointments of Wayne Hunsucker and Tom Long to the Outfitters and Guides Licensing Board 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 Bayer will be the floor sponsor for Wayne Hunsucker. Senator Stennett will be the floor sponsor for Tom Long.

REPORT: **Ben Davenport**, Executive Director of the Idaho Mining Association (IMA), presented IMA's annual report. **Mr. Davenport** said IMA was organized in 1903 and makes up between 65 and 90 percent of mining outputs in the State of Idaho. Statistics for 2015 for Idaho is as follows: 2,740 IMA members; average annual pay is \$104,000; total direct payroll was \$208 million; the mining industry paid \$5.7 million in direct property taxes; and \$1.5 million in State royalties, rents, and fees.

Mr. Davenport said that for every direct mining job, an additional 2.3 jobs are created. Total compensation for mining and mine processing in 2015 was \$721,346,006. Total number of jobs was 14,194.

Mr. Davenport said that when people think about miners, they think about subterranean prospectors with their candles and canaries looking for colored minerals. Today's miners are well-educated scientists, geologists, engineers, as well as many other occupations. Companies that make up mining in Idaho spend millions of dollars on research, exploration, and bonding. Mining today is about safety, sustainability, responsibility, and continuing to provide a way of life that we enjoy. IMA is proud of the relationships that have been built.

Some "before and after" slides were shown of previous mining operations and how the mining industry has improved the landscape.

Senator Siddoway inquired if the gas and oil industry is a member of IMA and the reply was no, they are not.

Vice Chairman Vick ask why such a drop from 2015 as compared to 2014. **Mr. Davenport** replied that one of the reasons was the closure of the Thompson Creek Mining Company, as well as the drop in the price of metals.

Chairman Bair thanked Mr. Davenport for his report, then welcomed Laurel Sayer, President of Midas Gold.

SPEAKER:

Ms. Sayer said she will talk about the plan that Midas Gold filed with the U.S. Forest Service. As for her background, **Ms. Sayer** said she comes from the conservation world and served on the corporate board for Midas Gold for two years. Most recently, **Ms. Sayer** became president and CEO to help Midas Gold go through the permitting process which she said it will take about two years.

Ms. Sayer said the company's vision is to take an area abandoned after 100 years of mining and build an economically viable project to restore the environment and rebuild an industry. The site is located above Yellow Pine and is about a two hour drive from Cascade. The site is in a historic mining district. Starting in the 1890's, mining occurred at Stibnite for antimony, gold, silver, and tungsten. At one point, the town of Stibnite grew to nearly 1,000 residents. By the 1950's, the town started to slowly disappear and by the 1990's, the companies stopped operating.

Ms. Sayer stated that regulatory standards were not strong until the 1970's. A lot of devastation has happened which includes: the blocked passage of fish from spawning since 1938; the failure of an earthen dam; unconstrained tailings left which contribute to degraded water quality; and forest fires which burned 76 percent of the site. The East Fork of the South Fork of the Salmon River dumps into an old mine pit which also contributes to degraded water quality.

Ms. Sayer said that after evaluating the site, they decided that their best approach to this project was to design it as a restoration project. They designed the mine plan knowing they could be stewards of the environment, keep their footprint small, and to leave the area better than they found it.

Ms. Sayer said both the economic benefits and the environmental benefits have great opportunities. The economic benefits are:

- invest \$1 billion in Idaho;
- provide well-paid jobs to Idahoans; and
- grow economic opportunity with an estimated \$43 million in direct annual payroll during operations and estimated \$86 million in local and state taxes.

The environmental benefits are:

- reprocess historic tailings and heap leach ore;
- restore fish passage;
- repair historically impacted waterways;
- remediate areas contributing to water degradation;
- rehabilitate habitat and natural vegetation; and
- reuse materials on site.

Ms. Sayer said one of the biggest environmental wins of this project is to restore fish passage. The East Fork of the South Fork of the Salmon River flows directly into the historic Yellow Pine pit, blocking fish from migrating since 1938. Midas Gold plans to remove the Yellow Pine pit and backfill it to natural gradients so the river may flow and fish may migrate again. In doing so, **Ms. Sayer** said they will restore fish access to nearly 30,000 feet of river and creek habitat. In 2016, they partnered with stakeholders to protect sensitive spawning habitat for fish and have invested more than \$150,000 in rehabilitating almost five miles of road to reduce sediment runoff into the river. **Ms. Sayer** said that another \$250,000 investment in road rehabilitation is planned for 2017.

Ms. Sayer stated that over the past five years, Midas Gold has hosted hundreds of the local community members at the site to gain input and help. Some of the ideas were adopted, such as using the Burntlog Road, rather than the Johnson Creek Road, to eliminate traffic near major waterways.

The last topic **Ms. Sayer** covered was regarding sustainability. The company has removed 30.5 tons of scrap metal; recycled 3,600 pounds of material since 2013; planted 40,975 trees since 2011; reclaimed 33 acres since 2009; produced 16,900 kWh solar power since 2015; 1,364 person-hours on health and safety training; and 1,790 hours volunteering in the community. **Ms. Sayer** said Midas Gold is committed to continuing this work. **Ms. Sayer** then introduced Ms. Anne Labelle, Vice President of Legal and Sustainability for Midas Gold.

Chairman Bair thanked Ms. Sayer and welcomed Ms. Labelle.

SPEAKER:

Ms. Labelle said that as you may remember, the company released a pre-feasibility study in 2014. The study gave them a more refined look at a prospective project. They have approximately four million ounces of gold that they can recover at the project sites. More gold is there, but that is the amount that can be recovered economically, stated **Ms. Labelle**. There is also one hundred million pounds of antimony and two million ounces of silver. If the gold mine was in production today, it would be the fourth largest in the United States.

Ms. Labelle stated the three main gold deposits are found in the Yellow Pine deposit, the Hangar Flats deposit and the West End deposit. These areas have been mined previously. The company owns the land and mineral rights on these areas where deposits are located and they are working on getting permits from the U.S. Forest Service because some work will be on public land. Gold is invaluable in technology, aerospace, and even medical science. Antimony may be less familiar; however, Ms. Labelle said there is 100 million pounds of antimony at the project site. It is primarily used today in car batteries, plastics, iPhones, and fire retardant. **Ms. Labelle** said that antimony is considered a critical mineral and currently there is no U.S. source and most of the world's antimony is controlled by China.

Employment was the next topic discussed by **Ms. Labelle**. During the two to three year construction period, which includes site restoration, there will be approximately 400 direct jobs, paying around \$70,000 per year. The estimated annual payroll is \$34 million. The operating life of the mine is expected to be 12 years with approximately 500 direct jobs, with an average wage of \$80,000. That average annual payroll is \$42 million. The closure and final reclamation is expected to take from three to five years. There will be approximately 50-200 direct jobs with an average wage of \$60,000.

Ms. Labelle said Midas Gold will make significant contributions to the local, state, and federal economies. Taxes to be paid over the life of the project is estimated to be \$329 million in federal tax and \$86 million in State and local tax.

Ms. Labelle said there are four distinct phases. Early restoration, redevelopment, and construction is expected to take three years; mining, ore processing, and restoration will take 12 to 15 years; final restoration, closure, and reclamation will take three plus years; and monitoring will continue for another five years.

Ms. Labelle said about ten percent of the jobs would be located in the town of Cascade. Those jobs would include accounting, human resources, purchasing, administration, and warehousing and storage. This would reduce traffic to and from the site, which in turn would reduce dust and sediment generated by vehicles; reduces the risk of accidents along the route; and reduces greenhouse gas emissions from vehicles.

Access to the site is now traveled by the Warm Lake, Johnson Creek and Stibnite roads. The proposed route is to upgrade the Burntlog Road to avoid travel along waterways. The Burntlog Road extension utilizes existing forest roads and was identified by community members as an option.

Ms. Labelle addressed the grid power and solar power supply. Improving the existing solar power system would reduce the onsite power generation and fuel haulage needs. **Ms. Labelle** said the upgrading of the grid electric service from the Lake Fork substation to the project site would:

- minimize need for coal, diesel or gas-fired power generation on site;
- reduce emissions and greenhouse gas generation compared to alternatives;
- reduce need to transport fuels; and
- improve reliability of service to the communities of Warm Lake and Yellow Pine, along the upgraded route.

Ms. Labelle explained the housing plan for the employees at the site. The employees would work a two week on/off work cycle. That would decrease road traffic, lower accident risk, and lower greenhouse gas emissions. There would be hotel style accommodations that would include meal service, laundry, housekeeping, first aid, Wi-Fi, health services, and recreation facilities. **Ms. Labelle** said they envision it to look something like a ski lodge.

The last topic covered was permitting. **Ms. Labelle** said the U.S. Forest Service (USFS) accepted their Plan of Restoration and Operations (PRO) as administratively complete on December 9, 2016. **Ms. Labelle** said within the next two months, the USFS will host scoping and public meetings and by the end of 2017, the goal is to have a draft environmental impact statement. There will be a period for public comments, and based on those comments, a final environmental impact statement will be developed by the USFS. **Ms. Labelle** stated that Midas Gold's next step is to move forward into the NEPA (National Environmental Policy Act) process.

Chairman Bair thanked Ms. Labelle for her presentation and said it was very informative.

S 1063

Norm Semanko, Executive Director of the Idaho Water Users Association (IWUA) presented **S 1063**. **Mr. Semanko** said it is needed to conform one of the existing irrigation district statutes to existing law. Irrigation districts apportion benefits to the lands within their boundaries. This allows them to deliver water to those lands. In exchange, the landowners pay an assessment for their share of the operation and maintenance costs. All benefited lands pay this assessment and this includes State-owned lands that receive irrigation water.

Mr. Semanko said that several decades ago, the Idaho Supreme Court determined that an irrigation district assessment and assessments by other special use or local improvement districts are not a prohibited property tax against State lands under the Constitution. As long as a specific benefit is being received by the land, it can be assessed. Any landowner can challenge their assessment, if they choose, or they can seek to be excluded from the district. Most statutes, including those for drainage districts and groundwater districts, are in compliance with the law. Unfortunately, the irrigation district statute, which predates the Idaho Supreme Court decisions, was never updated.

Mr. Semanko said that is what this bill does. It makes clear that State lands can be assessed for the benefits that they receive. Assessments have been paid on State lands. Only recently has the outdated statute been raised as a possible excuse not to pay the assessments. In one case, in a subdivision in the Nampa-Meridian Irrigation District, by the Southwest District Office of the Department of Lands. **Mr. Semanko** said that is why this legislation is being brought now.

Mr. Semanko stated that without this legislation, the State may choose to discontinue paying the assessments. The costs would then be borne by all of the other landowners in the irrigation district. In the Nampa-Meridian Irrigation District's case, the fiscal impact to the landowners would be \$48,000 per year. If that doesn't sound fair, it's not. **Mr. Semanko** said it is not consistent with the law. **S 1063** would bring the irrigation district statute up-to-date. This legislation is supported by the Idaho Water Users Association and the Food Producers of Idaho.

TESTIMONY:

Dan Steenson said he is an attorney representing the Nampa-Meridian Irrigation District, as well as other irrigation districts in the State of Idaho, and is also a registered lobbyist. The Nampa-Meridian Irrigation District is the largest district in the Treasure Valley. Within that district are several subdivisions and one of the subdivisions is the Murdoch subdivision. Ownership is mixed among private landowners, the Idaho State Police, and the Department of Lands (IDL). IDL acquired seven lots in 2013 which had been in private ownership.

Murdoch subdivision was formerly farm ground and the land was assigned Nampa-Meridian water rights and a drainage system. The benefits are for water rights and the drainage system. The assessments are for those benefits, with the benefits being tied to the land. The benefits remain with the land until the land is excluded from the irrigation district. There is also a pressurized irrigation system in the subdivision which is an additional cost to the landowners. If IDL did not pay their share, those costs would be shifted to the remaining landowners.

Mr. Steenson said Idaho Code § 58-336 specifically authorizes the assessment of State lands that receive benefits from local improvement districts. **Mr. Steenson** said there is no issue as to whether or not assessing those benefits run afoul of the Constitutional exemption for State lands from general property taxation.

TESTIMONY:

Tom Schultz, Director of IDL, said he does not oppose this legislation but would like to provide more history and information so that the Committee can make a fully informed decision. In 1903, the precursor to this legislation was passed, then amended in 1905 to allow the land board to negotiate contracts with irrigation districts. In 1917, it was amended where assessments were no longer allowed to be paid on State lands. Article 7, Section 4 of the Idaho Constitution, does not allow for the payment of taxes by State entities. **Director Schultz** said these benefits are derived from State lands and it is appropriate that those assessments be paid. The fear is that those lands would not be benefited directly from those assessments.

MOTION:

Senator Siddoway moved that **S 1063** be sent to the floor with a **do pass** recommendation. **Senator Brackett** seconded the motion. The motion carried by **voice vote**. Senator Siddoway will be the floor sponsor.

S 1064

Mr. Semanko said this legislation would correct several existing irrigation district statutes dealing with the exclusion of lands from a district. When lands within a district are no longer capable of receiving benefits, or otherwise qualify to be excluded from the district, there is a process to be followed under the statutes.

Mr. Semanko stated the first correction made by this legislation would clarify that the filing fee and exclusion fee charged by the irrigation districts are a user fee, payable by the applicant, and are not to be spread out and paid by all of the landowners in the district. This has always been the case, but this change provides more clarity. Other costs of the exclusion process would continue to be handled as set forth in the existing statutes. An additional change would lengthen the time in which a hearing is required on an exclusion application from 90 days to 150 days.

Mr. Semanko said that this will more realistically allow irrigation district personnel to get out in the field and verify the conditions on the ground to determine whether the requested exclusion is warranted. **Mr. Semanko** said this is important because any application on which a hearing is not held within the prescribed time is automatically deemed approved.

A final correction would make clear that while future assessments are not required to be paid once a parcel of land is excluded from the district, this doesn't excuse payment for previous assessments charged against the land while it was still properly included on the district's assessment rolls. These are helpful clarifications for the irrigation districts and the landowners that they serve. **Mr. Semanko** said this legislation has been reviewed and is endorsed by the Idaho Water Users Association and the Food Producers of Idaho.

- TESTIMONY:** **Andy Waldera**, General Counsel for Pioneer Irrigation, said in Chapter 11 the terms of "costs" and "fees" have been used interchangeably. There were amendments in the early 1990's where the Statement of Purpose made it clear that the filing fee and the exclusion fee are not treated the same as costs and the fees are paid by the petitioner. There are costs associated with the petition process that could, under certain circumstances, be apportioned between the district and the petitioner.
- MOTION:** **Senator Johnson** moved that **S 1064** be sent to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**. Senator Johnson will be the floor sponsor.
- PASSED THE GAVEL:** Chairman Bair passed the gavel to Vice Chairman Vick.
- S 1099** **Chairman Bair** said there have been many ongoing discussions with gas and oil and out of those discussions, they have learned many things. In the State of Idaho, when it comes to gas and oil, they could use an increase of knowledge and staff in order to better carry out the mission of IDL when it comes to gas and oil. **Chairman Bair** stated there is a need for people who have the expertise and have been in the gas and oil industry to help the State with gas and oil statutes and rules.
- S 1099** creates a new division within IDL to handle the gas and oil matters that are currently handled by 1.3 FTE. **Chairman Bair** said that IDL was asked to put together a list of personnel that would be needed in order to carry out their mission. The new division will require three new full-time positions: a petroleum geologist/engineer; an analyst; and an administrative assistant. The cost will be \$375,000. **Chairman Bair** said the Governor's office is supportive of this legislation and the JFAC co-chairs are amenable to the increase and see the necessity of having more expertise in the State of Idaho.
- MOTION:** **Senator Bayer** moved that **S 1099** be sent to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**. Chairman Bair will be the floor sponsor.
- PASSED THE GAVEL:** Vice Chairman Vick passed the gavel to Chairman Bair.
- ADJOURNED:** There being no further business at this time, **Chairman Bair** adjourned the meeting at 3:23 p.m.

Senator Bair
Chair

Juanita Budell
Secretary