

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, January 16, 2017

SUBJECT	DESCRIPTION	PRESENTER
Welcome	New Committee Members and Senate Page - Bryon Beams	Chairman Bair
Rules Review	Assignments and Comments	Vice Chairman Vick
IDAHO DEPARTMENT OF FISH AND GAME		
Docket No. 13-0108-1601	Rules Governing the Taking of Big Game Animals in the State of Idaho	Sharon Kiefer, Deputy Dir., IDFG
Docket No. 13-0109-1601	Rules Governing the Taking of Game Birds in the State of Idaho	Sharon Kiefer, Deputy Dir., IDFG
Docket No. 13-0109-1602	Rules Governing the Taking of Game Birds in the State of Idaho	Sharon Kiefer, Deputy Dir., IDFG
Docket No. 13-0111-1601	Rules Governing Fish	Sharon Kiefer, Deputy Dir., IDFG
Docket No. 13-0117-1601	Rules Governing the Use of Bait and Trapping for Taking Big Game Animals	Sharon Kiefer, Deputy Dir., IDFG
Docket No. 13-0102-1601	Rules Governing Hunter Education and Mentored Hunting	Sharon Kiefer, Deputy Dir., IDFG

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Bair
Vice Chairman Vick
Sen Siddoway
Sen Brackett
Sen Heider

Sen Bayer
Sen Johnson
Sen Stennett
Sen Jordan

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
Phone: 332-1323
email: sres@senate.idaho.gov

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, January 16, 2017

TIME: 1:30 P.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: Senator Siddoway

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: **Vice Chairman Vick** called the Senate Resources and Environment Committee (Committee) meeting to order at 1:30 p.m. and explained that Chairman Bair was in attendance at another meeting and would join the Committee later.

WELCOME: **Vice Chairman Vick** welcomed the new Committee members, Senators Johnson and Jordan, and former member, Senator Brackett. He also welcomed the returning Committee members.

The Committee's page, **Bryon Beams**, was introduced and was asked to share his background with the Committee. Bryon is a senior student at Caldwell High School. He was previously involved in sports, music, and drama but now is concentrating on student government and technology. Bryon plans to attend Boise State University after graduation.

Vice Chairman Vick stated that he would not conduct a review of the rules as indicated on the agenda, as all Committee members are familiar with the process.

IDAHO DEPT. OF FISH AND GAME RULES: **Vice Chairman Vick** welcomed Ms. Sharon Kiefer, Deputy Director, Idaho Department of Fish and Game (IDFG) who will present the rules. **Ms. Kiefer** introduced Mr. Dallas Burkhalter, Deputy Attorney General, IDFG, who will assist her, if needed.

DOCKET NO. 13-0108-1601 **Rules Governing the Taking of Big Game Animals in the State of Idaho. Ms. Kiefer** stated the proposed rules administer grizzly bear hunting should the Idaho Fish and Game Commission authorize hunting after grizzly bear in the greater Yellowstone Ecosystem are taken off the federal endangered species list. The proposed rules do not make any decision to delist grizzly bears and do not propose to open any hunting season for grizzly bear in Idaho.

Ms. Kiefer said that should hunting become available for grizzly bear, rules would be very similar to those for bighorn sheep, mountain goat, and moose. However, this would not apply to a depredation kill, only to controlled hunting. Fish and Wildlife Services received 650,000 comments regarding the issue of grizzly bear.

Senator Brackett inquired as to what approach other states are taking. **Ms. Kiefer** replied that she could provide that information for Montana and Wyoming. **Senator Brackett** made a request for that information.

MOTION: **Senator Heider** moved to approve **Docket No. 13-0108-1601**. **Chairman Bair** seconded the motion. The motion carried by **voice vote**. **Senator Stennett** asked to be recorded as voting nay.

DOCKET NO. 13-0109-1601 **Rules Governing the Taking of Game Birds in the State of Idaho. Ms. Kiefer** said this rule modifies the current boundary of the Hagerman goose hunting closure area to remove certain private property and allow hunting to reduce goose depredation on crops.

MOTION: **Senator Johnson** moved to approve **Docket No. 13-0109-1601**. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 13-0109-1602 **Rules Governing the Taking of Game Birds in the State of Idaho. Ms. Kiefer** explained the rule simplifies the age and mentor requirements for youth-only hunts to make them more consistent and updates the rule to be consistent with legislative revision of Idaho Code § 36-409(i), in 2016.

MOTION: **Senator Heider** moved to approve **Docket No. 13-0109-1602**. **Senator Brackett** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 13-0111-1601 **Rules Governing Fish. Ms. Kiefer** said this rule provides opportunity to harvest unclipped summer Chinook salmon in the Clearwater River in 2016. There are no changes to the pending rule and it is being adopted as originally proposed.

MOTION: **Senator Heider** moved to approve **Docket No. 13-0111-1601**. **Chairman Bair** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 13-0117-1601 **Rules Governing the Use of Bait and Trapping for Taking Big Game Animals. Ms. Kiefer** explained that this rule revises the distance from road and trails for placing bear baits in the Panhandle and Clearwater regions because hilly terrain and an extensive road network make the current standard infeasible in many areas of these regions.

MOTION: **Senator Johnson** moved to approve **Docket No. 13-0117-1601**. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 13-0102-1601 **Rules Governing Hunter Education and Mentored Hunting. Ms. Kiefer** said the rules implement a mandatory trapping education program for trappers who purchased their first trapping license on or after July 1, 2011. The rule broadens the description of mandatory education; establishes fees for mandatory hunter, archery, and trapping education; integrates reference to existing archery education pursuant to Idaho Code §§ 36-411 and 36-412; and deletes an obsolete rule about practical handling and shooting of firearms requirement for hunter education certification.

Senator Heider inquired whether archery would be a separate class from the hunter education course, where the young people are trained using rifles, and if they have to be enrolled in both courses. **Ms. Kiefer** stated that the classes are "rolled" together.

MOTION: **Senator Heider** moved to approve **Docket No. 13-0102-1601**. **Chairman Bair** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Vick passed the gavel to Chairman Bair.

Chairman Bair thanked Vice Chairman Vick for his good work. He said that he, too, wanted to welcome the new and returning Committee members, and also Bryon, the Committee's page.

ADJOURNED: There being no further business at this time, **Chairman Bair** adjourned the meeting at 2:40 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, January 18, 2017

SUBJECT	DESCRIPTION	PRESENTER
RS24896	This legislation revises several sections of Title 36 to specify provisions pertaining specifically to black bear and grizzly bear to clarify and support management of an anticipated delisted Yellowstone grizzly bear population.	Sharon Kiefer, Deputy Dir., IDFG
	IDAHO DEPARTMENT OF PARKS AND RECREATION	
Docket No. 26-0120-1601	Rules Governing the Administration of Park and Recreation Areas and Facilities	Keith Hobbs, Operations Administrator, IDPR

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Bair	Sen Bayer
Vice Chairman Vick	Sen Johnson
Sen Siddoway	Sen Stennett
Sen Brackett	Sen Jordan
Sen Heider	

COMMITTEE SECRETARY

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MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, January 18, 2017

TIME: 1:30 P.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: Senator Siddoway

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.

Chairman Bair announced that **RS 24896** will not be heard today as indicated on the agenda. There has been discussions regarding this RS and a modification will be made. The Idaho Department of Fish and Game will make the necessary correction and resubmit it for consideration.

PASSED THE GAVEL: Chairman Bair passed the gavel to Vice Chairman Vick.

IDAHO DEPT. OF PARKS AND RECREATION RULE: **Vice Chairman Vick** welcomed Keith Hobbs, Operations Division Administrator for the Idaho Department of Parks and Recreation (IDPR), who will present the rule.

DOCKET NO. 26-0120-1601 **Rules Governing the Administration of Park and Recreation Areas and Facilities.** **Mr. Hobbs** said the proposed change is to increase the maximum capacity of motorcycles permitted on Idaho State Park campsites from two (2) to four (4). IDPR recognized that motorcycles require less space than standard vehicles and the change is also in response to user request. Each motorcycle is subject to the motor vehicle entrance fee (MVEF). **Mr. Hobbs** stated that no comments were received at the two public meetings and there is no fiscal impact.

Senator Heider inquired if this rule applied to 4-wheelers and **Mr. Hobbs** replied that it did not, only to motorcycles.

MOTION: **Chairman Bair** moved to approve **Docket No. 26-0120-1601**. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Vick passed the gavel to Chairman Bair.

Chairman Bair announced that he has received a number of confirmation requests to date and the hearings will be held as the candidates are available. He also asked the members to submit requests on topics that would be beneficial to them and the Committee.

ADJOURNED: There being no further business at this time, **Chairman Bair** adjourned the meeting at 1:40 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, January 23, 2017

SUBJECT	DESCRIPTION	PRESENTER
Minutes	Approval of minutes, January 16, 2017	Senator Heider
Minutes	Approval of minutes, January 18, 2017	Senator Jordan
RS24896C1	This legislation revises several sections of Title 36 to specify provisions pertaining specifically to black bear and grizzly bear to clarify and support management of an anticipated delisted Yellowstone grizzly bear population.	Sharon Kiefer, Deputy Dir., IDFG
RS24823	This legislation will establish a dedicated fund for underground storage tank fees to provide for better accountability and transparency.	Michael McCurdy, DEQ
DEPARTMENT OF ENVIRONMENTAL QUALITY		
Docket No. 58-0107-1601	This rulemaking has been initiated to adopt into state rules the newly revised federal Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (USTs) and to establish a fee structure.	Michael McCurdy, Waste Management and Remediation Division, DEQ
Docket No. 58-0103-1501	This rulemaking has been initiated to create an effective and useful means of approving and overseeing service providers for DEQ and the health districts and will expand choices of service for private property owners.	Barry Burnell, Water Quality Division Administrator, DEQ

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COMMITTEE MEMBERS

Chairman Bair	Sen Bayer
Vice Chairman Vick	Sen Johnson
Sen Siddoway	Sen Stennett
Sen Brackett	Sen Jordan
Sen Heider	

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MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, January 23, 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

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CONVENED: **Chairman Bair** called the Senate Resources and Environment Committee (Committee) meeting to order at 1:30 p.m.

MINUTES APPROVAL: **Senator Heider** moved to approve the Minutes of January 16, 2017. **Vice Chairman Vick** seconded the motion. The motion passed by **voice vote**.

Senator Jordan moved to approve the Minutes of January 18, 2017. **Senator Heider** seconded the motion. The motion passed by **voice vote**.

RS 24896C1 Sharon Kiefer, Deputy Director, Idaho Department of Fish and Game (IDFG), presented **RS 24896C1**. **Ms. Kiefer** stated that this legislation provides provisions specifically to black bear and grizzly bear and to clarify and support management of an anticipated Yellowstone grizzly bear population. This is consistent with the State of Idaho's 2002 Management Plan which was approved by the Idaho Legislature. Last week, some rules were presented and this RS is a companion piece of legislation.

Ms. Kiefer emphasized that this RS does not open any hunting season for Yellowstone grizzly bear or delist Yellowstone grizzly bear. This is one component of the bill.

Ms. Kiefer stated that another component of the bill removes obsolete references requiring nonresident disabled American veteran hunters to hunt in association with a qualified organization in order to receive a reduced fee license. This requirement was statutorily deleted in 2014 and now IDFG is rectifying the oversight.

The bill also revises taxidermist and furbuyer license requirements to include reporting of certain grizzly bear parts or skins and raw wolf skins. **Ms. Kiefer** said that in addition, this bill provides an extended timeframe for reporting control of depredating wolves when no permit is required. Once again, IDFG is trying to catch statute up to management of wolves now that Idaho is out of the federal five-year oversight period of wolf management.

Ms. Kiefer indicated that this legislation does not have a fiscal impact to the General Fund or to the fish and game dedicated fund.

Chairman Bair ask for clarification of the stricken language on page 10 relating to the nonresident disabled American veterans. **Ms. Kiefer** replied that the demand exceeded the qualified organizations' capacity for service. Legislation was brought forward to turn it into a regular nonresident disabled American veterans reduced fee license if they showed the same disability criteria that IDFG requires from a resident, which is a 40 percent or greater service-connected disability.

Senator Stennett inquired as to what has been done since the 2002 Management Plan and the accompanying HCR. **Ms. Kiefer** said that the Legislature has not taken up that plan, but is still acting consistently with that plan, as adopted. **Senator Stennett** said a study was done by Wyoming, Idaho, Montana, and Washington and it recognized five population groups of bears. She asked if there has been an increase in population. **Ms. Kiefer** said that she has information for the entire Yellowstone ecosystem, not just individual areas, but she assured Senator Stennett that current population status is such that Idaho and the bordering states believe that the population does meet all the requirements for delisting.

Senator Stennett said this plan did give the Legislature guidance and to make sure they were educating the public, as well as something quantifiable for grizzly bear conservation needs. The mortality rate for grizzly bears is over 43 percent and is human caused. **Ms. Kiefer** said IDFG can demonstrate that they have been working on education and outreach and offered to send the link of the website to Senator Stennett. She also added that IDFG has a grizzly bear trailer, a very robust outreach program, a grizzly bear biologist, and IDFG participates in a variety of grizzly bear committees, including the Yellowstone ecosystem Study Design Plan. IDFG have also been carrying out conservation actions to contribute to knowledge of grizzly bears, as well as elements that view conservation of grizzly bears.

Senator Johnson inquired if IDFG has a disabled hunting license for the disabled American veterans where different classes are awarded. **Ms. Kiefer** replied that IDFG have a disabled license that has a different context and structure than the disabled American veterans license. There is a license and four tags that have reduced fees to qualified disabled residents. Non-residents do not pay the same reduced fee as residents.

Senator Bayer asked about the hunter reporting time with regards to the 72 hours for wolves and 24 hours for grizzly bears. **Ms. Kiefer** said those hours are specific to hunter reporting. The depredation control reporting period for grizzly bears is 72 hours; however, there is a provision of extra time when access to the site is remote.

Senator Jordan inquired about the timetables for the issues that have been discussed. **Ms. Kiefer** said that the state law takes effect July 1. If grizzly bear delisting has not occurred and there is not a final rule by that point, then essentially, the grizzly bear references just sit in state code. The other references, relative to the disabled American veterans, take effect July 1.

MOTION:

Senator Heider moved to print **RS 24896C1**. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**. **Senators Stennett and Jordan** asked to be recorded as voting nay.

RS 24823

Chairman Bair welcomed Mr. Michael McCurdy, Waste Management and Remediation Division Administrator, Department of Environmental Quality (DEQ), who will present **RS 24823**.

Mr. McCurdy said the 2016 Legislature passed S 1244 to allow DEQ to collect fees for underground storage tanks. Fees are not to exceed \$100 per tank per year and any fee balance in excess of \$35,000 on December 31 will be applied to reduce the following year's fees. This legislation will establish a dedicated fund for underground storage tank fees to provide for better accountability and transparency. With a dedicated fund, the Legislature and State Controller will be able to view all revenues and expenditures from the Statewide Accounting and Reporting System (STARS), and DEQ will be able to complete an accurate fee expenditure report. In addition, a dedicated fund will earn interest which may increase the fund's balance and decrease fees in subsequent years.

Mr. McCurdy stated that Idaho has about 3,375 underground storage tanks at 1,180 facilities. These tanks hold petroleum products, mainly gasoline and diesel fuel. DEQ inspects the operation and maintenance activities of these tanks to make sure they don't leak and cause harm to people or the environment.

Senator Brackett asked why the fund was not established and included in S 1244. **Mr. McCurdy** replied that it was an oversight on the part of DEQ. **Senator Brackett** asked why wasn't part of the transfer fee used instead of charging the taxpayers a new fee. **Mr. McCurdy** said he didn't have that information and could not respond to the Senator's question at this time, but would get back to him with that information.

MOTION: **Senator Brackett** moved to print **RS 24823**. **Senator Bayer** seconded the motion. The motion carried by **voice vote**

PASSED THE GAVEL: Chairman Bair passed the gavel to Vice Chairman Vick.

DOCKET NO. 58-0107-1601 **Rules Regulating Underground Storage Tank Systems.** **Mr. McCurdy** said that funding granted to Idaho by the Environmental Protection Agency (EPA) has been decreasing over the years and the language in the Underground Storage Tank Act was modified to allow DEQ to collect fees from owners of underground storage tanks.

This docket addresses the fee collection and the new federal underground storage tank regulations that must be incorporated into Idaho's rules to maintain state program approval or primacy where DEQ implements the program instead of EPA. To address these issues, DEQ held negotiated rulemaking sessions on April 28 and May 26, 2016 and it was published in the Idaho Administrative Bulletin August 3, 2016. DEQ received no public comments. The DEQ board adopted the pending rule on October 13, 2016. The proposals must be adopted if Idaho wants to retain primacy.

MOTION: **Chairman Bair** moved to approve **Docket No. 58-0107-1601**. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 58-0103-1501 **Individual/Subsurface Sewage Disposal Rules.** **Mr. Barry Burnell**, Water Quality Division Administrator, DEQ, said this rulemaking was undertaken in response to requests made to DEQ by individual property owners to create an effective and useful means of approving and overseeing service providers for complex alternative septic systems, and a request to DEQ to abandon the Operation and Maintenance Entity system approach that is used to provide routine maintenance, monitoring and repair of these complex septic systems. Property owners complained of poor service, trespass, and lack of customer service by the Operation and Maintenance Entity.

DEQ vetted these requests with the Technical Guidance Committee for Subsurface Sewage Disposal. That committee is composed of three staff members of the local health districts, a licensed professional engineer, and a licensed Complex Septic System installer. The Technical Guidance Committee recommended to DEQ to undertake a negotiated rulemaking to develop a Service Provider Certification for the purpose of having approved qualified service technicians. These service technicians would be able to contract with property owners to provide routine service, repair, and monitoring of complex alternative treatment systems. The pending rule sets up the structure to administer a service provider model for providing this service.

These complex alternative treatment systems are also known as Aerobic Treatment Units (ATUs) or Extended Treatment Package Systems (ETPS). There are about 2,000 of these installed in the State of Idaho at the present time. These complex systems are not the septic tank and drainfield that is typical for subsurface sewage disposal. The improved wastewater allows for the drainfield from these systems to be placed in areas where ground water is close to the land surface.

Mr. Burnell stated that DEQ conducted four meetings with the Technical Guidance Committee in early 2015. A draft rule was posted and published in the Administrative Bulletin, October 9, 2015 and negotiated rulemaking meetings were held on October 22, 2015 in Boise, with participation from Coeur d' Alene and Idaho Falls. Modifications were made to the rule based on the rulemaking discussions. A second draft rule was published for comments on October 22, 2015. The rule was posted in the December 3, 2015 Administrative Bulletin and comments were received from six people. Some changes were made to the rule as a result of the comments.

Costs will shift from the property owner paying dues to an Operation and Maintenance Entity to paying their selected service provider for annual maintenance, repair, and monitoring. **Mr. Burnell** said that costs are expected to be similar or slightly lower. Dues are between \$200 to \$300. The service provider model is preferred by owners of these complex alternative systems.

Mr. Burnell said the standards included in this rule are not broader in scope, nor more stringent, than federal regulations and do not regulate an activity not regulated by the federal government.

Senator Stennett inquired as to what the function is for the Operations and Maintenance Entity. **Mr. Burnell** said that it was designed to act as a homeowners association and to work out deals with service providers.

Senator Stennett also asked about training for the service providers. **Mr. Burnell** said at the present time there are over 600 installers and about 300 of those are licensed complex installers. Currently, there are 14 Operations and Maintenance Entities in the state, with 12 service providers. The complex installers, who provide service to the systems they are installing, will get their certificates. Section 009 of the rules requires complex system manufacturers to train a reasonable number of service providers and it restricts manufacturers from limiting service providers from receiving training from other manufacturers.

Senator Bayer asked if there were any more expenses involved in providing additional training for the service providers. **Mr. Burnell** said it is to the manufacturers advantage to provide the necessary training.

Senator Johnson said that he has a problem with the design approval requirement. If a manufacturer of one of these complex systems does not agree to provide training outside of their service representatives, there might be a liability issue. He asked if the Director of DEQ may disapprove of that design? **Mr. Burnell** said the agency's role is to look at the information that is presented to them and approval is dependent on a number of things. Basis for disapproval is if the product is not functioning as it should.

Vice Chairman Vick inquired if these systems were used just for individual homes or for multi-home developments. **Mr. Burnell** replied that these systems are for individuals, and go up to 1,500 gallons per day in size. Anything over that size goes to a different type.

Senator Siddoway asked if these rules are more restrictive than what is required by the federal government and why we need more rules. **Mr. Burnell** said that what the property owners presently have was not working. These systems are very complex and need to be placed where there is shallow ground water and the maintenance needs to be done by professional people. The service has been poor, there were burglaries, as well as trespassing violations, by the people who serviced the systems.

Vice Chairman Vick asked what the precedent is by having licensing by rule and not by legislation. **Mr. Burnell** said the elements in this rule is the licensing of the permittees and the education is in line with other licensing. **Mr. Burnell** said that he didn't know the exact code reference. DEQ relies on EPA and it was done in 1972.

**PASSED THE
GAVEL:**

Vice Chairman Vick said that he will hold the motion until the next meeting as time has expired for the meeting. He then passed the gavel to Chairman Bair.

ADJOURNED:

There being no further business at this time, **Chairman Bair** adjourned the meeting at 3:00 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, January 25, 2017

SUBJECT	DESCRIPTION	PRESENTER
Presentation	Update of Idaho Department of Fish and Game	Director Moore
Gubernatorial Appointment Hearing	Jerry R. Meyers, North Fork, Idaho was appointed to the Idaho Fish and Game Commission to serve a term commencing September 22, 2016 and expiring June 30, 2020.	
Gubernatorial Appointment Hearing	Gregory Clark Cameron, Rupert, Idaho was appointed to the Idaho Fish and Game Commission to serve a term commencing September 22, 2016 and expiring June 30, 2020.	
Remarks	Idaho Fish and Game Commissioners: Brad Corkhill - Panhandle Region Daniel Blanco - Clearwater Region Blake Fischer - Southwest Region Lane Clezie - Southeast Region Derick Attebury - Upper Snake Region	

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Bair	Sen Bayer
Vice Chairman Vick	Sen Johnson
Sen Siddoway	Sen Stennett
Sen Brackett	Sen Jordan
Sen Heider	

COMMITTEE SECRETARY

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MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, January 25, 2017

TIME: 1:30 P.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: Senator Siddoway

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.

WELCOME: **Chairman Bair** welcomed Director Virgil Moore and staff from the Idaho Department of Fish and Game (IDFG) and members of the Fish and Game Commission (Commission). **Chairman Bair** announced that the first order of business would be to hear from the two Gubernatorial appointees to the Commission, Jerry Meyers and Greg Cameron.

GUBERNATORIAL APPOINTMENT HEARING: **Jerry Meyers** said that he has been a life long resident of Idaho, primarily in the Pocatello and Salmon areas. He and his wife, Sidni, have a blended family of 10 children, 27 grandchildren and two great-grandchildren.

Mr. Meyers' educational background is as follows:

- American Falls High School, 1964
- Brigham Young University, 1968, Bachelor of Science, Agricultural Economics
- Utah State University, 1970, Master of Science, Agricultural Economics
- University of Idaho, 1986, Juris Doctor of Law

Mr. Meyers stated that his professions have been varied, which he feels will be beneficial working with the wide spectrum of issues and people coming before the Commission. His professions include: owner/broker of a real estate agency that marketed agricultural properties throughout Idaho and the Pacific Northwest; outfitter and guide services for cougar, bear, deer, elk, bighorn sheep and goats in Lemhi County and the Frank Church Wilderness area; guided brown bear hunters in Alaska; guide services for leopard, buffalo, and elephant hunts in Botswana, South Africa, Namibia, and Zimbabwe; law associate and partner with McDevitt and Meyers Law Office in Pocatello; Magistrate Judge in Lemhi County; Senior Judge for the Idaho Supreme Court; and presently active in Meyers Mediations and Law.

In explaining his reasons for applying for the position of Fish and Game Commissioner, **Mr. Meyers** stated that he has been an avid outdoorsman all his life. His life experiences have prepared him to meet the challenges being advocated by the various competing interests. The 17-year tenure as a judge has taught him to listen and consider all positions before making a decision. **Mr. Meyers** said that he also feels that his professions have put him in a position to enable him to have the necessary time and resources to commit to the position and he is prepared to do his part perpetuating the preservation of the wildlife.

Current organizations of which Mr. Meyers is a member of:

- National Rifle Association, Endowment Life Member
- Safari Club International, Life Member
- Rocky Mountain Elk Foundation
- Idaho Houndsmen
- National Academy of Designated Neutrals
- Idaho Trial Lawyers Association

Mr. Meyers was appointed by the Governor and awaiting confirmation by the Senate to serve a term commencing September 22, 2016 and expiring June 30, 2020.

**GUBERNATORIAL
APPOINTMENT
HEARING:**

Gregory Clark Cameron stated that his objective as a commissioner, if approved, is to protect the resources that are in the State and to make sure they are available for future generations to enjoy. Without good management, hunters, fishermen, his four children and four grandchildren will not be able to enjoy the resources of fish, game, and fowl.

At the age of six, Mr. Cameron learned to fish and has tied his own fly fishing flies since the eighth grade. However, his passion is archery and he has won six indoor archery championships and numerous outdoor archery awards. **Mr. Cameron** said that he has taken many game animals, including the once-in-lifetime trophies consisting of goat, moose, and Rocky Mountain bighorn sheep.

Sporting organizations of which Mr. Cameron is a member of:

- Minidoka Bowman
- National Rifle Association
- National Field Archery Association
- Pheasants Forever Mini-Cassia Chapter
- Rocky Mountain Elk Foundation
- Ducks Unlimited
- Idaho State Bow Hunter Association

Mr. Cameron stated that the Cameron family had a tractor and implement business in which he started working from a very young age. Later in life, Mr. Cameron started farming, raising sugar beets and malt barley with his son. He has also sold sugar beet seed for the last 15 years, supplying it to Holly Seed Company, Sheridan, Wyoming.

Mr. Cameron said through 45 years of hard work in various businesses, he has developed important "people skills" which has taught him to listen to all sides of a situation and to make good decisions. Many of his dealings have been with farmers, bankers, truckers, implement salesmen, ditch riders, and beet and barley field men. **Mr. Cameron** also has a learning disabled daughter and he has attended classes and worked with local educators for 15 years to help her obtain a high school diploma. Mediation was the key in accomplishing this.

Leadership positions that Mr. Cameron has held are: Minidoka Beet Growers Board - nine years; Pheasants Forever Grass Roots Chapter - vice president; and basketball and baseball coach - 16 years. Other significant involvement includes the Idaho Wheat and Barley Association and the Snake River Sugar Beet Co-op.

Mr. Cameron said that he honestly feels that he would do a very good job as a Commissioner as he is a passionate outdoorsman and truly cares about Idaho's natural resources, especially the fish and game. **Mr. Cameron** was appointed by the Governor awaiting approval by the Senate to serve a term commencing September 22, 2016 and expiring June 30, 2020.

Chairman Bair thanked both Mr. Meyers and Mr. Cameron for appearing before the Committee and said that voting on their confirmation would take place at the next scheduled meeting.

PRESENTATION: **Chairman Bair** asked Virgil Moore, IDFG Director, to make his presentation.

Director Moore provided two handouts: IDFG's Winter Feeding Report and the Director's Annual Report to the Commission for Fiscal Year 2016. **Director Moore** said he would give a quick overview of current events, primarily winter feeding.

The IDFG Commission approved the elk management plan a few years ago and it has proven to be very successful. IDFG has invested a large amount of financial resources and staff during the past four years in this plan. **Director Moore** stated that he has been the director for the past six years and has been working on this issue for the past five years of that time. The inventory of animals, and inventory of tags that are sold to make money, are one of the business activities of the agency.

Director Moore said IDFG has reprioritized their financial resources for the large scale capture and collaring efforts of the deer and elk. He thanked the volunteers for the help provided. The additional cost of helicopter time has been very expensive. The downside of the success of the deer and elk program is what IDFG is dealing with this winter. The last four out of five winters have been easy and it has allowed them to capitalize on what has been going on with the game on the hill. Now with a tougher winter, IDFG is seeing depredation on private lands and private resources.

Director Moore stated that last year, IDFG invested over \$1 million to protect stack-yards so that the elk could not access them. Landowners have been compensated \$360,000 for damages to crops, above and beyond what was anticipated. Depredation controlled hunt tags have been increased by 7,000 to compensate for the increase in population on deer, elk and pronghorn. Nearly \$200,000 has been invested to improve habitat for the game animals.

Director Moore thanked Chairman Bair and JFAC for the supplemental money approval and the increased spending authority that was granted. An increase of \$300,000 was requested and after conversations with Chairman Bair, the figure of \$400,000 was arrived at and it was right on target.

There have been 341 depredation complaints to date and more are likely to come. **Director Moore** stated there are 35 winter feeding operations in place at this time, with most of them for depredation for elk to keep them away from haystacks. There is only one permanent elk feeding station and it is in the Sun Valley-Ketchum area and that operation is going well. **Director Moore** said there are 7,800 elk and 4,000 mule deer that are currently being fed and all of the appropriated money is expected to be spent.

Director Moore said that he has prepared an annual report to the Fish and Game Commission for several years. The document is very concise and shows the allocations for fish and wildlife. The report also provides the big game harvest history from 1935 to present. In 2015, it was the best combined season in 25 years. **Director Moore** said 2015 was the result of the fruits of the labor of the IDFG staff and what has been invested has paid off, but the downside is that the depredation has doubled.

Senator Heider inquired about the deaths of the antelope that ate poisonous plants. **Director Moore** stated that the plant was Japanese Yew and the concern needs to be directed to the Department of Agriculture. **Director Moore** indicated that he will have a dialogue with Director Gould.

Senator Stennett asked if \$400,000 was enough funding to meet the needs of the winter feeding. **Director Moore** replied that he and the staff feel that it will be sufficient to get them through this winter.

SPEAKER:

Brad Corkhill, Commission Chairman, represents the Panhandle Region. **Mr. Corkhill** said that depredation seems to be a big issue throughout the State, but his region does not have those issues to the degree that the southern part of the State is experiencing. Depredation issues are handled on an individual basis, are much smaller in scale in his part of the State, and are being handled quite well.

Mr. Corkhill stated that there have been some issues regarding moose populations on the border with Canada which will be addressed tomorrow.

Senator Brackett remarked that he has been getting calls about wolves and the way IDFG is handling the wolf situation. He asked Mr. Corkhill what the Department is doing. **Mr. Corkhill** responded by saying the Panhandle Region is the most aggressive region in the State regarding wolf control. Over the years, there have been a few changes in the way wolf control is approached. Three years ago, the trapping season was opened early in units 7 and 9 and a portion of unit 6. That resulted in the taking of 15 wolves. Two years ago, a portion of unit 4 was opened. A two year proclamation cycle has been in effect since then. There is talk of changing some hunting regulations in order to continue the effort to control the wolf population. Since the wolf was delisted, the season has been open year round on private land and the number of tags a trapper can get in a year's time is 10. With all things considered, there has been progress in the Panhandle Region with wolf control.

There is now a lawsuit for lynx protection going on. **Mr. Corkhill** said that he and Commissioner Blanco were designated as part of a committee to meet with the plaintiffs and to begin to negotiate some compromises in the trapping regulations. The Attorney General's office got the judge to reconsider his decision and it is now under appeal.

Vice Chairman Vick said his concern is about deer moving into town and what IDFG is doing about it. **Mr. Corkhill** responded by saying it is a very complicated issue as many people are feeding the deer and there is no easy solution, but he vowed to continue working on it.

SPEAKER:

Dan Blanco, Clearwater Region, spoke next. **Mr. Blanco** said that they have had their first three season Chinook salmon run in the Clearwater River: spring, summer, and fall Chinook run. Also in the Clearwater Region, they had their first Access Yes property devoted exclusively to youth bird hunting. The property consists of 900 acres, and is provided at no cost to IDFG by the landowner. IDFG will continue to stock the property and the advantage is that it gives the youth a place to hunt.

Mr. Blanco said that as he has traveled around the State, he has noticed the importance of large tracts of private land. Some private land has the best habitat and needs to be preserved. Some landowners of large tracts of land are closing them off so that no access is available to sportsmen. **Mr. Blanco** said this is a concern of his.

SPEAKER: **Blake Fischer**, Southwest Region, said that he is focused on the future. **Mr. Fisher** indicated that the Commission is forward thinking and are looking down the road, using tools to allow them to become more proactive and more progressive. **Mr. Fisher** shared a story regarding elk in a sugar beet field. The elk were removed from that field by putting sugar beet tailings in a barren field across the road and were hazed by snowmobiles to move them.

SPEAKER: Lane Clezie represents the Southeast Region. **Mr. Clezie** said his report would be on depredation and elk wintering. He said his area is very active in protecting private property and feed lots. They have had volunteer help in 30 different areas and are working in conjunction with the Shoshone-Bannock tribe to move elk away from the highway back to Lincoln Creek where IDFG are feeding the elk.

SPEAKER: **Derick Attebury**, Upper Snake Region, said the Henry Creek Fire in August burned 50,000 acres, including over 30,000 acres of the Tex Creek Wildlife Management Area. One of his main concerns in working with people who are adjacent to the Tex Creek Area is working out solutions for the land and rehabilitation efforts. They are feeding about 4,000 elk and have moved about 1,800 ton of hay that was put in place in three days.

Chairman Bair said that he wished to add to the comments regarding depredation. There is concern with winter feeding and winter depredation, but he asked the Commissioners to consider summertime feeding, as well. Depredation in summer is oftentimes worse for landowners than in the wintertime. **Chairman Bair** thanked the Commissioners and Director Moore for their service and for appearing before the Committee today.

ADJOURNED: There being no further business at this time, **Chairman Bair** adjourned the meeting at 3:00 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, January 30, 2017

SUBJECT	DESCRIPTION	PRESENTER
Gubernatorial Appointment Consideration	Jerry R. Meyers was appointed to the Idaho Fish and Game Commission to serve a term commencing September 22, 2016 and expiring June 30, 2020.	
Gubernatorial Appointment Consideration	Gregory Clark Cameron was appointed to the Idaho Fish and Game Commission to serve a term commencing September 22, 2016 and expiring June 30, 2020.	
Presentation	Update - Idaho Department of Water Resources Water Issues	Director Spackman, IDWR
Gubernatorial Appointment Hearing	Vince Alberdi, Kimberly, Idaho was reappointed to the Idaho Water Resource Board to serve a term commencing January 1, 2017 and expiring January 1, 2021.	
Gubernatorial Appointment Hearing	Albert P. Barker, Boise, Idaho was reappointed to the Idaho Water Resource Board to serve a term commencing January 1, 2017 and expiring January 1, 2021.	
Gubernatorial Appointment Hearing	Roger Chase, Pocatello, Idaho was reappointed to the Idaho Water Resource Board to serve a term commencing January 1, 2017 and expiring January 1, 2021.	
Gubernatorial Appointment Hearing	John Albert Stevenson, Rupert, Idaho was reappointed to the Idaho Water Resource Board to serve a term commencing January 1, 2017 and expiring January 1, 2021.	

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Bair	Sen Bayer
Vice Chairman Vick	Sen Johnson
Sen Siddoway	Sen Stennett
Sen Brackett	Sen Jordan
Sen Heider	

COMMITTEE SECRETARY

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MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, January 30, 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 meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m. **Chairman Bair** welcomed the Idaho Water Resource Board (IWRB) members and the director of the Idaho Department of Water Resources (IDWR), Gary Spackman.

GUBERNATORIAL APPOINTMENT CONSIDERATION: **Senator Brackett** moved to send the Gubernatorial appointment of Jerry R. Meyers to the Idaho Fish and Game Commission to the floor with recommendation that he be confirmed by the Senate. **Senator Heider** seconded the motion. **Senator Stennett** cautioned the Committee regarding political party affiliation and to follow the statute. The motion carried by **voice vote**. Senator Brackett will be the floor sponsor.

GUBERNATORIAL APPOINTMENT CONSIDERATION: **Senator Heider** moved to send the Gubernatorial appointment of Gregory Clark Cameron to the Idaho Fish and Game Commission to the floor with recommendation that he be confirmed by the Senate. **Senator Bayer** seconded the motion. The motion carried by **voice vote**. Senator Anthon will be the floor sponsor.

PRESENTATION: **Roger Chase**, IWRB chairman, gave a PowerPoint presentation on Idaho Water Issues. **Mr. Chase** said that one of Idaho's greatest assets for sustainability is its water. Some of the existing problems affecting sustainability are: using more water than we have; protecting water quality; and educating people about water issues. Growing problems affecting sustainability are: climate variability; species issues; increased storage and reuse needs; and recreation and wildlife issues.

Mr. Chase talked about the adjudication of water rights in the Coeur d'Alene Basin. In the Coeur d'Alene area, studies are being conducted to defend our water as the state of Washington is aggressively looking for ways to take some of that water. A \$300,000 study is underway for the protection of Priest Lake. Lewiston and Moscow also have problems, as the aquifer under Moscow is being depleted very rapidly.

Mr. Chase said that one of their most successful programs is the salmon recovery efforts on the Lermhi River. A broad base of people helped with those efforts which included landowners, the Audubon Society, and the Bonneville Power Association. The salmon were brought back inexpensively and the project was done as a State project.

In the Bear River area, a small dam was rebuilt for efficiency. **Mr. Chase** said his greatest fear for the Bear River is the State of Utah wanting Idaho's water. **Mr. Chase** emphasized that Idaho needs to protect that water. **Mr. Chase** also said that we need to work hard to respect the State's current needs which are agriculture, industry, wildlife, and recreational opportunities.

Mr. Chase said that the Snake River Plain, from the Wyoming border to the Oregon border, is affected by what is done upstream and it is a complicated system. Thirty percent of the water comes from tributary underflow and seepage, with 70 percent coming from incidental recharge. **Mr. Chase** said one of the great challenges is taking care of the incidental recharge. The largest managed recharge site is at mile post 31, running at 200 cfs per day. When the structure is completed, it will be doubled in capacity.

Mr. Chase discussed the challenges to the aquifer stabilization. First, a water right is needed, then the infrastructure, which requires money. There are declines in aquifer levels which could hurt existing industries and cities, which could lead to possible curtailments in the future.

Swan Falls Dam was the next item to be discussed. It is the oldest dam on the Snake River to still be standing and was built when Silver City was conducting mining operations. There is an agreement with Idaho Power to keep the water flow at a certain level in the Snake River.

Another challenge is how cities use their water. **Mr. Chase** stated that cities and canal companies need to work together to better utilize city-owned canal shares. He suggested that cities be creative in reusing water and finding new water sources, such as planting species of trees and plants that require less water.

Mr. Chase listed the current projects that are underway in the Boise area and the Treasure Valley and remarked briefly about them. They include:

- Treasure Valley Aquifer Ground Water Model
- Cooperative Cloud Seeding Program
- Treasure Valley Recharge Study
- Eagle/Star Foothills Recharge Infiltration Study
- Treasure Valley DCMI Water Conservation Study
- Anderson Ranch Enlargement Feasibility Study
- Boise Project Board of Control Lake Lowell Water Conservation Project.

Mr. Chase indicated that the Mountain Home Air Force Base water supply and pipeline project is moving forward. IDWR is working on utility service agreements and the advisory work is in progress. **Mr. Chase** said that the entire project is on track for completion in 2021.

Mr. Chase said IDWR has found great success with cloud seeding. It started in Boise and is now used in the Wood River Valley and the Upper Basin. In some areas, IDWR is getting as high as ten percent more moisture. One station reported 14 percent. This is done in a cooperative manner with Idaho Power and the agricultural users.

Metering and monitoring are important parts of water management and conservation efforts. Meters are used to make sure the right amounts are being used by the groundwater pumpers. Domestic issues need to be addressed as there are 157,000 domestic wells, using 80 million gallons of water each day. **Mr. Chase** said that our water quality must be protected and also recognize that the water resources are limited. Stabilizing and recovering the aquifer will be difficult, but working together can make it happen.

GUBERNATORIAL APPOINTEE: **Chairman Bair** said the four Gubernatorial appointees to the Idaho Water Resource Board have been reappointed by the Governor and awaiting confirmation by the Senate. Their terms commenced January 1, 2017 and will expire on January 1, 2021. He invited Vince Alberdi to speak first.

Vince Alberdi is from Kimberly and said that the past eight years on IWRB has gone by quickly. He was an engineer and hydrographer for the North Side Canal Company from 1967 to 1971. From 1987 to 1992, he served as assistant manager for the same company. In 1992, he became the general manager at the Twin Falls Canal Company, serving there until 2008.

Mr. Alberdi said that recharge has been a challenge and what is frustrating is the time it takes for the infrastructure to be completed. **Mr. Alberdi** stated that he enjoys working on projects in his area, as well as projects within the State. Some of the projects that he sees are building on what they have learned. The knowledge gained thus far is helping to guide the IWRB.

Senator Siddoway said that he sincerely appreciates the work that Mr. Alberdi and the other IWRB members do for the State with regards to protecting Idaho's water.

Senator Heider asked how serving as general manager of the Twin Falls Canal Company has helped Mr. Alberdi to manage Idaho's water. **Mr. Alberdi** replied that he developed and learned about water and how it is managed, water rights, and issues within the State and it became a great base to gain the expertise that is needed to serve on the IWRB.

ACKNOWLEDGEMENT: **Chairman Bair** acknowledged and welcomed Representative Dell Raybould, Chairman of the House Environment, Energy and Technology Committee and member of the House Resources and Conservation Committee to the meeting.

GUBERNATORIAL APPOINTEE: **Albert Barker** stated that the nice thing about the IWRB that the Governor has assembled is that the IWRB has a diversity of interests, but all pulling together as a team. **Mr. Barker** said that he brings a different perspective to the IWRB as most of his work has been in Southwestern Idaho and Northern Idaho.

Chairman Bair asked what two critical issues are facing the IWRB that are in the Boise Valley. **Mr. Barker** said that growth and development in the Boise area that are without existing water rights are a concern and the IWRB needs to find a way to maximize the amount of water that this Basin can capture. **Mr. Barker** said the IWRB has been working with the U.S. Army Corps of Engineers (Corps) who are doing a study on it. The IWRB has reached out to the Corps, the Bureau of Reclamation, and water users in the Basin to find a way to accomplish capture in this Basin.

GUBERNATORIAL APPOINTEE: **Chairman Bair** thanked Mr. Barker and then welcomed Roger Chase and asked if he had any further comments. **Mr. Chase** said that he agreed with Mr. Barker in stating that the IWRB is a team trying to find solutions to the water issues.

Senator Siddoway said a concern of his with regard to the water problems in the State is increasing the storage of water in the upper regions and asked Mr. Chase for his thoughts on the subject. **Mr. Chase** responded by saying the IWRB probably doesn't talk enough about it. IDWR does have some ongoing projects. One is at Island Park Reservoir with the reservoir to be extended. Another project is with the Bureau of Reclamation to possibly raise the amount of water at Anderson Ranch Dam. Lost Valley, in the Weiser area, is being considered as another possible storage project. **Mr. Chase** also suggested using beaver ponds as a possibility for water storage.

Senator Brackett asked for an update on the Galloway Dam. **Mr. Chase** replied that the Board has become frustrated with what has happened with the Galloway Dam. The IWRB is trying to find ways to make it happen. The price of natural gas has been an obstacle. It is cheaper for the power companies to build hydro plants than it is to build dams. Also, opposition from federal officials regarding using that water for fish flush has been a problem and IDWR is working to resolve that issue.

GUBERNATORIAL APPOINTEE: John Stevenson was the next appointee to speak. **Mr. Stevenson** is from Rupert and apologized for not bringing forth some of the solutions that Chairman Bair and others suggested for the ground water agreement. For 20 years, the IWRB thought it was more prudent to pay technicians and attorneys, rather than to sit down and resolve the issues. **Mr. Stevenson** thanked Chairman Bair and Speaker Bedke for their suggestions.

Mr. Stevenson said he appreciates being able to serve on the IWRB and doesn't bring anything different to the IWRB, except he has been at it for more years than most. **Mr. Stevenson** said the water in the State is one of the most critical issues to solve. He thanked the Legislature for providing money to make projects happen.

Chairman Bair said one issue is the flood curve that is decades old. With the climate changing and the snow coming off earlier, he asked if there has been discussions to try to adjust the flood curves so that they more accurately depict what is actually happening. **Mr. Stevenson** responded by saying the Bureau of Reclamation is extremely careful in making adjustments. **Mr. Stevenson** said IWRB have talked about using some of the water that comes below Minidoka, as well as some of the water above. A lot of the water below Milner Dam is made available for recharge and is used for power production for the Bureau of Reclamation. **Mr. Stevenson** indicated that IDWR could compensate in other areas.

PRESENTATION: **Chairman Bair** welcomed Director Spackman and turned the meeting over to him.

Director Spackman stated that it was always a pleasure to meet with the Committee and he appreciates the support and friendship. **Director Spackman** said that he wanted to express his admiration for the IWRB and the amount of work that they are doing.

Director Spackman said that several questions had been raised during Mr. Chase's presentation. One of the questions was regarding the completion date of the adjudication in North Idaho. **Director Spackman** said that his estimation is 10 to 15 years and it also depends if there is an expansion into the Pend Orielle River Basin. IDWR received financial authorization by the Joint Finance and Appropriations Committee to move into the Palouse Basin and the Attorney General's office has filed a petition for the opening of the adjudication.

The second question was regarding metering on domestic wells. IDWR has no desire to meter single family domestic wells as it would be an astronomical job that IDWR would not want to take on, both in terms of manpower and collection of data. **Director Spackman** feels the IDWR can estimate the amount of usage, rather than using meters on every single domestic well.

Flood control rule curves and changes was another question that was raised. **Director Spackman** said that he knows of one area, the Ririe Reservoir, that the U.S. Army Corps of Engineers has been willing to look at the rule curves and has been able to adjust some of the releases from the reservoir. This is contingent upon the water users keeping the Willow Creek channel open. There is a congressional effort to authorize the Corps to modify the flood control rule curves on the reservoir.

Director Spackman referred to charts and graphs, using the PowerPoint presentation, relating to snow depth and water content in the various river basins. All the basins from the Owyhees to Bear River have more than 100 percent of snow water equivalent. Basins that are north of the Eastern Snake Plain are nearly all in excess of 100 percent. Basins north of the Boise, Big Lost, and Big Wood are all less than 100 percent. **Director Spackman** said that it is alarming to look at the Panhandle area as it is at 63 percent. It could be a low water year for Priest Lake and monitoring will be needed.

Director Spackman said that he spent time on the road with some of his staff and talked to some of the legislators about the possible creation of a ground water management area and also an area that would encompass all the tributary basins, as well. **Director Spackman** indicated that in November 2016, he issued an order that did create an Eastern Snake Plain Aquifer Ground Water Management Area.

Director Spackman referred to a graph regarding pending applications for transfer with IDWR. An early goal as Director was to bring the backlog down and 100 pending applications is viewed as being probable maintenance.

Other notable events include:

- Surface Water Coalition Delivery Call Settlement Agreement - Ground Water Users' Plans
- Settlement of Hagerman Valley Spring Users Delivery Calls
- Reservoir Refill After Flood Control Releases - Litigation
- Excessive Releases by the Bureau of Reclamation from Palisades Reservoir During Fall and Winter
- Stock Water Rights on Federal Lands.

Director Spackman's remarks regarding notable events are summarized as follows:

- The Ground Water Users' plans for implementation are credible. If the plans are implemented, they should make a difference in the water levels in the aquifer.
- The Hagerman Valley settlement regarding delivery calls has one agreement left and it is on the table.
- The flood control releases are a complex issue and he will talk individually to the Committee members.
- A letter was sent to the Bureau of Reclamation objecting to the excessive releases.

- Stock water rights are being pursued by Senator Brackett and the Director made no comment.

Director Spackman thanked Chairman Bair and the Committee for the opportunity to update them on Idaho's water issues. **Chairman Bair** requested a copy of the letter sent to the Bureau of Reclamation and thanked the IWRB and the Director for their presentation.

Senator Siddoway thanked Director Spackman and stated that his concern is regarding the settlement agreement of the individuals who volunteered to reduce their utilization of the water. **Director Spackman** replied that there are credible plans that have been put together. Whether the users execute on those plans is another question. **Director Spackman** said that he shares the Senator's fear, but it is not the job of the IDWR to go out and enforce the terms of those individual agreements and implementation in each of the groundwater districts.

Senator Stennett inquired as to the priority sites for recharge. **Director Spackman** said that one of the most important factors is water availability. The second priority is retention time in the aquifer. Another factor is the ability of the ground to accept the recharge water. The IWRB's focus is on the reach between the American Falls Reservoir and Milner Dam, which include the Milner-Gooding Canal, the Northside Canal, the Twin Falls Canal, and the Southwest Irrigation District. **Director Spackman** said those are the four entities where the IWRB has focused because of the water availability and areas where the water will stay in the aquifer over a long period of time.

Chairman Bair thanked Director Spackman for his presentation and said that at a future date, a presentation may be made on the status of recharge and the progress that is being made. **Chairman Bair** said that he would like to give the IWRB an "A" on their report card, meaning the IWRB is doing an exceptional job.

ADJOURNED: There being no further business at this time, **Chairman Bair** adjourned the meeting at 2:55 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

AMENDED AGENDA #1
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, February 01, 2017

SUBJECT	DESCRIPTION	PRESENTER
Minutes	Approval of Minutes, January 23, 2017	Senator Bayer
Gubernatorial Appointment Consideration	Vince Alberdi, Albert Barker, Roger Chase, and John Stevenson were reappointed to the Idaho Water Resource Board to serve terms commencing January 1, 2017 and expiring January 1, 2021.	
	DEPARTMENT OF ENVIRONMENTAL QUALITY, Continued	
<u>Docket No. 58-0103-1501</u> <u>S 1028</u>	Approving and overseeing service providers	Barry Burnell, DEQ
	Underground storage tank program fund	Mike McCurdy, DEQ
	IDAHO DEPARTMENT OF LANDS	
Gubernatorial Appointment Hearing	Margaret Gail Chipman, Weiser, Idaho was reappointed to the Oil and Gas Commission to serve a term commencing July 1, 2016 and expiring July 1, 2020.	
<u>Docket No. 20-0701-1601</u>	This rulemaking repeals the entire rule and it no longer governs actions by the Idaho Oil and Gas Conservation Commission.	Eric Wilson, Bureau Chief, IDL
<u>Docket No. 20-0316-1601</u>	Proposed rule clarifies lease nomination and lease auction process; allows for lease length; improves lease language; adjusts lease tract application fee; updates definitions, and adjusts rule formatting.	Mike Murphy, Bureau Chief, IDL
<u>Docket No. 20-0214-1601</u>	Recent policy changes from the Land Board have resulted in the department no longer presenting individual sales to the board for approval unless they fall outside established land board policies.	David Groeschl, Deputy Director, IDL

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Bair	Sen Bayer
Vice Chairman Vick	Sen Johnson
Sen Siddoway	Sen Stennett
Sen Brackett	Sen Jordan
Sen Heider	

COMMITTEE SECRETARY

Juanita Budell
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MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, February 01, 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. and said consideration of the four Gubernatorial appointments would be the first order of business.

GUBERNATORIAL APPOINTMENT CONSIDERATION: **Senator Brackett** moved to send the Gubernatorial appointment of Vince Alberti to the Idaho Water Resource Board to the floor with recommendation that he be confirmed by the Senate. **Senator Heider** seconded the motion. The motion carried by **voice vote**. Senator Heider will be the floor sponsor.

GUBERNATORIAL APPOINTMENT CONSIDERATION: **Senator Stennett** moved to send the Gubernatorial appointment of Albert P. Barker to the Idaho Water Resource Board to the floor with recommendation that he be confirmed by the Senate. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**. Senator Stennett will be the floor sponsor.

GUBERNATORIAL APPOINTMENT CONSIDERATION: **Senator Stennett** moved to send the Gubernatorial appointment of Roger Chase to the Idaho Water Resource Board to the floor with recommendation that he be confirmed by the Senate. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**. Senator Stennett will be the floor sponsor.

GUBERNATORIAL APPOINTMENT CONSIDERATION: **Senator Heider** moved to send the Gubernatorial appointment of John Albert Stevenson to the Idaho Water Resource Board to the floor with recommendation that he be confirmed by the Senate. **Senator Brackett** seconded the motion. The motion carried by **voice vote**. Chairman Bair will be the floor sponsor.

MINUTES APPROVAL: **Senator Bayer** moved to approve the minutes of January 23, 2017. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT HEARING: Margaret Gail Chipman, Weiser, was reappointed to the Oil and Gas Commission to serve a term commencing July 2, 2016 and expiring July 1, 2020. **Ms. Chipman** said that she was appointed by the Governor in July 2013 when the Commission was first established as a separate entity from the Land Board and has served as vice chairman since that time. **Ms. Chipman** stated that she has attended all 27 regular and special meetings of the Oil and Gas Commission.

Ms. Chipman said she is currently serving her 24th year on the Weiser School Board and was recently elected as president of the Idaho School Board Association. She has also served for three years on the Professional Standards Commission for the State Department of Education. In addition, **Ms. Chipman** said she is the treasurer of the Fruitland PEO Chapter and also treasurer of the Shamrock Club, a group who maintains the historic Jeffreys Schoolhouse in Weiser.

Ms. Chipman, born and raised in Moscow, graduated from the University of Idaho in 1967 with a bachelor's degree in Business. After her marriage to Gary Chipman, they moved to Southern Idaho, then settled in Weiser in 1971. **Ms. Chipman** said that she is a retired LPN and Pharmacy Tech. She and her late husband spent 45 years in the cattle feeding and ranching business. **Ms. Chipman** stated that she enjoys gardening and visiting the Capitol during the Legislative session.

Ms. Chipman said she serves as a representative of landowners with mineral rights and has worked hard to gain knowledge in the area of oil and gas by observing first-hand operations of the Commissions in North Dakota and Utah. Ms. Chipman has approved and participated in a thorough evaluation of Idaho's oil and gas programs conducted by the State Oil and Gas Regulatory Exchange (SOGRE). The evaluation is a study of Idaho's gas and oil statutory authority, implementing regulations, administrative procedures, staffing, and funding.

Ms. Chipman said the Commission's goals are: developing effective regulations; establishing organization wide expertise; and building partnerships consistent with the Commission's mission. **Ms. Chipman** said that her personal goal is to learn more and to further educate herself on oil and gas issues.

Senator Stennett inquired about the repealing of the oil and gas rules. **Ms. Chipman** said the part that is being repealed will hopefully be replaced by the rules that have been promulgated through the hearing process. **Senator Stennett** then asked Ms. Chipman what she might have done differently. **Ms. Chipman** replied that they have streamlined the hearing process and that should make it much better.

Senator Siddoway asked Ms. Chipman if she attended the negotiated rulemaking process that was held this past summer. **Ms. Chipman** replied that she did not attend any of those meetings. She felt that because the rules would be coming before the Commission, she should not be a part of the rulemaking. **Senator Siddoway** said that most of the Committee members have been approached by landowners in the area of exploration. He asked Ms. Chipman if she was confident that the landowners would be treated equitably and fairly. Some of their concerns include proper metering, land being drained, and geologic formations. **Ms. Chipman** said that the Commission shares those same concerns and the rules are not perfect rules. A report will be forthcoming and it substantiates the rules and regulations.

Chairman Bair thanked Ms. Chipman for her service on the Oil and Gas Commission and said that voting on Ms. Chipman's appointment would take place at the Committee's next meeting.

S 1028

Mike McCurdy, Waste Management and Remediation Division Administrator for the Department of Environment Quality (DEQ), presented **S 1028** and said this is a proposed amendment to the Idaho Underground Storage Bill Act. This bill allows DEQ to collect fees for the underground storage tanks. Fees are not to exceed \$100 per tank per year and any fee balance in excess of \$35,000 on December 31 will be applied to reduce the following year's fees. Idaho has about 3,375 underground storage tanks in 1,180 facilities.

This legislation will establish a dedicated fund for underground storage tank fees to provide for better accountability and transparency. With the Statewide Accounting and Reporting System (STARS), DEQ will be able to complete an accurate fee expenditure report. In addition, a dedicated fund will earn interest which may increase the fund's balance and decrease fees in subsequent years.

Chairman Bair said to make things clear, legislation and rules were passed last year dealing with underground storage tanks and the creation of a fund was overlooked. **S 1028** creates a fund for the fees that are to be collected.

MOTION:

Senator Brackett moved that **S 1028** be sent to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**. Senator Brackett will be the floor sponsor.

PASSED THE GAVEL:

Chairman Bair passed the gavel to Vice Chairman Vick.

DOCKET NO. 58-0103-1501

Vice Chairman Vick welcomed Barry Burnell, Water Quality Division Administrator, DEQ. **Vice Chairman Vick** said there was no need to review **Docket No. 58-0103-1501** in its entirety, as it had been thoroughly covered in a previous meeting. He asked for a condensed overview.

Mr. Burnell said this rule changes in how DEQ oversees and manages service providers for complex alternative septic systems and moves away from an operation and maintenance approach. In the service provided approach, there is a certificate that is issued to individuals during the licensing process as licensed system installers.

The question that was raised at the previous meeting was about licensing and permitting. **Mr. Burnell** stated that he reviewed the Environmental Protection and Health Act and found three sections of that Act that provided authority to DEQ's director to prepare rules for the control of water pollution. Section 39-105 states the power and duties of the director, and in subsection 2 it says that the director shall formulate and recommend to the DEQ board rules as may be necessary to deal with problems related to water pollution, licensure, and certification requirements. Subsection 3 says the powers and duties of the director shall include the issuance of licenses and permits as prescribed by law and by rules. Section 39-115 states that the director shall have the authority to issue pollution source permits. **Mr. Burnell** said those are the portions of Idaho Code that address licensure and certification.

MOTION:

Chairman Bair moved to approve **Docket No. 58-0103-1501**. **Senator Siddoway** seconded the motion. **Chairman Bair** said that he wanted to thank Mr. Burnell for going the second mile regarding the question about authority and it is nice to know that all is in order. The motion carried by **voice vote**. **Vice Chairman Vick** said that he echoes the sentiments of Chairman Bair.

DOCKET NO. 20-0701-1601

Eric Wilson, Resource Protection and Assistance Bureau Chief, Idaho Department of Lands (IDL) presented **Docket No. 20-0701-1601**. **Mr. Wilson** said that IDL is the administrative agency for the Idaho Oil and Gas Conservation Commission. The Commission's duty under Idaho Code § 47-3 is to prevent waste during the exploration and development of oil and gas resources, protect the correlative rights of mineral owners, and protect fresh waters during oil and gas development on all federal, state, and private lands in Idaho.

Mr. Wilson stated that on July 21, 2016, the Oil and Gas Conservation Commission directed the IDL to enter into rulemaking to repeal IDAPA 20.07.01. These are the Rules of Practice and Procedure before the Idaho Oil and Gas Conservation Commission. These rules went into effect in 1992, and predate the Administrative Procedures Act, also called the APA. The APA has therefore superseded these rules. **Mr. Wilson** said that during the 2016 Legislative Session, changes to Idaho Code § Title 47, Chapter 3, modified how administrative proceedings take place. As a result, 20.07.01 no longer governs actions by the Idaho Oil and Gas Conservation Commission. Repealing this rule section clarifies administrative processes.

Mr. Wilson stated that if necessary, IDL may bring forward a new set of rules to govern proceedings before the Idaho Oil and Gas Conservation Commission at a later date.

Senator Jordan asked for clarification regarding the repeal of the rules. **Mr. Wilson** said that the APA supersedes these rules and the rules are no longer needed.

Senator Stennett inquired as to how many people provided comments. **Mr. Wilson** indicated that no comments were received on this issue.

TESTIMONY:

Ms. Shelley Brock, an Eagle resident, stated that IDL is attempting to pass new rules and laws to protect the industry over the private property owners. **Ms. Brock** said she doesn't understand why rules are being repealed that offer more protection than the ones that have been worked on all summer that are about to be implemented. **Ms. Brock** said that inadequate setbacks need to be addressed more thoroughly and there are also serious issues where the industry is able to classify its trade secrets, not only the hazardous chemicals that they will be able to use to treat and stimulate these wells, but also to classify as trade secret the proof that they have contained their 55 percent mandated lease acres in a section.

Ms. Brock said that it has been three and one-half years since Alta Mesa reported their first production in Payette County and the landowners have no idea how much Alta Mesa has pulled out of the ground and how much the taxpayers of Idaho may have been shorted through inaccurate reporting or inaccurate classification. **Ms. Brock** also stated that she learned just recently that some of the large landowners in Payette County were not offered the option of becoming working-interest owners, even though these are folks who could afford to put money upfront. **Ms. Brock** said the bottom line is that the State is setting very explicit protection for themselves, but is not giving property and mineral owners and taxpayers the same protection. The State is required, by law, to protect correlative rights and this includes mineral rights and private property rights. **Ms. Brock** concluded her testimony by saying it sounds to a lot of people like it is the fox guarding the hen house, but in her opinion, it is the fox designing the hen house. She asked the Committee to reject the repeal.

MOTION:

Senator Siddoway moved to approve **Docket No. 20-0701-1601**. **Chairman Bair** seconded the motion. The motion carried by **voice vote**. **Senators Stennett and Jordan** asked to be recorded as voting no.

**DOCKET NO.
20-0316-1601**

Mike Murphy, Endowment Leasing Bureau Chief, IDL, presented **Docket No. 20-0316-1601**. On May 17, 2016, the Land Board approved a request from IDL to enter negotiated rulemaking. Two negotiated rulemaking meetings were held in July. Attendees included industry members and members of the public.

Mr. Murphy said that changes reached through the negotiated rulemaking include:

- Rule language now points to Idaho Code § 47-801 to establish lease length. Previous rule language and current Idaho Code list a lease term of 10 years. IDL has submitted legislation to allow for oil and gas lease terms of "up to" 10 years. This change gives IDL discretion to issue shorter leases when in the best interest of the endowed beneficiary.
- Nomination fees were increased from \$25.00 to a minimum of \$250.00 per nomination, as set by the Land Board.
- Processing fees for assignments were increased from \$5.00 to a minimum of \$100.00 per lease, as set by the Land Board.

- Annual rental rates were increased from \$1.00 per acre to \$3.00 per acre, with a minimal annual rental payment of \$250.00.
- Lease boundaries are no longer limited to a single section, but will have a maximum size of 640 acres.
- IDL now has discretion to combine nominated tracts into one lease.
- Annual shut-in fees are now twice the rental rate.
- On-line auctions are now recognized as a method for holding lease auctions.
- Definitions were clarified and the rules were reorganized to clarify the nomination and auction process.

Mr. Murphy said that a public hearing was held in October and IDL directly emailed more than 80 parties interested in oil and gas issues. Two written comments were received, but one was provided by IDL to address a conflict with the Idaho Public Records Act. Following review by the Office of the Attorney General, this rule section was stricken.

Mr. Murphy stated that the second comment letter received came from the Idaho Conservation League (ICL). ICL requested an explicit prohibition of surface occupancy on state lands serving a dedicated purpose in order to protect the dedicated use from degradation by oil and gas infrastructure. IDL agrees dedicated uses should be protected; however, IDL maintains that such a prohibition is unnecessary because IDL already has the ability to develop specific lease stipulations, in coordination with other state agencies, to address any concerns related to impacts by oil and gas development on dedicated uses or environmentally sensitive areas.

Mr. Murphy said that ICL also requested prohibition of surface occupancy on lands with split surface and mineral estates. IDL does not support this change based on Idaho Code § 47-708 which identifies the rights of state lessees of mineral rights to prospect and mine subsurface minerals and also sets forth the lessee's duties and liabilities for any damages caused to the improvements of the surface owner. Oil and gas is included in the definition of a "mineral" within this statute.

Mr. Murphy said that additionally, IDAPA 20.07.02.110 - Conservation Governing Conservation of Oil and Natural Gas in the State of Idaho, provides for surface owner notification and states that if no surface use agreement exists, surface owner protection in the form of a minimum \$5,000 bond is paid to IDL to safeguard against the surface owner's potential loss. **Mr. Murphy** stated that it is common practice, however, for oil and gas lessees to enter into a surface use agreement to identify the specific uses that can occur on the surface in exchange for compensation.

Mr. Murphy said that ICL also commented that Section 050.04 of the proposed rule identifies a setback of 200 feet from a residence for oil and gas wells. The pending rule for IDAPA 20.07.02 identifies a 300 foot setback. ICL recommended consistency across both sets of rules. IDL agrees, and determined the best approach was to delete Section 050.04 of this rule in its entirety, with recognition that IDAPA 20.07.02 pending rules will be in place, if approved, and that IDL maintains the ability to impose a stricter setback, if warranted, through lease stipulations on a case-by-case basis.

Senator Stennett questioned the increase in fees. **Mr. Murphy** replied that IDL reviewed other states' fees and chose to be in the middle range. **Senator Stennett** inquired if this increase would be a break-even point for IDL. **Mr. Murphy** replied that the fees that IDL is addressing are cost recovery fees.

MOTION:

Chairman Bair moved to approve **Docket No. 20-0316-1601**. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
20-0214-1601**

David Groeschl, Deputy Director and State Forester, IDL, said that **Docket No. 20-0214-1601** deals with the sale of forest products on state-owned endowment lands. Revisions to these rules were driven by three factors. First, the Land Board timber sale approval process was modified and streamlined about a year ago based on recommendations by the Land Board's general consultant, Callan Associates. Language in IDAPA 20.02.14 was revised to reflect this new streamlined timber sale approval process.

Mr. Groeschl said the second factor for the revisions were several of the definitions and sale descriptions contained in the rule were updated. Third, Sections 024 and 025 of the rules dealing with the sale of cedar poles has been an area of concern for many years because the current rules:

- limit competitive bidding because of scale conversion and non-bidding requirements that favor one sector of the forest products industry;
- increase management costs and limit IDL's management options;
- result in more site disturbance and stand damage by always requiring an additional entry to remove cedar poles rather than allowing for other possible sale options;
- and most importantly, the current rules are inconsistent with IDL and the Land Board's constitutional duty to maximize long-term returns to the beneficiaries.

To alleviate these concerns, **Mr. Groeschl** said that Sections 024 and 025 were stricken in the pending rule.

Mr. Groeschl stated that discussions regarding possible cedar pole rule changes began more than two years ago with a preliminary meeting between IDL and the two cedar pole companies still operating in Idaho, McFarland Cascade and Bell Timber. To establish a starting point for negotiated rulemaking, two preparatory meetings were held in May 2016, followed by two proposed rule hearings in Moscow and Sandpoint during August 2016. IDL also met with District 1 and District 5 legislators to inform them of the negotiated rulemaking effort and to answer questions. IDL approved the current pending rule language on November 15, 2016.

Since the Land Board's approval of the pending rule, IDL has met with McFarland Cascade and others, upon their request, to discuss the pending rule and IDL's plan for selling cedar poles. The letter from Director Schultz to McFarland Cascade, dated January 27, 2017, describes IDL's plan for offering cedar poles over the next two fiscal years, 2018 and 2019.

Mr. Groeschl said that in order to evaluate how best to meet IDL's fiduciary obligation to maximize the long-term return to the endowment beneficiaries, IDL plans to conduct a two-year pilot program that compares two different methods of selling cedar poles through both a single and dual entry approach.

Consistent with the existing Land Board policy of offering 20,000 cedar poles per year, approximately 10,000 poles will be offered each year using a single entry approach and approximately 10,000 poles will be offered each year using a dual entry approach. The data gathered during this two-year pilot program on both sale methods will help IDL determine the most efficient, effective and profitable approach to selling cedar poles on state-owned endowment lands. This data will also help IDL establish a cedar pole policy consistent with its fiduciary duty. This proposed pilot program cannot be implemented without approval of the pending rule.

Mr. Groeschl said that in conclusion, IDL believes approval of this pending rule will generate more revenue for the endowment beneficiaries over time by:

- removing unnecessary restrictions to allow for increased competition to determine the highest and best use of all forest products, including cedar poles;
- reducing timber sale administrative costs, shortening rotations and regeneration delays, and reducing environmental impacts; and
- by allowing implementation of IDL's cedar sale pilot program to compare different methods of selling cedar poles which will help determine the most efficient, effective and profitable approach to selling cedar poles on state-owned endowment lands.

Senator Siddoway asked what was the conflict and how this compromise resolved that conflict. **Mr. Groeschl** stated that the current rules are very prescriptive in setting the requirements in how IDL removes cedar poles, which is by a separate timber sale. There is also a scale conversion issue. Also in the current rules, the pole companies are not required to competitively bid on the non-cedar saw logs that are removed when the cedar quality pole trees are cut.

Senator Brackett said that he applauds the IDL for the pilot project to determine which approach is best for the endowment and suggested IDL wait and see which way is the best. **Mr. Groeschl** said that under the current rules, the pilot project could not be implemented. By approving the pending rules that are before the Committee, it allows IDL to continue to offer the poles and compare the methods of how the poles are offered.

Senator Stennett asked if the number of 20,000 poles offered each year is sufficient or if it should be increased or decreased. **Mr. Groeschl** responded by saying that at this point, IDL has met that commitment most years; however, some years, 23,000 poles were offered and other years, only 17,000 poles were offered. **Mr. Groeschl** said that as IDL shortens their rotations and look at the sustained yield for the next two years, IDL can determine what that number should be.

Senator Johnson stated that his question is in regards to the design of the pilot project and what will happen to the competition in the next two years and how will the poles be offered for sale. **Mr. Groeschl** said that if the pending rule is approved, IDL foresees increased bidding and the highest bidder can determine how they will remove the timber.

Senator Johnson inquired as to where the bidders come from. **Mr. Groeschl** said that he anticipates the bidders would be from the Northwest area.

TESTIMONY: **Jon Younce**, Vice President, McFarland Cascade, testified in support of **Docket No. 20-0214-1601**, IDL's pilot program for selling cedar poles. **Mr. Younce** said that McFarland Cascade believes that the program is a well designed task to benchmark two methods of selling cedar. McFarland Cascade no longer opposes the 1986 cedar pole rule, as they feel some points had become outdated. **Mr. Younce** stated that McFarland Cascade has confidence in IDL's Land Board and the Legislature to make good decisions for the endowment when provided with accurate financial information. **Mr. Younce** said that he would be happy to provide the Committee with an update on the pilot program in one year and McFarland Cascade will work with IDL to ensure that the pilot program is a success.

TESTIMONY: **Jeremy Chou**, Givens-Pursley lobbyist and also representing McFarland Cascade, testified in support of **Docket No. 20-0214-1601**.

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 2:55 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, February 06, 2017

SUBJECT	DESCRIPTION	PRESENTER
Minutes	Approval of Minutes, January 25, 2017	Senator Johnson
Gubernatorial Appointment Consideration	Margaret Gail Chipman, Weiser, was reappointed to the Oil and Gas Commission to serve a term commencing July 1, 2016 and expiring July 1, 2020.	
Gubernatorial Appointment Hearing	Conference Call: Craig Hill, Priest Lake, was reappointed to the Lake Pend Oreille Basin Commission to serve a term commencing July 24, 2016 and expiring July 24, 2019.	
S 1027	F&G, license, tags, permits provisions revised	Sharon Kiefer, Deputy Director, IDFG

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Bair	Sen Bayer
Vice Chairman Vick	Sen Johnson
Sen Siddoway	Sen Stennett
Sen Brackett	Sen Jordan
Sen Heider	

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
Phone: 332-1323
email: sres@senate.idaho.gov

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, February 06, 2017

TIME: 1:30 P.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: Senators Siddoway and Johnson

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 January 25, 2017. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT CONSIDERATION: **Senator Heider** moved to send the Gubernatorial appointment of Margaret Gail Chipman to the Oil and Gas Commission to the floor with recommendation that she be confirmed by the Senate. **Senator Stennett** seconded the motion. The motion carried by **voice vote**. Senator Jordan will be the floor sponsor.

GUBERNATORIAL APPOINTMENT HEARING: **Chairman Bair** announced that the Committee would go at ease until a conference call is received from Craig Hill. Mr. Hill has been reappointed by the Governor to the Lake Pend Oreille Basin Commission to serve a term commencing July 24, 2016 and expiring July 24, 2019.

Mr. Hill's resume was reviewed by the Committee while at ease. The resume contained the following information:

- Graduate of Priest River High School
- Attended the University of Idaho and Eastern Washington University
- Priest Lake Chamber of Commerce - Past President
- West Priest Lake Fire Department - Commissioner/Chairman
- West Bonner County Groomer Advisory Board - Member
- Kalispel Bay Water and Sewer District - Past Board Member
- Lakes Commission - member
- Cub Scouts - Past leader
- Hill's Resort - Owner/Manager
- Priest Lake Golf Course - Owner/President

Mr. Hill called in from Priest Lake and said that he appreciated being reappointed by the Governor to the Lake Pend Oreille Basin Commission (Commission). **Mr. Hill** stated that the Commission is a good group for the area and meets quarterly. The attendance at the meetings has grown from six to ten people to over fifty. The Commission has proven to be a sounding board for the community.

Mr. Hill said the current "hot button" issue is the lake level of Lake Pend Oreille. Also, the Commission is trying to reconstruct the breakwater at the north end of Priest Lake that will allow access to Upper Priest Lake. This project has been underway for several years and it now seems to be coming together. The operation of Albeni Falls Dam is an area of interest to the people in Sandpoint, as it affects the recreation on Lake Pend Oreille and the Pend Oreille River.

Chairman Bair inquired if the Commission has had discussions with Gary Spackman, Director of the Idaho Department of Water Resources (IDWR) regarding the thoroughfare breakwater. **Mr. Hill** said IDWR and Director Spackman are familiar with the project and are supportive.

Chairman Bair announced that voting would not need to be delayed until the next meeting, as the candidate is not in the audience.

MOTION:

Senator Heider moved to send the Gubernatorial appointment of Craig Hill to the Lake Pend Oreille Basin Commission to the floor with recommendation that he be confirmed by the Senate. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**. Senator Keough will be the floor sponsor.

S 1027

Sharon Kiefer, Deputy Director, Idaho Department of Fish and Game (IDFG) presented **S 1027**. **Ms. Kiefer** said the primary element of this bill is to make the distinction between black bear and grizzly bear in several provisions of Title 36 in expectation of the delisting of Yellowstone Ecosystem grizzly bear. IDFG views this bill consistent with the State of Idaho Yellowstone Grizzly Bear Management Plan approved by the Idaho Legislature in 2002. The adequacy of existing regulatory mechanisms is one of the factors the U.S. Fish and Wildlife Service must evaluate in delisting decisions and this bill does address that factor within the Fish and Game Commission's authority. **Ms. Kiefer** stated that **S 1027** does not delist Yellowstone grizzly bear nor does it open any hunting season for delisted Yellowstone grizzly bear.

Ms. Kiefer said this bill also removes some references about nonresident disabled American Veteran licensing rendered obsolete by S 1278 in 2014. Also amended are taxidermist and furbuyer license requirements to include certain reporting for grizzly bear and wolves. This bill also increases the timeframe for reporting the control of depredating wolves when no permit is required.

Ms. Kiefer said there is no fiscal impact to the General Fund or to the fish and game dedicated fund because elements of the bill with a fiscal effect, such as penalty provisions for "waste", are not implementable until Yellowstone Ecosystem grizzly bears are delisted and the Fish and Game Commission has set a hunting season.

Ms. Kiefer provided a summary of the Sections of the bill. **Ms. Kiefer** concluded her remarks by saying that IDFG believes the grizzly bear provisions of the bill are in line with IDFG's conservation and management of other big game species and the Fish and Game Commission supports **S 1027**.

Senator Stennett inquired if the delisting involves the grizzly bear population of the entire state or just the Yellowstone population. **Ms. Kiefer** stated that it is exclusive to the Yellowstone Ecosystem grizzly bear.

Senator Stennett said in the 2002 report about grizzly bears, 43 percent of them died by human cause. A portion of that was illegal take. **Senator Stennett** asked if in the management plan if there will be more rigor about human cause. **Ms. Kiefer** replied that certainly, there will be rigor and it will be similar to the once-in-a-lifetime harvest species.

TESTIMONY:

John Robison, Public Lands Director, Idaho Conservation League (ICL), testified in opposition of **S 1027**. **Mr. Robison** said since 1975 there has been a tremendous amount of time and resources in the recovery of the Yellowstone population of grizzly bears. ICL agrees that this represents a success story of the Endangered Species Act and that the Yellowstone population should be removed from the Endangered Species list. Once delisted, states will assume management responsibility and must have robust plans in place to endure that population recovery continues. **Mr. Robison** said that **S 1027** adds grizzly bears to the list of species that can be trophy hunted if delisted. Prior to a delisting decision, states are required to develop laws that relate to management of this species. Hunting is one, but not the only, management strategy states can use.

Mr. Robison said that Wyoming and Montana developed state management plans within the last two years. Those plans employ a suite of management tools including mandatory hunter identification courses, education on living and recreating in bear country, and common sense measures to minimize conflict. **Mr. Robison** stated that Idaho is relying on an out-of-date plan that was developed 15 years ago. Idaho's plan lacks consistency with the U.S. Fish and Wildlife Service Conservation Strategy and does not incorporate lessons learned over the last 15 years as it relates to habitat needs, food security, and conflict avoidance. **Mr. Robison** said that if Idaho fails to update and implement appropriate management practices, the decision to remove the Yellowstone grizzly from the endangered species list could be vulnerable to litigation that will delay the delisting process.

Mr. Robison said that ICL noted that the term "molesting" in this bill is only defined in Idaho Code, § Section 36-1107(c) in reference to gray wolves. Assuming a similar definition for "molesting" by grizzly bears, to allow take without a permit, **S 1027** is in conflict with the Tri-state MOU for grizzly. **Mr. Robison** said the agreed upon MOU language reads: "A permit is required for response to depredation unless self-defense/defense of property under threat to human life or domestic animal." **Mr. Robison** went on to say that **S 1027** currently reads that grizzly can be taken without a permit if molesting or attacking.

Mr. Robison indicated that the vagueness implies that if a bear was crossing a backyard and a dog inside a house started barking, the owner could shoot the bear without a permit because it was "worrying" the dog. **Mr. Robison** said this is in direct conflict with the MOU language. For this amendment to be consistent with the Tri-state MOU and the 2016 Conservation Strategy, the word "molesting" needs to be omitted.

Mr. Robison said that ICL encourages the Committee to hold **S 1027** in committee and to direct IDFG to update the State's management plan and to revise the language dealing with "molesting." The State of Idaho can and should be a leader in this delisting process by employing a suite of management tools that help reduce conflict rather than relying on a singular tool as the primary management tactic. **Mr. Robison** said that once a sound management plan is in place, only then should rules be amended to include trophy hunting as a management tool.

MOTION:

Vice Chairman Vick moved that **S 1027** be sent to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **voice vote**. **Vice Chairman Vick** will be the floor sponsor. **Senators Stennett and Jordan** asked to be recorded as voting nay.

ADJOURNED: There being no further business at this time, **Chairman Bair** adjourned the meeting at 2:30 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

AMENDED AGENDA #2
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, February 08, 2017

SUBJECT	DESCRIPTION	PRESENTER
Minutes	Approval of Minutes - January 30, 2017	Sen. Brackett
Remarks	Idaho Department of Parks and Recreation Director	David Langhorst
Gubernatorial Appointment Hearing	Michael Boren, Boise, was appointed to the Parks and Recreation Board to serve a term commencing July 7, 2016 and expiring July 1, 2018.	
Gubernatorial Appointment Hearing	Gordon O. Hansen, Burley, was appointed to the Parks and Recreation Board to serve a term commencing April 7, 2016 and expiring June 30, 2019.	
RS25200C1	No net loss of private property	Sen. Vick
RS25196	Provides that certain state lands shall be subject to specified law for the levy and collection of assessments.	Norm Semanko
RS25197	Amends Sections 43-1101, 43-1104, 43-1107, revises provisions, and makes technical corrections.	Norm Semanko
Presentation	Good Neighbor Authority David Groeschl, Deputy Director, Idaho Dept. of Lands Leanne Marten, Regional Forester, Missoula, Montana	

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Bair	Sen Bayer
Vice Chairman Vick	Sen Johnson
Sen Siddoway	Sen Stennett
Sen Brackett	Sen Jordan
Sen Heider	

COMMITTEE SECRETARY

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MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, February 08, 2017

TIME: 1:30 P.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: Senator Siddoway

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.

MINUTES APPROVAL: **Senator Brackett** moved to approve the Minutes of January 30, 2017. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

PRESENTATION: **Chairman Bair** welcomed David Langhorst, Director, Idaho Department of Parks and Recreation (IDPR). **Chairman Bair** noted that Director Langhorst was a former Senator and member of this Committee, then asked Director Langhorst to address the Committee and to also introduce IDPR's staff and Board members.

Director Langhorst said it was a privilege to appear before the Committee. He introduced the following people: Anna Canning, Betty Jo Miller, Keith Hobbs, Tammy Kolsky, David White, Gordon Hansen, and Mike Boren.

Director Langhorst said that IDPR was challenged to become more entrepreneurial and more self-sufficient. **Director Langhorst** said IDPR met that challenge by increasing revenues through the "Passport Program" and finding ways for new users to come to the parks. Standup paddle boards and sand boards are just two examples of being creative to entice new users.

Director Langhorst stated that not all parks are engineered to produce a lot of revenue. For example, Cataldo Mission and Harriman State Park are assets that are important to Idahoans, but simply cannot charge enough to pay for maintenance; however, other parks do produce a profit. Idaho has 30 parks which provide recreation for Idahoans all across the State.

Director Langhorst said IDPR does have a down side. It has a maintenance backlog and also, the overall salaries of IDPR's employees are lower than State averages.

Senator Heider inquired about the use of volunteers. **Director Langhorst** stated that IDPR does use volunteers. Last year, IDPR clocked its one millionth volunteer hour. This was recorded time and there are many unrecorded hours by volunteers. Parks that are near populated areas are able to obtain volunteers on a regular basis. Some parks have volunteer camp hosts and those parks provide a space for a trailer or fifth wheel in exchange for work by the host.

Director Langhorst said that IDPR has a volunteer coordinator and the number of volunteers is increasing as well as the number of volunteer hours.

Senator Stennett asked about the damage to the barn roof caused by the snow at the Reinheimer Ranch at Sun Valley and if such damage is included in the budget of IDPR. **Director Langhorst** said that to his knowledge, the ranch is not part of IDPR's property, but if it were, insurance would take care of the damages.

Chairman Bair thanked **Director Langhorst** for his remarks.

**GUBERNATORIAL
APPOINTEE
HEARING:**

Michael Boren is from Boise and was appointed to the Parks and Recreation Board to serve a term commencing July 7, 2016 and expiring July 1, 2018. **Mr. Boren** stated that he has been the Chairman of the Board and Chief Operating Officer for Clearwater Analytics since December 2004. Clearwater Analytics is a software company with 450 employees. **Mr. Boren** holds a professional license as an investment advisor.

Organizations that Mr. Boren is a member of are as follows:

- Experimental Aircraft Association
- Aircraft Owners and Pilots Association
- National Rifle Association
- Boy Scouts of America

Mr. Boren served as president of Flying Resort Ranches, Inc., which is headquartered in Salmon, Idaho, from April 2001 through April 2008. As president, one of the duties was to manage the recreational operations in the River of No Return Wilderness area. Preserving and maintaining access to trails and parks was a primary reason why Mr. Boren considered applying for the position to become a board member. In Idaho, there is a great amount of wilderness, and **Mr. Boren** said that he is a firm believer in allowing as much access as possible, while preserving the resource and to not cause problems for other users. **Mr. Boren** stated that from his observation, 95 percent of the trails that are to be maintained by the federal government are not being maintained. The other five percent, half is being maintained by private individuals and the other half by the federal government. **Mr. Boren** said that he has personally spent thousands of dollars each year in the backcountry maintaining trails.

Past boards that Mr. Boren has served are:

- Ore-Ida Boy Scout Council Board
- Flying Resort Ranches, Inc., Board
- Clearwater Advisors Board
- Clearwater Analytics Board
- Sawtooth Investment Management Board

Mr. Boren received a BA in Economics from Brigham Young University in 1988. Mr. Boren was an assistant Lacrosse coach at Boise High School from February 2009 through May 2012. Some of Mr. Boren's interests include horse packing, hiking, mountain biking, aviation, boating, hunting, and fishing.

**GUBERNATORIAL
APPOINTEE
HEARING:**

Gordon Hansen was born in Burley and has been a lifelong resident of Idaho. **Mr. Hansen** said he is an outdoor enthusiast, participating in many sports. They include: waterskiing, snow skiing, snow boarding, kayaking, stand up paddle boarding, hiking, surfing, and mountain biking. Mr. Hansen is a past Sun Valley ski instructor. Another hobby is photography.

Mr. Hansen also likes to travel and has visited many foreign countries in Europe, Asia, and South America and also speaks Italian.

Community service has been an important part of Mr. Hansen's life. It includes:

- elected to four four-year terms on the Burley City Council;
- played a key role in the conception and in the development of the Burley Greenbelt;
- instigated the acquisition and construction of the newest waterfront park and boat ramp in Burley;
- past member of the State Waterways Advisory Committee;
- current Republican Precinct Committeeman;
- Boy Scouts;
- Young Men's Advisor - Church; and
- LDS Mission - Italy.

Mr. Hansen is a graduate of Burley High School, 1984, and was student body president. He graduated from Brigham Young University-Mariott School of Management, 1991, with a Bachelor of Science in Business Management. Since that time, Mr. Hansen started a ski and bike shop and it has grown into two full-service boat dealerships and sporting goods stores in Burley and Nampa. The businesses employ 26 people and has annual sales of approximately \$10 million.

Mr. Hansen said his first experience with IDPR was when he served on the State Waterways Advisory Board. **Mr. Hansen** stated that developed an admiration for IDPR and a desire to contribute to the program. One of Mr. Hansen's goals is to find ways to streamline the decision making process and also to empower the staff to accomplish the tasks before them.

Chairman Bair thanked Mr. Boren and Mr. Hansen for their time before the committee.

MOTION:

Senator Brackett said that in order to expedite the business of the Committee, he asked for unanimous consent to send **RS 25200C1**, **RS 25196**, and **RS 25197** to print. There were no objections. **Chairman Bair** said it has been so ordered.

PRESENTATION:

Chairman Bair welcomed David Groeschl, Deputy Director and State Forester, Idaho Department of Lands (IDL), who will present a program on the Good Neighbor Authority (GNA).

Mr. Groeschl said his presentation would provide: a background on how we got here; what is GNA; what's been done so far; next steps; and challenges and opportunities.

Mr. Groeschl said the GNA started with the passing of the 2014 Farm Bill, which included provisions in the bill and one was an amendment to the Healthy Forest Restoration Act that allowed Governors of each state to determine the national forest system lands that are at high risk of insect and disease mortality within their state. When the amendment was passed, the Governors had 60 days to make the initial designation. Idaho's governor asked IDL to do the assessment, pull that information together, then reach out to the forest supervisors and to the various collaborators within the State.

Mr. Groeschl said there are 21 million acres of national forest land that is in Idaho. Of the 21 million acres, approximately 12.6 million acres was identified as being at some level of suitable management. Out of the 12.6 million acres, 8.8 million acres was identified as being at high risk for insect and disease mortality. Fifty proposed treatment areas were identified and totaled 1.8 million acres. Treatment areas ranged in size from a few thousand acres to 300,000 acres. One million acres was added recently and now the total of high risk areas is nearly 3 million acres.

One of the tools authorized in the farm bill was GNA. It allows states to enter into cooperative agreements with federal agencies to achieve restoration and resilient landscape objectives across all ownership boundaries. **Mr. Groeschl** said the reason for doing this is to increase the pace and scale of forest and watershed restoration on federal lands through active management. Some of the benefits of doing this is that it improves forest health and reduces fuels and threats to communities and watersheds from catastrophic wildfires. It also creates more jobs. For every additional million board feet that is generated through these restoration activities, they provide \$3.85 million in goods and services and provide \$667,000 in wages. It also supports 12 forest industry jobs and 8 support level jobs within the sector.

Mr. Groeschl provided information on what has been done so far with the GNA. The Healthy Forest Restoration Activity (HFRA) designation was accepted in May 2014 and the passage of SCR 126 was in March 2015. This directed the department to look at the opportunity of using GNA to accomplish more work on federal lands and to report on the accomplishments of each year. It also asked what federal lands would make sense to do GNA projects on.

Mr. Groeschl said the first GNA timber sale (Wapiti) was held on the Nez Perce-Clearwater National Forest. The sale consisted of 4.4 million board feet and is expected to generate \$1.4 million in gross receipts and about \$1.2 million in net receipts. That money will go into the supplemental project agreement fund for the Nez Perce- Clearwater Forest and will be used to do additional restoration work. The goal is to build the fund over time to grow the program and get more work done on the ground. That sale was bought by McFarland Cascade, with three active bidders on that sale.

Other GNA work currently underway is on the Payette National Forest. **Mr. Groeschl** said the Payette National Forest has provided federal money to IDL to fund field work associated with the Lost Creek Boulder Creek and Brundage Vegetation Management Projects. Approximately 150 acres on Lost Creek Boulder Creek were jointly marked by the Forest Service and IDL staff. In addition, IDL staff collected stand exam data for the 180 acre Brundage Vegetation Management Project and identified 14 treatment units totaling about 800,000 board feet. This project preparation work paves the way to formally begin the National Environmental Policy Act (NEPA) environmental planning process.

Mr. Groeschl said there is a 5,000 acre project in the Panhandle National Forest where they will be collecting data this Spring using contractors and also working with the Forest Service as they move through the NEPA process. After the NEPA process is completed, actual field work will be started in the Fall.

Mr. Groeschl stated that other national forests have approached him to consider additional Supplemental Project Agreements (SPAs). One is on the Boise National Forest. The Boise National Forest has been busy preparing salvage sales on the Pioneer Fire area that occurred this past summer and they are looking for assistance in other work because their staffing is limited at the present time. Both the Payette and Boise National Forests are providing federal dollars to cover the expenses of GNA to do the work.

The next topic **Mr. Groeschl** addressed was challenges and opportunities. **Mr. Groeschl** said that challenges are on both the state side and the federal side and congratulated the staff for the work they do and also Ms. Marten's leadership. Working together and staying focused on the end result is GNA's goal. **Mr. Groeschl** said secondly, GNA is developing agreed upon key performance metrics that reflect the additional acres being treated, fiber being produced, jobs created, and improvements being made to forest and watershed health.

The third item **Mr. Groeschl** talked about was the growth of the program. Growth is wanted in a smart and intelligent way and to make the program self-sustaining over time, regardless who is at the helm.

Mr. Groeschl said that Director Schultz gave GNA a challenge and Director Schultz's goal in ten years is that GNA will be adding 100 million board feet to the market by accomplishing more restoration on federal lands in Idaho. **Mr. Groeschl** said that is the Director's "moon shot."

Senator Heider asked if Idaho has a reciprocal agreement with the federal government to harvest timber in a timely manner that has been burned. **Mr. Groeschl** said it is a challenge with federal lands due to the NEPA process, which typically takes six to twelve months. Legislation would be needed at the national level that would provide a more expedited relief for NEPA.

Vice Chairman Vick asked if there was relief for GNA under NEPA. **Mr. Groeschl** replied that there is not necessarily relief from NEPA, but under the Healthy Reforestation Act there are categorically exclusions that allows up to 3,000 acres in areas that meet certain criteria.

Chairman Bair thanked **Mr. Groeschl** for providing the Committee with up-to-date information, then welcomed Leanne Marten, Regional Forester for the Northern Region of the U.S. Forest Service from Missoula, Montana. The Northern Region encompasses North Idaho, Montana, and parts of North and South Dakota. **Ms. Marten** said she is also representing Nora Rasare who serves the Intermountain Region. The Intermountain Region covers Southern Idaho, Utah, Wyoming, and parts of Nevada.

Ms. Marten said the partnership with the State has been phenomenal and she credited **Mr. Groeschl** for the working partnership. Since 2014, there are eight projects across Idaho that have either been completed or are underway and involves about 25,000 acres. There are an additional 27 projects that will be done by 2020.

Ms. Marten stated that the Northern Region has many challenges to implement the work that needs to be done on the ground on the national forests in Idaho. **Ms. Marten** said they have been using the GNA and the Farm Bill Authority to put into effect the work that needs to be done. Many of the issues don't stop at the boundaries of federal, state, private, tribal, and county land.

Work is in progress across Southern Idaho in the Payette, Salmon, and Challis National Forests. In Northern Idaho, the Clearwater National Forest is working on forest planning revisions and the Idaho Panhandle finished revising their forest plan the past year. The Idaho Panhandle also has a five-year action plan, which was well received by the public.

Ms. Marten said one of the things with national forests is that citizens have a right to object to projects and the right to sue. There is active litigation in different parts of the Idaho Panhandle region. **Ms. Marten** stated that litigation is something they continue to work through.

Senator Heider asked who brings litigation to stop the salvage on federal land when it could be productive timber. **Ms. Marten** said lawsuits have been brought by individuals, non-profit groups, and tribal nations. Often times, the things that are brought into litigation are disagreements on analysis or the impact of salvage on wildlife habitat. Sediment in streams affecting fish is also an issue. Some folks simply do not agree with logging.

Chairman Bair inquired if there is a mechanism in the GNA that could help facilitate the NEPA work on a forest burn to salvage the timber before it deteriorates. **Ms. Marten** said GNA is one tool that could be used, but they would still have to go through the NEPA process.

Senator Heider asked if a fire burns on both state and federal land, are the same challenges from the same people filed on both parcels. **Ms. Marten** said that usually the federal side receives the challenge as the State has different mandates and laws. **Mr. Groeschl** said that state land does not see the same challenges as the federal lands do because of the difference in the mission and law. Also, the State does not have the same ability of litigants. The State bases their salvage on the best available science and there is no State NEPA process.

Chairman Bair thanked both Ms. Marten and Mr. Groeschl for their presentation.

ADJOURNED: There being no further business at this time, **Chairman Bair** adjourned the meeting at 2:50 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, February 13, 2017

SUBJECT	DESCRIPTION	PRESENTER
Minutes	Approval of Minutes, February 1, 2017.	Senator Siddoway
Minutes	Approval of Minutes, February 6, 2017	Senator Heider
Gubernatorial Appointee Consideration	Michael Boren was appointed to the Parks and Recreation Board to serve a term commencing July 7, 2016 and expiring July 1, 2018.	
Gubernatorial Appointee Consideration	Gordon O. Hansen was appointed to the Parks and Recreation Board to serve a term commencing April 7, 2016 and expiring June 30, 2018.	
RS25232	Clarifies information to be included on Tax Commission forms for the submission of Gas & Oil Severance Tax.	Chairman Bair
RS25227	Establishes a new division within IDL to handle oil and gas conservation matters.	Chairman Bair
RS25269	Oil and Gas Transparency Update	Senator Lee
RS25264	Fees for filing notice of claims with IDWR for stockwater	Senator Brackett
RS25265	Stockwater rights, federal claims	Senator Harris
Presentation	Idaho Soil & Water Conservation Commission	Terri Murrison, Administrator, ISWCC
Presentation	"Amendment to the State Water Plan"	Jeff Raybould, Vice Chairman, IWRB

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Bair	Sen Bayer
Vice Chairman Vick	Sen Johnson
Sen Siddoway	Sen Stennett
Sen Brackett	Sen Jordan
Sen Heider	

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
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MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, February 13, 2017

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Vick, Senators Siddoway, Brackett, Heider, Bayer, Johnson, Stennett, 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: **Senator Siddoway** moved to approve the minutes of February 1, 2017. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Heider** moved to approve the minutes of February 6, 2017. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTEE CONSIDERATION: **Senator Jordan** moved to send the Gubernatorial appointment of Michael Boren to the Parks and Recreation Board to the floor with recommendation that he be confirmed by the Senate. **Senator Heider** seconded the motion. **Senator Jordan** said that she has known Mr. Boren for some time and feels that he will serve the State well in this capacity. The motion carried by **voice vote**. Senator Jordan will be the floor sponsor.

GUBERNATORIAL APPOINTEE CONSIDERATION: **Senator Brackett** moved to send the Gubernatorial appointment of Gordon O. Hansen to the Parks and Recreation Board to the floor with recommendation that he be confirmed by the Senate. **Senator Stennett** seconded the motion. The motion carried by **voice vote**. Senator Anthon will be the floor sponsor.

MOTION: **Senator Siddoway** moved to print **RS 25232** and **25227**. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

RS 25269 **Senator Lee** said **RS 25269** adds to and updates the current statutes regarding oil and gas to align with industry standards and increase transparency in production and development. The bill amends Idaho Code Chapter 3, Title 47, by the addition of a new section to require that when payment is made to any owner of a royalty interest, certain information shall be included on the payor's check stub or on an attachment to the form of payment and to define royalty payments; revises confidentiality provisions; clarifies metering requirements and responsibilities; defines a statewide spacing size; prohibits co-mingling of production without prior metering; revises application for integration order provisions, to remove an exception to requirements regarding good faith efforts to inform uncommitted owners of an intent to develop mineral resources in a proposed spacing unit and to revise confidentiality provisions; adds definitions; and updates outdated language in the statute.

Senator Siddoway asked who certifies and reads the meters. **Senator Lee** stated that all persons engaged in meter proving or testing of oil and gas meters must be registered with the Commission.

Chairman Bair inquired about spacing. Referring to page 4, line 37, it indicates 640 acres. On page 11, line 45, it says 320 acres. **Chairman Bair** asked if there is inconsistency in spacing. **Senator Lee** referred to page 4, line 37, saying that it refers to the maximum size, unless otherwise noted.

MOTION:

Senator Heider moved to print **RS 25269**. **Senator Stennett** seconded the motion. During the discussion, **Senator Siddoway** asked who helped to write this legislation. **Senator Lee** indicated that she had talked to Director Schultz, Department of Lands, also had industry input, and some of the proposals are from last year. The motion carried by **voice vote**

RS 25264

Senator Brackett said **RS 25264** is a companion bill to **RS 25265**, which codifies the Idaho Supreme Court's holding in **Joyce Livestock Company v. United States of America (2007 WL 428947)**. In **Joyce**, the Court held that the federal government could not appropriate a water right for watering stock on federal lands by beneficially using the water unless the federal government owns the stock drinking the water. The **Joyce** decision recognizes that the owner of the stock grazing and watering on federal lands is entitled to the stockwater right established by beneficial use.

RS 25264 states that in the Snake River Basin Adjudication (SRBA), small stockwater and domestic water right holders were not required to file claims in the adjudication, but could defer the filing until a later time. Claims filed in the SRBA for these uses are referred to as "deferrable claims." Many of the stockwater uses that the **Joyce** decision addressed qualify as deferrable claims.

Late, deferrable claims can be filed, but the claimant must: 1.) pay a filing fee of \$25 per claim; 2.) publish notice of the claim; and 3.) pay the estimated cost of investigation of, assistance with, and recommendation of the claim by the Idaho Department of Water Resources (IDWR). Filing fee payments are limited to no more than \$100. **Senator Brackett** said the estimated impact to the general fund is \$265,000 annually and a one-time expenditure of \$35,000 in the first year to initiate claims taking. **Senator Stennett** requested more information regarding the fees. **Senator Brackett** stated there is a one-time fee of \$25, but if there are multiple claims, the maximum amount to be paid would be no more than \$100, even if there are more than four claims. Previously, claimants were required to pay the cost of publication, investigation and assistance, but this legislation waives those fees.

MOTION:

Vice Chairman Vick moved to print **RS 25264** and **RS 25265**. **Senator Heider** seconded the motion.

Senator Siddoway stated he had a conflict of interest pursuant to Senate Rule 39 (H), but intended to vote and asked that it be noted in the record. **Senator Brackett** said that he might also have a conflict of interest and wanted it so noted in the record.

The motion carried by **voice vote**.

PRESENTATION:

Teri Murrison, Administrator, Idaho Soil and Water Conservation Commission (ISWCC), presented a PowerPoint program relating to the activities of the ISWCC. **Ms. Murrison** said ISWCC does agricultural stewardship, "Conservation the Idaho Way." Idahoans love the land, clean air, water, and well-managed landscapes. Good stewardship is voluntary and locally led action helps to address mandated federal water quality and other environmental goals.

Ms. Murrison stated that "Conservation the Idaho Way" is what ISWCC does and has done since 1939. ISWCC takes care of and improves natural resources for future generations while maximizing benefits to all Idahoans. ISWCC works with local people who know the land and natural resources. ISWCC has no regulatory authority. In fact, ISWCC helps Idaho avoid more regulations. All efforts lead to better water quality and water savings, less soil erosion and fuel for wildfires, improved habitat for wildlife, and more.

Ms. Murrison said that Governor Otter appoints the five member board and each commissioner serves five-year terms. Total FTPs are capped at 17.75, with 13 field staff located around the State. Two staff members are with the loan program and 2.75 are administrative FTPs.

Ms. Murrison said ISWCC focuses on four fundamental core functions. They are:

1. Work with locally elected boards of conservation districts, providing financial and technical assistance to Idaho's 50 local conservation districts.
2. Provide and promote non-regulatory incentive and science-based programs that enhance the environmental quality and economic productivity of the State.
3. Insure continuity of operations and establish protocols to support the Commissioners and staff.
4. Provide outreach and educate to engage local, state, federal partners, non-governmental organizations, and resource and agricultural production groups; and support youth education via the Idaho Envirothon.

Ms. Murrison's next topic was regarding ISWCC revenues and expenditures. The level of support has increased in the last five years. Sister State agencies compensate ISWCC for some of the services that are provided and the Natural Resources Conservation Service (NRCS), in fiscal years 2018 and 2019, will fund one-fourth of an existing position to strengthen district capacity and help attract new, non-traditional partners.

Ms. Murrison said there are 50 conservation districts and the money to support them comes from the General Fund, with fiscal year 2016 paying \$1.25 million. Each district received \$8,500 base; \$2,000 operating costs; \$800 from capacity building, and additional state to local matching funds. **Ms. Murrison** said about 50 percent of ISWCC's staff time goes to districts. This past year, districts requested almost 11,000 hours of technical assistance and identified needs for specific project funding of \$3 million statewide.

According to the districts, their priority issues were:

- Water quality and quantity
- Cropland productivity
- District operations
- Information and education
- Rangeland health
- Fish and wildlife
- Urban-rural interface
- Forest health

Ms. Murrison stated that satisfaction from the districts has been increasing over the past four years, from 60 percent in 2013 to 91 percent in 2016. ISWCC helps the districts to install best management practices. The Conservation Reserve Enhancement Program (CREP), which is a statutorily mandated incentive, promotes water conservation on marginal farm ground in the Eastern Snake Plain Aquifer. Also, the Resource Development and Rangeland Conservation Program (RCRDP) provides low interest conservation loans to private landowners. **Ms. Murrison** said ISWCC also assists the Department of Environmental Quality (DEQ) in writing Total Maximum Daily Load (TMDL) implementation plans to address agriculturally-generated water pollution in federally listed waterways.

Ms. Murrison said the Legislature appropriated \$100,000 as a one-time pilot project to fund the North Central Wildfire Restoration Group - Nez Perce, Latah, Idaho, Clearwater, and Lewis Soil and Water Conservation Districts. The project helped local, state, and federal governments to identify and prioritize the restoration of private and municipal lands damaged by the 2015 wildfires. The project covered nine wildfires that burned over 226,790 acres across five counties. Land ownership included 26 percent private land; 63 percent federal land; 4 percent tribal land; and 3 percent state land.

Ms. Murrison said the ISWCC actively promotes voluntary conservation through a newsletter, "Conservation the Idaho Way", and in social media and videos. This year, ISWCC co-produced with Idaho Rangeland Resource Commission and Life on the Range, a video about the Idaho Envirothon. The Envirothon is one of several youth outreach efforts that is supported by ISWCC. **Ms. Murrison** ended her presentation by showing the 11 minute Envirothon video to the Committee.

PRESENTATION:

Chairman Bair thanked Ms. Murrison for her report, then welcomed Jeff Raybould, Vice Chairman of the Idaho Water Resource Board (IWRB), who will give a presentation on the State Water Plan.

Chairman Bair provided some background information regarding the State Water Plan. IWRB reviews the State Water Plan, as determined, then submits a report on January 1 to the Legislature. The Legislature then has 60 days to either confirm, not confirm, or do nothing. If nothing is done, the Plan then becomes the law of the land. Today's program consists of an amendment to the State Water Plan, dealing with sustainability.

Mr. Raybould introduced IDWR staff members Neeley Miller and Brian Patton; IWRB members Roger Chase, Chairman, and Bert Stevenson. **Mr. Raybould** gave a quick history lesson regarding Idaho's water. In 1963, the city of Los Angeles wanted to put a big straw in the Snake River near Twin Falls and take about 2.4 million acre feet of water each year to Southern California. Idaho's reaction to that was the State needed to have a plan in place to demonstrate to those outside the borders of Idaho that the State had plans for the water and had control of the water. The Legislature developed an amendment to the Constitution and it was ratified by the voters in 1964. Part of that amendment created the Water Resource Board, which Idaho has today. Within that amendment, it states that a State water plan will be formulated and any time that changes are made to the plan, the changes will be submitted to the Legislature. Unless the plan is amended or rejected by the Legislature, the plan then becomes law in 60 days.

Mr. Raybould said the first plan's objectives were submitted in 1974, with policies in 1976. Subsequent revisions were in 1982, 1986, 1992, 1996, and 2012. **Mr. Raybould** said the changes are first made by IWRB, then adopted by IWRB, then submitted to the legislature. This provides guidance and direction for water planning, management, conservation and development.

Mr. Raybould stated that the change that is being submitted today is at the request of the Governor. After reviewing IWRB's plan, the Governor wanted IWRB to have a specific sustainability component within the plan. The Governor's guidance characterized sustainability as providing water supply for current needs and water availability for future economic development and job creation. IWRB assigned the development of the draft sustainability policy to the IWRB's Water Resource Planning (WRP) Committee.

WRP received a series of presentations and panel discussions from experts on the topic of sustainability. They included: the City of Hailey; Idaho Power Company; City of Meridian; IPUC; J.R. Simplot Company; DEQ; Hewlett-Packard; Clear Springs Foods; Trout Unlimited; United Water Idaho; IACI; and Western States Water Capitol. IWRB solicited and received additional input on policy development from water users and members of the public.

Mr. Raybould said in May 2016, IWRB reviewed the final draft of the sustainability policy and accepted it for consideration and public comment as required by Idaho Code § 42-1734. The public comment period commenced May 20, 2016, and remained open through September 30, 2016. Seven meetings were held throughout the State for public comments. A total of 120 comments were received. The primary focus of comments were on fish and fisheries; water conservation; water storage; water quality; local solutions; concerns about fracking; climate and drought; and water bank enhancement.

Mr. Raybould said that after receiving all the testimony, WRP agreed to a few changes, then recommended that IWRB adopt the policy. Three changes were made: 1.) the Discussion section; 2.) the Implementation Strategies section; and 3.) the Milestones section. In November 2016, the IWRB adopted the sustainability policy by resolution and submitted it to the Idaho Legislature.

Mr. Raybould indicated that the sustainability policy will be in a new section, section 8, of the Water Plan. Under 8A, it says that sustainability is the active stewardship of Idaho's water resources to satisfy current uses and assure future uses of this renewable resource in accordance with State law and policy.

Mr. Raybould pointed out that the sustainability policy depends on the state's sovereignty over its water resources. Stewardship of Idaho's water resources begins with the realization that the water resources of the State are not inexhaustible. The goal must be overall stewardship of the State's water resources for the good of the people of the State of Idaho.

Mr. Raybould said that planning and management actions to promote water sustainability must be designed and implemented to ensure that existing water rights are protected and the economic vitality of Idaho is optimized. The goal of sustainable use of water resources of the State must recognize that the goals of sustainable economic growth and protection of existing rights must coexist with and are enhanced by measures that protect and maintain surface and ground water resources and the aquatic, riparian, fish and wildlife, recreational, and human resources that depend on these water resources. Recognizing these needs will promote economic and environmental security and enhance the quality of life for the people of the State of Idaho.

Mr. Raybould said he had pointed out that the policy is broken into three sections - one section discusses sustainability; the next section deals with the implementation strategies; and the third section talks about the milestones, or measurements.

The options for the State Water Plan are to approve, amend, reject, or take no action. **Mr. Raybould** said a lot of people have put time and effort into this document and he would answer any questions that the Committee might have. **Senator Siddoway** inquired as to when the State Water Plan was officially submitted and the reply was the first day of the Legislative session.

Senator Siddoway said he had a concern about the riparian areas and the fish and wildlife issues relating to water. **Mr. Raybould** said he doesn't feel there is anything in the policy that would require IWRB to make additional releases for cutthroat trout for riparian purposes beyond what is already contained within the State Water Plan. **Senator Siddoway** said if the State is already insuring the survival of the fisheries, why put it in? **Mr. Raybould** said the fisheries are a component on how the water in the State of Idaho is utilized. IWRB felt they needed to include the use of the waters for fisheries and for other wildlife. One of the primary points within the discussion in the implementation strategies was that all private property and water rights were to be protected.

Senator Siddoway stressed his concern regarding the use of words and not letting words interfere with irrigation and power generation. **Mr. Raybould** said he shares the same concerns but feels IWRB has taken great care to craft the policy in such a way that it recognizes the need for the State to look at sustainability and to make sure there is water for our existing uses, as well as for future uses.

Senator Heider said he did not find anything in the policy regarding invasive species, especially quagga mussels and asked why it was not included. **Mr. Raybould** replied that IWRB would do everything they could to keep invasive species out of the State of Idaho; however, it is his understanding that it is the responsibility of the Department of Agriculture to do the inspections.

Senator Brackett asked about the legal status of the water policy. Are there teeth in the plan or is it just guidance? **Mr. Raybould** replied that to the degree that the policy is adopted and becomes effective, all the other state agencies have to recognize that policy and any actions that they take have to conform to the State Water Plan. The plan is a guidance document. **Senator Brackett** asked if private entities and canal companies have to recognize the plan. **Mr. Raybould** said there are statutes that regulate private entities and individuals.

Chairman Bair thanked Mr. Raybould for the presentation. **Chairman Bair** said he had been in consultation with the Chairman of the House Resources and the best action to take would be to let the 60 day time period pass.

ADJOURNED: There being no further business at this time, **Chairman Bair** adjourned the meeting at 2:55 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

JOINT
SENATE RESOURCES & ENVIRONMENT COMMITTEE
AND
HOUSE RESOURCES & CONSERVATION COMMITTEE
1:30 P.M.
Wednesday, February 15, 2017

SUBJECT	DESCRIPTION	PRESENTER
	Senate Resources and Environment Committee will meet at 1 p.m. in WW55 to conduct Committee business.	
S 1063	Irrigation, Assessments	Norm Semanko, IWUA; Bryon Beams, Page
Gubernatorial Appointee Hearings	C. Wayne Hunsucker and Tom Long , were reappointed to the Outfitters and Guides Licensing Board to serve terms commencing April 20, 2016 and expiring April 20, 2019. <p style="text-align: center;">Joint meeting in Lincoln Auditorium at 1:30 p.m.</p> <p style="text-align: center;">Idaho Department of Lands</p> Introduction	Tom Schultz, Director, IDL
	Overview of Oil and Gas Governing and Regulatory Structure in the Intermountain West	Kelly Williams, Attorney for Quinney & Nebeker
	Overview of IOGCC and Brief Overview of SOGRE	Carol Booth Commuications Manager, IOGCC
	Findings/Recommendations from the SOGRE Report	John Baza, Director, Utah Division of Oil, Gas and Mining

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Bair	Sen Bayer
Vice Chairman Vick	Sen Johnson
Sen Siddoway	Sen Stennett
Sen Brackett	Sen Jordan
Sen Heider	

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
Phone: 332-1323
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MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, February 15, 2017

TIME: 1:00 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 1:00 p.m. **Chairman Bair** announced this is a special meeting to take care of some Committee business prior to joining the House Resources and Conservation Committee in the Lincoln Auditorium for a Joint meeting at 1:30 p.m.

S 1063 **Chairman Bair** said Norm Semanko, Executive Director, Idaho Water Users Association, graciously agreed to help the Committee's Page, Bryon Beams, with his Senior Project which was to research **S 1063**, then present it to the Committee. **Chairman Bair** said no action would be taken on the legislation today.

Mr. Semanko provided some background information on **S 1063**, prior to Bryon's presentation. **Mr. Semanko** said there were a number of Supreme Court cases that were decided in the last century that made clear the assessments made by an irrigation district or a drainage district, now more recently called groundwater districts, are not a tax that is forbidden by the Constitution. **Mr. Semanko** said if one goes to the various districts' statutes, it is very clear that the State does pay for the benefits that are assessed to those lands. The irrigation districts' statute has never been amended to catch up to the state of the law.

Mr. Semanko stated that the Department of Lands (IDL) has suggested that they shouldn't have to pay a particular assessment to a particular irrigation district. **Mr. Semanko** said the reason why he is asking for the bill to be held over is because of the time crunch today and also IDL has raised some issues about which lands may or may not be paying and if there would be some kind of fiscal impact to the State. **Mr. Semanko** stated that his understanding is that the State has been paying some assessments and the fiscal impact would be to the districts' patrons who would have to make up for the amount the State would no longer be paying for the benefits they receive.

Bryon said his understanding of **S 1063** is that there is no assessment. Without an assessment, the people of the adjoining land have to pay for the benefits that the State land is receiving through irrigation water. **Bryon** stated that whoever receives the benefits should have to pay an assessment.

Mr. Semanko said the portion of the fiscal note that is in question is whether there are any State lands that have not been paying. **Mr. Semanko** said the Nampa-Meridian Irrigation District brought this legislation forth and his understanding is that the State has been paying for the benefits they receive from the Nampa-Meridian Irrigation District. In exempting State land, more than \$48,000 in assessments would be shifted to private land owners.

Chairman Bair said that discussion relating to **S 1063** would continue at the next meeting. He then welcomed Wayne Hunsucker, who has been reappointed by the Governor to the Outfitters and Guides Licensing Board.

**GUBERNATORIAL
APPOINTEE
HEARING:**

Mr. Hunsucker stated that he is seeking reappointment to the Outfitters and Guides Licensing Board (OGLB) for another term and has enjoyed the past years that he has served. OGLB is made up of five members: three members are outfitters; one member is from the Idaho Department of Fish and Game; and one member from the general public. **Mr. Hunsucker** said he represents the general public.

Mr. Hunsucker said he is an architect by trade, but is currently retired. **Mr. Hunsucker** previously held architect licenses in Arizona, California, Oregon, and Washington. Presently, he is licensed only in Idaho. Professional affiliations include:

- Idaho Outfitters and Guides Licensing Board
- State of Idaho American Institute of Architects, Past President
- Ada County Historical Preservation Society, Past Board Member
- Building Owners and Managers Association of Treasure Valley, Past Board Member
- Ada County Lincoln Day Banquet, Committee Member
- American Legion, Member

Mr. Hunsucker said that he is an avid fisherman and hunter and also enjoys whitewater rafting. He has used the services of outfitters for these activities many times and appreciates the value they add to his outdoor experiences.

Senator Johnson asked what changes are taking place in the industry, as indicated by Mr. Hunsucker on his application. **Mr. Hunsucker** said the most recent change was the private landowner bill relating to water fowl. Other issues through time has been the changes to technology. Formerly, it took two months to process an outfitter for licensing. Now, it is done online and much faster.

Senator Siddoway inquired about funding for OGLB. **Mr. Hunsucker** said funding is a real issue for them. OGLB's funds come from the licensing fees of the outfitters. It has been a number of years since there has been a fee increase, but **Mr. Hunsucker** said it is apparent that an increase is needed as OGLB is needing to update their software.

**GUBERNATORIAL
APPOINTEE
HEARING:**

A conference call was received from Tom Long who has also been reappointed to OGLB by the Governor. Mr. Long is a licensed outfitter on the Payette River and operates Cascade Raft and Kayak in the summertime. He also operates an adventure business and kayak school in Chile during the winter.

Mr. Long said he appreciated having his hearing by phone as he is in Chile. **Mr. Long** said that when the Governor asked if he would consider serving another term, he replied that he would be honored. **Mr. Long** indicated that the industry is changing from just hunting and fishing to tourist attractions, such as rafting, zip lining, and one-day horseback riding, which he fully supports and appreciates. **Mr. Long** said OGLB has a new director and he is looking forward to working with Ms. Thomason.

Communication was lost and the call ended.

Chairman Bair said consideration of the appointments would take place at the next meeting.

**PAGE
RECOGNITION:**

Chairman Bair presented Bryon Beams with a letter of recommendation signed by the Committee members and a gift card to Barnes and Noble Bookstore for his work as a Senate Page assigned to the Resources and Environment Committee.

ADJOURNED:

There being no further business at this time, **Chairman Bair** adjourned the meeting at 1:25 p.m. and asked the Committee to assemble in the Auditorium at 1:30 p.m.

Joint meeting with the House Resources and Conservation Committee, Lincoln Auditorium, 1:30 p.m. All Committee members present.

CONVENED:

Chairman Bair called the Senate Resources and Environment Committee (Committee) and the House Resources and Conservation Committee (Committee) Joint meeting to order at 1:30 p.m. **Chairman Bair** recognized Marc Gibbs, House Resources and Conservation Committee Chairman. **Chairman Bair** said this meeting is an informational meeting regarding gas and oil. Tom Schultz, Director of Idaho Department of Lands (IDL) will provide an introduction.

INTRODUCTION:

Director Schultz said there is a panel of speakers who will give an overview of oil and gas issues and how the issues are regulated in the West. A report was compiled earlier by the State Oil and Gas Regulatory Exchange (SOGRE) and the findings and recommendations will be addressed by John Baza, Director of the Utah Division of Oil, Gas and Mining. Carol Booth, Communications Manager for the Interstate Oil and Gas Compact Commission (IOGCC), will provide an overview of the Commission. Kelly Williams, an attorney for Quinney and Nebeker, will speak on the regulatory structure in the Intermountain West.

SPEAKER:

Ms. Williams stated that she has made some observations in working with the oil and gas industry. First, there needs to be cooperative development. The second overarching item is uniformity within the industry's standards and third, adequate resources and access to stakeholders are needed in order to build trust.

Ms. Williams said there are two goals for oil and gas regulation and development. The first goal is to promote production to obtain all that you can. The second goal is to prevent waste of those resources. This leads to the need for regulations.

Ms. Williams explained the "Rule of Capture" was what necessitated oil and gas regulations. It has a simple definition, stating that "the owner of a tract of land acquires title to the oil and gas which he produces from wells drilled thereon, though it may be proved that part of such oil or gas migrated from adjoining lands." The "Rule of Capture" may result in damage to reservoirs, excessive drilling, excessive production, and price drops.

Ms. Williams said there are correlative rights and when these rights are talked about in the context of oil and gas, it is basically protection that has been imposed to protect adjoining landowners from being drained. Those ownerships share in the production of the resources. **Ms. Williams** explained about drainage. Drainage is the migration of oil or gas in a reservoir toward a well bore due to pressure reduction caused by the well's penetration of the reservoir. A drainage point is a well bore, or several well bores, that drains the reservoir. Drainage detection involves extensive administrative, geologic, engineering, and other technical analysis of the reservoir and production history for both the regulators and operators.

Spacing was the next subject matter that Ms. Williams covered. Spacing, simply defined, is the space or acreage allocated to a well. It is a conservation measure that identifies the location and number of wells that can be drilled to drain a reservoir. **Ms. Williams** said that depending on the geologic structure, size of the reservoir, and whether it is oil or gas, spacing could be as small as 10 acres and as large as 640 acres.

Ms. Williams said there are different spacing unit types. A stand-up spacing unit would be a north section joined by a south section. A lay-down spacing unit would be a west section joined by an east section. Diagonal spacing is a northwest section joined by a southeast section.

Ms. Williams stated that each state regulates its oil and gas industry, not the federal government. Anything that has to do with development and production is all within the purview of the State for regulations.

SPEAKER:

Carol Booth, Manager of the Interstate Oil and Gas Compact Commission (IOGCC), said she would provide an overview of what IOGCC is all about. The first slide in the PowerPoint presentation was of Oklahoma City, 1938, showing the Capitol building surrounded by oil wells, pump jacks, and all kinds of oil production. Today, there is only one well, right in front of the Capitol building. The Oklahoma Governor brought six states together for a conference which included Colorado, Illinois, Kansas, New Mexico, Texas, and Oklahoma. They returned to their respective legislatures and ratified and approved a pact for prevention of waste and ultimate recovery of petroleum reserves in their States. They were then the ultimate overseer of production in their States.

From these first six States, IOGCC now has 30 full member states, eight associate member states, and several international affiliates. Most of the affiliates are Canadian Provinces. The vision of IOGCC is to be viewed as the authority on domestic oil and gas issues. The programming and services of the Commission will be developed around emerging issues, so that the IOGCC is a leader and a driver of national oil and gas policy.

The mission of the IOGCC is a multi-state government agency that promotes the conservation and efficient recovery of domestic oil and natural gas resources while protecting health, safety and the environment. The Commission serves as the collective voice of member Governors on oil and gas issues and advocates States' rights to govern petroleum resources within their borders.

Ms. Booth said that IOGCC collaborates with the Ground Water Protection Council (GWPC). That partnership led to the "States First Initiative". A state-led initiative is aimed at facilitating multi-state collaboration and innovative regulatory solutions for oil and natural gas producing states. Through States First programs, state regulatory agencies are collaborating and communicating with one another in an ongoing effort to keep current with rapidly changing technology, as well as to share the very best and innovative regulatory procedures from state-to-state.

Included in the States First Initiative, states are to:

- recognize and seize opportunities for economic development and job creation;
- seek practical regulatory practices that protect the environment and allow resource extraction;
- environmental response;
- advocate for the health and safety of citizens; and
- deal with opportunities and obstacles.

Ms. Booth stated that there are five pillars in the States First Initiative. They are hydraulic fracturing, underground injection control, inspector training and certification, effective regulation through continuous improvement, and science and technology transfer. Under the fourth pillar, effective regulation through continuous improvement, is the State Oil and Gas Regulatory Exchange (SOGRE). The SOGRE is an innovative regulatory improvement program created by IOGCC and GWPC. The mission of the SOGRE is to assist states to continually improve state oil and gas regulatory programs by providing member states consultation and program assessment services targeted to their specific needs.

Regulatory consultations facilitate consultations between member states, drawing on the expertise of regulatory peers in other states, and to assist states in developing regulatory approaches to address a specific issue. Regulatory assessments assist states in developing rule revisions to address a particular issue by providing a peer evaluation of an individual regulation, specific regulatory initiative or an overall program. Assessments may vary in scope from specific regulatory elements, such as wellbore integrity, to comprehensive reviews of a state's entire regulatory program. The regulatory assessment is based on regulatory elements the SOGRE and the state determine to be relevant to the specific assessment.

SPEAKER:

John Boza, Director, Utah Division of Oil, Gas, and Mining, said his topic is on the findings and recommendations from the SOGRE Report. **Mr. Boza** said he wanted to stress three key points: 1.) there are no major gaps or deficiencies in the Idaho regulatory process as defined by the governing statutes and rules; 2.) Idaho is not out on its own in the regulatory process as every other oil and gas producing state defines how it wants to govern and regulate its oil and gas within its boundary; and 3.) just as states are supportive of helping and learning from one another, you cannot assume that one size fits all.

Mr. Boza said there are six issues that the Department of Lands (IDL) asked SOGRE to look at and SOGRE identified several more. **Mr. Boza** indicated that he wants to address issue number 3, which relates to well spacing and well setbacks. The SOGRE response was the Commission's proposed revised spacing and well setback rules provide for a standard spacing unit of 40 acres for oil and 640 acres for gas. These default spacing unit sizes can be varied by order of the Commission after hearing. In addition, the Commission initially establishes temporary spacing units, and establishes permanent spacing units only after production and reservoir information can be evaluated. Finally, the Commission may approve an exceptional location for a well upon application and hearing. At this stage of oil and gas development in Idaho, use of default units is reasonable, given the current lack of available geologic, engineering, and production data. The default sizes are likely larger than the area to be drained by a well, which is appropriate; having smaller units increases the risk of harm to correlative rights. Moreover, it is not difficult to add infill wells if data supports smaller units. Given these considerations, the Department rules strike an appropriate balance

between certainty and flexibility using regulatory procedures and conventions employed by many other State oil and gas regulatory agencies.

Mr. Boza said that when he first came to Utah, they could only put an oil well on a 40 acre tract and a gas well on 640 acre tract. During the mid 1980's, that was changed to allow any well to be drilled in the middle of a 40 acre tract of land, but that does not say that is the appropriate well spacing for the drilling of wells. It is only after science, production, and a hearing that determines what the appropriate well spacing is for that particular field or reservoir.

Mr. Boza said issue number 5 states that the public has expressed a concern that the Department should actively monitor production meters and reporting to ensure mineral owners are paid fairly. The SOGRE response was that a recent informal survey of state oil and gas regulatory agencies by IOGCC indicates that most state agencies do not meter production or routinely verify all production reports. **Mr. Boza** said that what they have in Utah is an audit program. Surveys are taken on an annual basis to see how production is reported. Production is verified by meter reports that are submitted to the auditors. **Mr. Boza** said that even though it is recognized that the meters and production are a contractual issue between the buyer and seller of oil and gas, the audit program is designed to address some of the needs of the landowners.

An additional issue that the SOGRE team identified was the spacing units and well setback requirements for horizontal well development, which is issue number 1. **Mr. Boza** said few state oil and gas regulatory agencies have specific spacing unit and well setback requirements for horizontal development. Arkansas is a notable exception to this general statement. **Mr. Boza** said that IDL has a unique opportunity to develop spacing rules for horizontal development prior to such development emerging in the state. To give just one example, to the extent Idaho's shale formations are liquids-rich, 40 acre spacing will not be a useful paradigm for horizontal development of such shales.

Mr. Boza said that issue number 4, developing electronic forms and filing, along with a robust database system to store and manage regulatory data, is a key function of a regulatory agency. **Mr. Boza** suggested that Idaho would consider developing a database system for production tracking.

Mr. Boza next addressed the minimum requirement for a compulsory pool. In Utah, 80 percent is required for an operator to appear before the Board to request that the remaining 20 percent must join. This process is done at a public hearing. There is also an opportunity for non-consent. Those landowners will continue to receive royalties, but will not receive their working share of the well as if they were a contributing party to the costs of drilling.

Mr. Boza reiterated the three issues he first addressed. **Mr. Boza** concluded his presentation by saying that Idaho's system of governance can grow and evolve with the needs of the industry and the citizens within the State.

Chairman Bair thanked Ms. Williams, Ms. Booth, and Mr. Baza for their presentations.

Director Schultz also thanked his colleagues from Utah for speaking to the Joint Committees.

Chairman Gibbs requested the House Resources and Conservation Committee remain after adjournment to conduct some Committee business.

ADJOURNED:

Chairman Bair adjourned the Joint meeting of the Senate Resources and Environment Committee and the House Resources and Conservation Committee at 2:55 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, February 20, 2017

SUBJECT	DESCRIPTION	PRESENTER
Minutes	Approval of Minutes, February 8, 2017	Vice Chairman Vick
Gubernatorial Appointees Consideration	Wayne Hunsucker and Tom Long were reappointed to the Outfitters and Guides Licensing Board to serve terms commencing April 20, 2016 and expiring April 20, 2019.	
Report	Idaho Mining Association	Ben Davenport, Executive Director, IMA
Presentation	Midas Gold	Anne Labelle, Vice President, Midas Gold
S 1063	Irrigation, assessments	Norm Semanko, Idaho Water Users Association
S 1064	Irrigation, exclusion petition fees	Norm Semanko, Idaho Water Users Association
S 1099	Lands, division heads	Chairman Bair

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Bair	Sen Bayer
Vice Chairman Vick	Sen Johnson
Sen Siddoway	Sen Stennett
Sen Brackett	Sen Jordan
Sen Heider	

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
Phone: 332-1323
email: sres@senate.idaho.gov

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

AMENDED AGENDA #2
SENATE RESOURCES & ENVIRONMENT COMMITTEE
AND
HOUSE ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE
1:30 P.M.
WW02 - Lincoln Auditorium
Wednesday, February 22, 2017

SUBJECT	DESCRIPTION	PRESENTER
Introduction	"Invasive Species: Knocking on Idaho's Door"	Nate Fisher, Board President, Idaho Council on Industry and Environment
	Overview and History of Quaggas in the U.S.	Jesse Taylor, Bear Lake Watch Inc.
	Idaho Legislative Interim Task Force Report	Rep. Terry Gestrin
	Proposed 2017 Legislation and Funding	Sen. Mark Harris
	Potential Impacts to the Entire Columbia Basin River System	Matt Morrison, Pacific Northwest Economic Region
	Current Prevention Efforts relating to Invasive Species	Lloyd Knight, Administrator, Plant Industries Division, Idaho State Department of Agriculture
	Upon adjournment of the Joint meeting, the Senate Resources and Environment Committee will conduct Committee business.	
<u>RS25348</u>	Relating to Japanese Yew Senator Heider asks for unanimous consent to send RS 25348 to the State Affairs Committee, a privileged Committee, for printing.	Senator Heider
<u>RS25352</u>	Permits the Director of IDFG to allow a landowner or an individual to keep an animal for his personal use. Senator Siddoway asks for unanimous consent to send RS 25352 to the State Affairs Committee, a privileged Committee, for printing.	Senator Siddoway

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Bair	Sen Bayer
Vice Chairman Vick	Sen Johnson
Sen Siddoway	Sen Stennett
Sen Brackett	Sen Jordan

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
Phone: 332-1323
email: sres@senate.idaho.gov

Sen Heider

MINUTES
JOINT MEETING

**SENATE RESOURCES & ENVIRONMENT COMMITTEE
HOUSE ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE**

DATE: Wednesday, February 22, 2017

TIME: 1:30 P.M.

PLACE: WW02 - Lincoln Auditorium

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

Chairman Raybould, Vice Chairman Thompson, Representatives Hartgen, Anderson, Anderst, Mendive, Chaney, Nate, Cheatham, Horman, Moon, Smith, Scott, Jordan (5), and Rubel

ABSENT/ EXCUSED: Representatives Vander Woude, Trujillo, and Malek

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) and the House Environment, Energy and Technology Committee Joint meeting to order at 1:30 p.m.

WELCOME: **Chairman Bair** welcomed the audience, as well as the members of the House and Senate Agricultural Committees. He then asked Nate Fisher, Board President, Idaho Council on Industry and Environment (ICIE), to provide an overview of today's presentation - "Invasive Species: Knocking on Idaho's Door."

INTRODUCTION: **Mr. Fisher** said ICIE is a non-partisan, non-lobbying, non-profit, and solely dedicated to providing scientific information on issues dealing with industry and environment. This is the thirteenth year of holding a workshop and he thanked Chairman Raybould and Chairman Bair for allowing this meeting. **Mr. Fisher** thanked the sponsors who are very much concerned about the issue of invasive species. The sponsors are: Bear Lake Watch; Idaho Weed Control Association; Idaho Water Users Association; J.R. Simplot Company; Idaho Power; Idaho Consumer Owned Utilities Association; Food Producers of Idaho; Idaho Conservation League; and the Coeur d'Alene Tribe.

Mr. Fisher said this issue is a statewide concern. Quagga mussels have been found in Lake Mead and Lake Powell, to the south of Idaho. Last November, the quagga mussels were found in Montana. If they get to Idaho, they would be in the Columbia River Basin and the Snake River Basin systems and that is why the quagga mussels are such an environmental and economic threat to the Pacific Northwest.

SPEAKER: **Mr. Fisher** introduced Jesse Taylor, a member of the Bear Lake Watch, who provided an overview and history of the quagga mussels in the U.S. **Mr. Taylor** presented a PowerPoint program that reinforced the damage that the quagga mussels do.

Mr. Taylor said the quagga mussels were first detected in Lake Michigan. They were brought in by the shipping industry from eastern Europe. One of the slides shown was of a Lake Michigan beach covered with the quagga mussels and shoes had to be worn in order to not injure the feet from the shells of the quagga mussels. The mussels need calcium to grow and Bear Lake is rich with the calcium carbonate. **Mr. Taylor** said that is one reason there is such concern about Bear Lake. Idaho and Utah share Bear Lake and discussions are ongoing regarding the decontamination of boats and funding for stations.

SPEAKER:

Representative Gestrin said he and Senator Rice were appointed co-chairs for the Invasive Species Working Group (Group). Three Senators and three Representatives were also members. The Group met four times, once at Bear Lake, and the remainder of the meetings were held in Boise. The focus of the meetings was primarily the threat the quagga and zebra mussels pose to the State of Idaho, as well as a review of current and potential prevention efforts.

Representative Gestrin said that at one of the meetings, a presentation was given by Thomas Woolf, Aquatic Invasive Species Program Manager, Idaho State Department of Agriculture. Mr. Woolf displayed evidence of the mussels in other parts of the country reproducing at alarming rates and affecting intake valves for drinking water, irrigation pipes and hydroelectric facilities, as well as damaging boats and waterfront areas.

Representative Gestrin stated that the Idaho Invasive Species Council has conducted a study that estimates mussel introduction into the State would cost Idaho approximately \$94 million per year. This figure does not include agriculture related impacts but reflects the impact to hydroelectric facilities, recreation areas, fish hatcheries, golf courses, drinking water facilities, and irrigation facilities.

Idaho has 16 watercraft inspection stations that operate from dawn to dusk February through October. Over 86,700 inspections have taken place in 2016, which is 31 percent greater than the previous year, primarily due to extended hours of operation. Of the vessels inspected, over 1,100 of them came from mussel positive waters.

Representative Gestrin said the Group proposed several recommendations. They are as follows:

- The Legislature provide for an infraction violation, with an established fine, for anyone subject to inspection at a watercraft inspection station that bypasses a station;
- Times of operation for the Bear Lake, Cedars, Cotterell, Franklin, Highway 93, and Malad watercraft inspection stations be extended to 24-hour operation, funded with State general funds in the amount of \$4 million, representing an increase of \$2.7 million over the current budget;
- A Joint Memorial be adopted that encourages the federal government to continue to be engaged in quagga and zebra mussel prevention efforts at the source and to support inspection efforts;
- The Department of Parks and Recreation provide for the sale of invasive species stickers at all watercraft inspection stations in the State of Idaho;
- The Idaho State Department of Agriculture continue to provide invasive species training to Port of Entry inspectors;
- Out-of-state motorized boat registration tags be increased from \$22.00 to \$30.00; and
- The Legislature find an effective program to fight the introduction of quagga and zebra mussels into the State and the program should include the fostering

of cooperation between the states and the federal government regarding inspections and enforcement.

SPEAKER:

Senator Harris stated that the invasive species issue, and especially the quagga mussel problem, is a grave threat to Idaho and our lakes and streams. The recent discovery of quagga mussels in Montana has elevated the issue even more and put Idaho at a greater risk of infestation. Because of this elevated risk, there is a need for three more boat checking stations and increased hours of operation at our other stations.

Senator Harris said just this week, the Joint Finance and Appropriations Committee (JFAC) approved a supplemental of \$700,000 for the Department of Agriculture to get new stations up and running as well as begin implementation of the check station programs from now until June 30. **Senator Harris** said the three new stations will be on State Highway 3 near Rose Lake; U.S. Highway 12 near Lolo; and I 15, coming out of Montana. This will bring the total number of stations in Idaho to 18. **Senator Harris** said JFAC is still working on the funding for the next fiscal year. It will include \$1.2 million that currently funds the invasive species program.

Senator Harris said that \$1.2 million will be collected through boat registrations. The hurdle that the Department of Agriculture has is providing security for the check stations and people to man the stations. There is legislation that out-of-state boat registration be increased from the current \$20.00 to \$30.00. This would add up to \$125,000 to the program.

Senator Harris said there is legislation in draft form to address the recommendations made by the Group that met this past summer and another piece of legislation is now **S 1068**. **S 1068** is a bill that amends the Idaho Invasive Species Act by the addition of an Office of Invasive Species Policy within the Office of Species Conservation. This person would coordinate all State departments to address the quagga mussel program. **Senator Harris** said this would not take away anything from the Department of Agriculture. It simply creates a "policy advisor" position to see that all the relevant departments have what they need to work together to keep these invasive species out of our State. **Senator Harris** said they felt that a coordinator would be more effective answerable to the Governor instead of a department director.

Senator Harris said that Bear Lake is located within the district where he lives. If quagga mussels were to get in Bear Lake, it would most likely starve out the fish and put them in danger of being listed as endangered. It would also have a terrible impact on irrigators as well as the fish themselves. **Senator Harris** said this story would be the same anywhere in Idaho and throughout the Columbia Basin.

Senator Harris stated that **S 1068** gives some direction and expands the role of the Department of Agriculture including:

- develop and administer an early detection and rapid response protocol for Idaho;
- pursue all available funding from grants and other means;
- provide ongoing education and training for check station inspectors; and
- develop a strategic long-term plan among other things.

In closing, **Senator Harris** said the gist of the Group and this proposed legislation was that things need to be stepped up; there is a need to continually self assess and improve the inspection station effectiveness; and work with other states to better the program. **Senator Harris** stated there is too much at stake to not keep improving.

Chairman Bair said the position that is being created within the Office of Species Conservation would answer to the Governor and it is his understanding that the Department of Agriculture also answers to the Governor. **Chairman Bair** asked for clarity and why the duplication. **Senator Harris** responded by saying in this new position, the person could reach across department lines and work with everyone. **Chairman Bair** asked Senator Harris, in his opinion, doesn't the Department of Agriculture reach across department lines to work with everyone? And don't they have the authority? **Senator Harris** said the Department of Agriculture would certainly have the authority to do that, but it was felt that it would be much more effective to have another person answer to the Governor.

SPEAKER:

Chairman Bair welcomed Matt Morrison from the Pacific Northwest Economic Region (PNWER), who will speak on the "Potential Impacts to the Entire Columbia Basin River System."

Mr. Morrison said that PNWER put out a study on their region, which is five states and three Canadian Provinces, and determined that if the quagga mussels got into the region, it would cost one-half billion dollars per year for the rest of time. **Mr. Morrison** said the Northwest is an hydropower economy. Southern Cal Edison attended one of PNWER's meetings and reported that they spend \$40 million a year to keep one dam working. **Mr. Morrison** stated that quagga mussels have been marching across America the last 15 years. Before October 2016, the Pacific Northwest remained one of the only regions in the U.S. without the presence of invasive quagga and zebra mussels. Each small mussel can product one million offspring annually and they float as larvae in the watershed before they become fixed to any hard surface.

Mr. Morrison said it was thought that there were no quagga mussels in the PNWER region, but some mussel larvae have been found in Montana. Governor Bullock of Montana declared a natural resources state of emergency and an incident command system has been set up. Quagga mussels have been found at Canyon Ferry Reservoir and the Tiber Reservoir. **Mr. Morrison** stated that it is only 50 miles from the Columbia and once they flow into the Columbia, they will be unstoppable. On November 30, 2016, Governor Bullock declared a natural resources state of emergency in Montana and \$750,000 of emergency state funds were released for the Emergency Response Team. On January 20, 2017, the Montana Mussel Response Team set forth recommendations for 2017-2019.

Mr. Morrison placed a call via telephone to Matt Walcott, Incident Commander for Montana, who helped provide information regarding the mussel infestation in Montana. **Mr. Walcott** said that there were positive alerts in the Tiber Reservoir and Canyon Ferry Reservoir by mussel-sniffing dogs. Montana appropriated \$4,480,000 for their invasive species program and watercraft inspection stations for the years 2015-2017. Recommended for 2017-2019 expenditures is \$10,237,268.

Mr. Walcott said that Montana has increased their inspection stations from 13 to 34 for this coming season. The hours they are open for inspection has been increased to 15 hours a day and will open two months earlier and stay open two months later. **Mr. Walcott** also said that all boats using the Tiber and Canyon Ferry Reservoirs will be required to be decontaminated after use. Montana has also implemented an inspection before launch rule statewide for all boats entering into the State of Montana and all boats, regardless of their point of origin, crossing the Continental Divide. Montana is also working to develop a firewall between the Missouri drainage and the Columbia River Basin.

Mr. Morrison asked how Montana is obtaining their funding. **Mr. Walcott** replied that the Governor is looking for money in the general fund, as well as generating revenue through other sources. **Mr. Morrison** inquired if Montana had reached out to the Department of Interior and the Bureau of Reclamation. **Mr. Walcott** said they had a number of conversations with them, as well as sending letters to all federal agencies.

Mr. Morrison said PNWER has worked since 2009 to secure \$9 million in federal funding for the four Northwest States. Congressman Simpson is the key person on appropriations for water and commerce. In 2015, Congress appropriated \$4 million to the four Northwestern States for watercraft inspection stations. The money has gone to the U.S. Army Corps of Engineers (Corps). **Mr. Morrison** said the states have not received any money as yet and it has been two years since it was appropriated. As soon as an agreement can be made between the Corps and the four states, the money can then be released.

Mr. Morrison said that last October, Congress passed an additional \$5 million appropriation which is waiting to be an omnibus funding bill and should be available in April. This money can be spent on planning, response, and monitoring. This language was not in the original legislation. **Mr. Morrison** said he would like for any of the Committees to consider writing a letter to Congressman Simpson to ask for another \$5 million in the 2018 funding, under the same authorization. **Mr. Morrison** said he would encourage the State of Idaho to write to the new Secretary of the Interior and to let him know how important this is to the State and for the federal government to contain the mussels where they are known to exist.

Chairman Raybould requested that Mr. Morrison provide drafts of the letters and addresses that the Committees respond to. **Mr. Morrison** said he would do that.

Mr. Morrison stated that the economic impact of a quagga/zebra mussel infestation in Washington exceeds \$100 million annually, according to a January 2017 study. It will cost agriculture tens of millions of dollars annually by clogging irrigation pipes, pumps, and aqueducts, and altering vital ecosystems and fish habitats by feeding on plankton. The total direct impact to the 23 Washington dams is \$42,895,000. The cost of installing a mussel mitigation system per dam facility is \$1.8 million. **Mr. Morrison** said there is no known way to eradicate the mussels once they are introduced. Prevention is the best option by watercraft inspection and decontamination stations.

SPEAKER:

Chairman Bair thanked Mr. Morrison and Mr. Walcott for their presentation and information, then welcomed Lloyd Knight, Administrator, Plant Industries Division, Idaho State Department of Agriculture (ISDA).

Mr. Knight said ISDA's invasive species program goes back to 2006 when an Invasive Species Council was established by executive order. In 2008, the original statute authorized authority for the Idaho Invasive Species Fund. The revenue stream was not identified by the Legislature until 2009. **Mr. Knight** said that once the funding was in place, rulemaking was begun, an inspection program was started, and a monitoring program was also started. In 2010, an outreach program was started. **Mr. Knight** stated that a statewide inspection program for watercraft inspection had never been done and they did not know where watercraft was moving, where they were coming from or going to. **Mr. Knight** said they did know that quagga mussels were a threat and watercraft movement was a major conveyance of the quagga mussels.

Mr. Knight said the fund that was established brings in about \$1.2 million in annual revenue. It also provides mandatory inspection authority and roadside inspection authority. It reinforces the authority the Director has in order to do interagency agreements. **Mr. Knight** stated that interagency cooperation is essential and gave several examples:

- cooperative agreements with seven Soil and Water Conservation Districts to operate 10 watercraft inspection stations;
- cooperative agreements with six local law enforcement agencies that provided additional law enforcement support at stations to improve compliance;
- cooperative sampling efforts through informal agreements to assist with early detection monitoring and they include: Idaho Department of Environmental Quality, Shoshone Paiute Tribe, Coeur d'Alene Tribe, Idaho Power Company, U.S. Army Corps of Engineers, U.S. Forest Service, lake associations, canal companies, and irrigation districts;
- right-of-way permits with the Idaho Transportation Department for station locations;
- involvement with the Western Regional Panel, Columbia River Basin Team, Building Consensus Subcommittee, PNWER Invasive Species Committee, and the Army Corps WRRDA Project Team; and
- the Idaho Invasive Species Council.

Mr. Knight said that in 2016, there were 89,390 inspections statewide. Those inspections came from 5,200 U.S. zip codes. Of the nearly 90,000 boats, 1,200 boats had visited infested water bodies in 2016. **Mr. Knight** indicated that 1,093 boats had been "hot washed", as they had been identified as high risk. There were 480 boats with weeds and 19 infested boats. This was a 40 percent increase in inspections from 2015. **Mr. Knight** stated that the number of inspection stations was 16 and he showed a map of their locations.

Mr. Knight said the increase in inspections for 2015 was due to a number of things: the law enforcement agreement helped, as well as better weather, better water, and the economy. Destinations also played a role. The top ten destinations in 2016 were:

1. Coeur d'Alene Lake - 7,773;
2. Pend Oreille Lake - 6,738;
3. Priest Lake - 5,888;
4. Bear Lake - 4,733;
5. C.J. Strike Reservoir - 2,523;
6. Hebgen Lake - 2,323;
7. Redfish Lake - 1,7611;
8. Henry's Lake - 1,348;
9. Island Park Reservoir - 1,086;
10. Hayden Lake - 997.

In closing, **Mr. Knight** discussed sampling. In 2016, 889 samples were processed from over 70 waterbodies statewide. There is a season when the temperature is appropriate for the reproduction of mussels. As soon as the water temperature is high enough in the spring, then samples are taken. If the temperature goes over a certain threshold, sampling is discontinued until fall. Sampling is done over the course of the season and has been done since the start of the program. **Mr. Knight** said Idaho has a two-week turnaround in processing the samples.

ADJOURNED: **Chairman Bair** announced that time had run out and adjourned the Joint meeting at 3:00 p.m.

CONVENED: **Chairman Bair** called the Senate Resources and Environment Committee (Committee) meeting to order at 3:02 p.m.

RS 25348 **Chairman Bair** announced that Senator Heider had withdrawn **RS 25348**.

RS 25352 **Senator Siddoway** presented **RS 25352**. This legislation permits the Director of the Department of Fish and Game, or his designee, to allow a landowner or an individual to keep an animal for his personal use. It also allows under those same provisions for a second animal to be kept for use if the problem of depredation persists. **Senator Siddoway** said there is a problem in Eastern Idaho and this would be a way to help cut the losses.

**UNANIMOUS
CONSENT
REQUEST:** **Senator Bayer** asked for unanimous consent to send **RS 25352** to the State Affairs Committee, a privileged committee, for a print hearing. There were no objections.

ADJOURNED: There being no further business at this time, **Chairman Bair** adjourned the meeting at 3:08 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, February 27, 2017

SUBJECT	DESCRIPTION	PRESENTER
Minutes	Approval of Minutes, February 13, 2017	Senator Bayer
Presentation	Snake Plain Managed Aquifer Recharge	Brian Patton, IDWR
HJM 2	Hells Canyon Complex	Norm Semanko, IWUA
HCR 5	Lands, rule rejection	Rep. Gestrin
S 1098	Oil/gas, statements to Tax Commission	Chairman Bair
RS25349	Natural Resources Interim Committee	Chairman Bair

Chairman Bair asks for unanimous consent to send RS 25349 to the State Affairs Committee, a privileged Committee, for printing.

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Bair

Vice Chairman Vick

Sen Siddoway

Sen Brackett

Sen Heider

Sen Bayer

Sen Johnson

Sen Stennett

Sen Jordan

COMMITTEE SECRETARY

Juanita Budell

Room: WW37

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MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, February 27, 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: **Senator Bayer** moved to approve the Minutes of February 13, 2017. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

PRESENTATION: **Chairman Bair** welcomed **Brian Patton**, Idaho Department of Water Resources (IDWR) who gave an update on the managed recharge efforts for the Eastern Snake Plain Aquifer (ESPA). **Mr. Patton** said he was asked to present on behalf of the Idaho Water Resource Board (IWRB).

Mr. Patton provided information on the aquifer storage and the Thousand Springs discharge. From 1912 to 1952, 17 million acre feet of water was added for storage to the aquifer. This was done primarily through the construction and operation of irrigation canals. From 1952 to 2015, there was a loss of 13 million acre feet of water in the aquifer. The average annual storage loss was about 200,000 acre feet. That figure equates to the contents of Arrowrock Reservoir.

Mr. Patton said the second important piece is the total flow from the Thousand Springs. The other main spring discharge point from the aquifer is the American Falls region. People who have water rights that are fed by the springs have seen their water supply decline and that has led to conjunctive administration water delivery calls that the State has been embroiled in for the past two decades. At the Thousand Springs, there have been between 11 and 13 delivery calls, plus a Surface Water Coalition delivery call. The calls are very challenging and complex.

Mr. Patton said the other key piece as to why those spring flows decline has to do with the Swan Falls Agreement. The reason for the Agreement was because of a conflict between how much water should be left in the Snake River to turn hydro power turbines and provide for recreation versus how much water could be taken out upstream for farms and all the other things we need water to do. It became the State's responsibility to insure minimum flows below Swan Falls Dam of 3,900 cfs during the irrigation season and 5,600 cfs during the non irrigation season. There is a State policy of zero flow at Milner Dam which is 180 miles upriver. The question is, where does the water come from? The answer is, it comes from the Thousand Springs.

Mr. Patton said the combined aquifer Snake River system stretches from the Wyoming border to the Oregon border and the problem affects everyone in Southern Idaho that either uses water or power. It all starts with the ESPA discharge to the Snake River at American Falls. The American Falls area springs partly supply river flows that feed Surface Water Coalition canals, then Milner Dam. The Thousand Springs discharge goes down river and meets the minimum flow requirements at the Swan Falls Dam and passes through the hydropower system, then goes through the Hells Canyon Complex. **Mr. Patton** said this is a very intricate system that they are trying to manage.

Mr. Patton then talked about the Surface Water Coalition Settlement Agreement, which is another key piece to managing the aquifer. The Groundwater Users have agreed to reduce their consumptive use by 240,000 acre feet and that correlates with the State's sponsored recharge program of 250,000 acre feet annually. **Mr. Patton** said with these combined amounts, they should be able to stabilize the aquifer, and over time, recover the aquifer.

Mr. Patton reviewed the 2016 legislative actions. They were:

- SCR 136 - Supports Surface Water Coalition Delivery Call Settlement;
- SCR 137 - Directs IWRB to undertake aquifer stabilization and sustainability projects in other areas of the State;
- SCR 138 - Directs IWRB to develop capability to accomplish average of 250,000 acre feet of managed recharge annually by 2024 in ESPA; and
- S 1402 - Firmed up funding for managed recharge.

Mr. Patton then talked about managed recharge. The winter of 2014 and 2015, the total ESPA recharge was 75,234 acre feet. The amount below Minidoka was 61,068 acre feet; the amount above American Falls was 14,166 acre feet; and the total spill past Milner from October through March was 305,920 acre feet. The winter of 2015 and 2016, there was a much smaller water supply to deal with. The IWRB's water right for recharge did not turn on at all upstream from Minidoka Dam.

Mr. Patton said the key take-aways from two years of winter recharge, there were 17 days of water available upstream of Minidoka Dam and 314 days of water available downstream of Minidoka Dam. The total winter water spilled past Milner Dam in 2014-2015 was 304,920 acre feet. In 2015-2016, the total was 111,326 acre feet. **Mr. Patton** said the conclusion was that they needed to get better at catching water before it goes over Milner Dam and in order to do that, they are building the capacity to make it happen.

Some of the projects that are being built for recharge capacity are the Milner-Gooding Canal Mile 28 Hydro Plant bypass; the Milner-Gooding Canal Shoshone concrete channel rehabilitation; and the Egin recharge site near St. Anthony.

Mr. Patton addressed the projections for winter 2016-2017 of IWRB's recharge plan. **Mr. Patton** stated that given large amounts of empty space in the reservoir system, it was expected that the water would be stored in the reservoirs and about 500 cfs available for recharge diversions. **Mr. Patton** said with the good snowpack reports, they are hopeful that they can recharge significant amounts upstream of American Falls Reservoir. Canal maintenance and construction of future recharge capacity, which is ongoing, has affected recharge this year.

Mr. Patton reviewed IWRB's budget for aquifer stabilization for fiscal year 2017. The budget included ESPA's managed recharge operations; ESPA's managed recharge infrastructure; capacity improvements; projects in Wood River Valley, Weiser River Valley, Northern Idaho aquifers, cloud seeding and other statewide efforts; and a reserve for other projects that may come up. The total budgeted funds are \$14,444,273. ESPA's recharge share is \$10.4 million.

Mr. Patton discussed the projects that IWRB is working on in the current year. The largest is the Mile Post 31 managed recharge site expansion on the Milner-Gooding Canal. Another major project under construction is a partnership with the Southwest Irrigation District that is building a new pipeline. The primary purpose of the pipeline is to move storage water out to offset groundwater pumping. **Mr. Patton** said another large project is with the North Side Canal Company, with hydro plan bypasses, so that there can be recharge in Wilson Lake.

Mr. Patton said as far as IWRB meeting their goals, the lower valley recharge capacity is taking shape. There will be 50 cfs going to the Southwest Irrigation District; 30 cfs going to Murtaugh Lake on the Twin Falls Canal; 130 cfs to the Wilson Lake project; 400 cfs to Mile Post 31 recharge site; and 320 cfs to the Shoshone recharge site. IWRB still needs to figure out about the Dietrich Drop bypass. This is the part of the river where there is water for 150 days during the winter. The projected winter capacity would be about 930 cfs. If each of the locations can run for 120 days out of the 150 day window, that gives them 220,000 acre feet of capacity. IWRB is about to reach the goal of 250,000 acre feet in the lower valley. The minimum water availability at 500 cfs is 150,000 acre feet annually. The median water availability at 1,000 cfs is 300,000 acre feet annually. IWRB wants to build capacity of at least the median water availability.

Mr. Patton stated that the upper valley basin, which is the Blackfoot-Idaho Falls-Rexburg corridor, is a different story. There are only two recharge sites of any significant capacity. One is the Hilton Spill on the Aberdeen-Springfield Canal and the other is at the Egin Lakes recharge site. The average water available in this basin is only available every other year. When it does occur, it is a 30-day window between April and June. Looking at the median water availability since 1980, there is 150,000 acre feet. The median water availability since 2000 was only 7,000 acre feet.

Mr. Patton said that building the infrastructure, there are a number of engineering investigations going on in partnership with some canals, including Egin Lakes, Butte Market Lake Canal Company, New Sweden Irrigation District, Idaho Irrigation District, South Fork Canal, and others. **Mr. Patton** said in looking at the capital project costs versus IWRB recharge is interesting. IWRB should accomplish the goal of reaching the 250,000 acre feet goal around 2020-2021. The Legislature had indicated that the goal be reached by 2024.

Senator Stennett inquired as to what the snow pack looks like around the State now. **Mr. Patton** replied that for the Basins around the Snake River Plain, it is looking good at 130 to 150 percent of normal. The Wood River Basin is at about 180 percent of normal. Moving north, out of the Snake River Plain, the snow pack starts to drop. The Weiser Basin is at 110-115 percent of normal; the Salmon River region is at 120; and the Panhandle region is at 88 percent.

Senator Johnson asked what the IWRB pays or gets out of the lease with Mile Post 31. **Mr. Patton** said that IWRB does not pay anything for that lease. They issued the State the right-of-way to conduct recharge. It is for 600 acres on a 30 year term at no cost to the State.

Senator Brackett asked when IWRB expected full implementation of the projects of the State's goal of 250,000 acre feet. **Mr. Patton** said he thought it would be around 2021 as their best projection. **Senator Brackett** asked if anything on the monitoring is different, and if so, when do they expect results. **Mr. Patton** replied that they have not seen anything yet. The way they monitor that is by synoptic measurements and the process is to go out once a year, usually in the spring, doing mass measurements across the aquifer, measuring as many monitoring wells as they can within a short period of time. It was done last spring, but before the implementation of surface water settlement provision agreements. This coming spring when the synoptic is done, it will include a full year of implementation of surface water settlement, plus two years of the State's managed recharge. **Mr. Patton** said they hope to see something this year, but can't guarantee that.

HCR 5

Chairman Bair thanked Mr. Patton for his presentation and welcomed **Representative Gestrin** who presented **HCR 5**. **Chairman Bair** announced that **HCR 5** was not heard in this Committee due to two things: the rule was rejected by the House Resources and Conservation Committee and at the request of the Director of Lands, the decision was made for this Committee to not hear the rule.

Representative Gestrin said the purpose of this resolution is to remove rules governing oil and gas.

MOTION:

Senator Siddoway moved that **HCR 5** be sent to the floor with a **do pass** recommendation. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**. Vice Chairman Vick will be the floor sponsor.

HJM 2

Norm Semanko, Executive Director of the Idaho Water Users Association (IWUA), presented **HJM 2**. **Mr. Semanko** provided some background information relating to the Hells Canyon Complex. The issue of the introduction of salmon above Hells Canyon is not a new issue. The IWUA has had a resolution on this issue since 2001 opposing the introduction.

Idaho Power Company's Hells Canyon project is in the process of relicensing by the Federal Energy Regulatory Commission. The State of Oregon has attempted to require Idaho Power Company to implement fish passage and reintroduction of anadromous fish above the Hells Canyon Project into Idaho waters. Introduction or reintroduction of aquatic species into Idaho waters without the consent of the State of Idaho violates Idaho law, policy, and the sovereignty of the State of Idaho. The Governor of Idaho has advised the Governor of Oregon that Idaho opposes Oregon's efforts to impose reintroduction into Idaho waters because of the significant adverse biological, regulatory, social, and economic impacts, but the State of Oregon has insisted on its passage and reintroduction measures. This legislation provides that the Legislature opposes such introduction or reintroduction efforts and authorizes and directs the Governor and the Attorney General to take all necessary measures to oppose and prevent Oregon's unilateral introduction or reintroduction efforts.

Mr. Semanko said this legislation is supported by IWUA, Food Producers, Idaho Farm Bureau, ICIE, IACI, and Idaho Irrigation Pumpers Association.

Senator Stennett inquired about the dialogue between Oregon and Idaho. **Mr. Semanko** said that leadership on this issue has to come from the State. Governor Otter has sent letters to Governor Brown.

Senator Brackett inquired as to what percent of water above Hells Canyon comes from Oregon and what percent comes from Idaho. **Mr. Semanko** said he did not know the percentages, but would find out. Idaho has six million acre feet of storage and 95 percent of Idaho Power's customers are in Idaho.

Senator Jordan asked about fish passages. **Mr. Semanko** said in the past, fish passages were colossal failures. Also, the water quality is very poor.

TESTIMONY:

Marie Kellner, Idaho Conservation League's (ICL) Water Associate, said she is representing ICL's approximately 25,000 supporters from across the State. **Ms. Kellner** said part of ICL's mission is advocate on behalf of Idaho's rivers and native fisheries and in keeping with that mission, she is asking for a no vote on **HJM 2**.

Part of Ms. Kellner's testimony included the following: "The Hells Canyon Complex meant the end of those native fisheries on the Boise, Payette, Owyhee and Weiser, among other rivers. These fish sustained native people long before Statehood and they are part of the classic Idaho lifestyle. Fishing is so integral to Idaho that Idahoans overwhelmingly passed a constitutional amendment for the right to fish only a handful of years ago.

And while it may seem impossible that those fish would ever inhabit those rivers again, this does not have to be an either/or decision. Instead of writing salmon and steelhead reintroduction off forever, and giving up on this amazing aspect of Idaho's heritage, ICL asks you to do the much harder work of engaging in the conversation of restoring Idaho's salmon and steelhead in their native rivers above Hells Canyon while also maintaining our agricultural heritage, hydropower and other aspects of our economy. It will be difficult work but it is not impossible. In sum, the Hells Canyon Complex can be relicensed without such a divisive memorial as the one before, and I ask you to vote no on it."

TESTIMONY:

Lynn Tominaga, Executive Director, Idaho Irrigation Pumpers Association, stated that the Association is in favor of **HJM 2**. **Mr. Tominaga** said the Association has about 1,200 pumpers across Southern Idaho. **Mr. Tominaga** stated that if salmon were to be reintroduced above Hells Canyon, it would cost about \$400 million in additional costs to the ratepayers. Two years ago, Idaho Power said the relicensing mitigation costs of Hells Canyon would be about a ten percent increase to the ratepayer.

Mr. Tominaga said that until the water quality is improved above Hells Canyon, it doesn't make too much sense to reintroduce salmon, as they couldn't survive. Efforts were made at Brownlee Dam to catch the fish and truck them around the dam, as well as stretching nets across to catch the fish. Neither of those efforts were successful. **Mr. Tominaga** said that Idaho Power has paid millions of dollars in litigation and have built a salmon hatchery along the Salmon River and in the Hagerman area.

Senator Stennett inquired as to why Oregon cannot be held to the 1984 agreement, which confirmed the State's primacy over the flows of the Snake River. **Mr. Tominaga** responded by saying his understanding is that Oregon has a state law that they have to reintroduce or provide fish ladders for migratory fish and that is what they are relying on. The Oregon Fish and Game has always been in favor of breaching the dams, the lower four Snake dams. **Mr. Tominaga** said this is not something new coming from the State of Oregon, as the Oregon Fish and Game have advocated breaching the dams for the last 25 to 30 years.

Mr. Semanko said he appreciated the testimony and asked for the passage of **HJM 2**.

MOTION:

Senator Heider moved that **HJM 2** be sent to the floor with a **do pass** recommendation. **Senator Brackett** seconded the motion. During the discussion, **Senator Stennett** said that Oregon should be held accountable. The motion carried by **voice vote**. **Senators Stennett** and **Jordan** requested to be recorded as having voted nay. Chairman Bair will be the floor sponsor.

RS 25349 **Senator Siddoway** asked for unanimous consent to send **RS 25349** to the State Affairs Committee, a privileged committee, for a print hearing. There were no objections.

PASSED THE GAVEL: Chairman Bair passed the gavel to Vice Chairman Vick.

S 1098 **Chairman Bair** presented **S 1098** and said this legislation clarifies what information is to be included on Tax Commission forms for the submission of Gas and Oil Severance Tax. The severance tax will be submitted to the Tax Commission monthly. The form shall include the name, description and location of every well or wells, and every field in which the wells are located. Additionally, the Tax Commission is authorized to conduct audits at least every three years.

Chairman Bair said the biggest issue starts on line 13, which reads "production of oil or gas from any well or wells in the State shall each month file with the Idaho State Tax Commission." **Chairman Bair** said that currently, State law requires that severance taxes be paid on a quarterly basis. The production records are submitted to the Department of Lands on a monthly basis. **Chairman Bair** stated that when it comes time to perform audits, there is a discrepancy between the quarterly reports the Tax Commission gets and the monthly reports that the Department of Lands gets, making it difficult to reconcile those audits.

Senator Siddoway asked about the process to arrive at this solution and what parties were involved. **Chairman Bair** said involvement with the actual drafting of this language was the Department of Lands, Clive Strong from the Attorney General's Office, as well as a number of legislators, and the Deputy Attorney General from the Tax Commission. **Senator Siddoway** inquired if the industry was involved and what was their position. **Chairman Bair** said that he didn't know.

Senator Johnson stated the fiscal note says there is no impact to the General Fund and inquired who will pay for the administration of the Gas and Oil Program. **Chairman Bair** replied that the costs will be paid out of the severance tax.

MOTION: **Senator Heider** moved that **S 1098** be sent to the floor with a **do pass** recommendation. **Senator Bayer** 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 2:55 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, March 01, 2017

SUBJECT	DESCRIPTION	PRESENTER
Minutes	Approval of Minutes, February 15, 2017	Senator Siddoway
S 1111	Stockwater rights/ownership/transfer	Senator Harris
S 1101	Water, stock watering claims	Senator Brackett
H 96	Bear River Commission	Rep. Gibbs
H 52	Interstate compact, conservation oil/gas	Eric Wilson, IDL
H 53	State/school lands, oil/gas development	Tom Schultz, IDL
H 64	Oil and gas, permits, fees, hearing	Eric Wilson, IDL

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Bair

Vice Chairman Vick

Sen Siddoway

Sen Brackett

Sen Heider

Sen Bayer

Sen Johnson

Sen Stennett

Sen Jordan

COMMITTEE SECRETARY

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MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, March 01, 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: **Senator Siddoway** moved to approve the Minutes of February 15, 2017. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

S 1111 **Senator Harris** presented **S 1111**. This legislation seeks to codify the findings of the Idaho Supreme Court in the case of *Joyce Livestock Company v. United States of America*. In this case, the court held that agencies of the federal government cannot hold stockwater rights unless they put the water to beneficial use by watering livestock owned by the agency.

TESTIMONY: **Paul Nettleton**, managing partner for Joyce Livestock Company, said they graze their livestock on federal land in the Murphy and Silver City areas. **Mr. Nettleton** said he is a fourth generation rancher and his great grandfather homesteaded the ranch in 1865. In 1878, his great grandfather was a founding member of what is now known as the Owyhee Cattle Association. **Mr. Nettleton** stated that the brand they use is the oldest recorded brand that is still in use today.

Mr. Nettleton stated that they filed for water rights in 1992 and it was suggested to them to file for stockwater rights. Many of the other ranchers also filed for stockwater rights on federal land. **Mr. Nettleton** said the Bureau of Land Management (BLM) filed and objected to the ranchers filing and it ended up in the Supreme Court. Many of the ranchers dropped out of the case, while others settled on a junior water right, and it was going to take a lot of money and time. **Mr. Nettleton** said he was going to fight for his rights. The Court agreed that the BLM could not own the water right without owning stock and the water had to be used for beneficial use. It was agreed that the Joyce Livestock Company's water rights predated the formation of the original grazing service and the forerunner to the BLM. **Mr. Nettleton** said they won the case and urged the Committee to pass **S 1111** and **S 1101**.

Senator Siddoway inquired if one needs to file on each drainage or just for the water within the allotment. **Mr. Nettleton** said it was the water of Jordan Creek that went to the Supreme Court. Some of the other water filings that he made, he did file on a number of tributaries. He was forced to file on every segment of the streams and had about 100 different filings that the allotment covers.

TESTIMONY: **Tim Lowry**, L U Ranching Company, said he supports **S 1111**. **Mr. Lowry** said that the Court in the Joyce decision stated that the argument of the United States reflected a misunderstanding of the water law. **Mr. Lowry** feels that the government attempted to overturn Idaho and western water law.

Mr. Lowry said former Secretary of the Interior Bruce Babbitt indicated that the water was pertinent to the federal land and therefore belonged to the federal government. Later, Mr. Babbitt gave a speech to law students at Lewis and Clark State College and in that speech he said it was fortunate that the U.S. had retained most of the land in the West, but quite unfortunate that they had let the water get away. Mr. Babbitt told the students they could have a long and lucrative career in an effort to get the water back.

Mr. Lowry said the reason for telling all this is to drive home a point that it wasn't a misunderstanding. It was just a well thought-out plan to implement a policy to recover western water. **Mr. Lowry** said that **S 1111** will help in future attempts as he feels that it is not the end of the government trying to get the water.

TESTIMONY: **Jerry Hoagland**, Owyhee County Commissioner, said he is speaking on behalf of the Owyhee County Commissioners, and they are in support of **S 1111**.

TESTIMONY: **Russ Hendricks** said he is representing the Idaho Farm Bureau and they support **S 1111**.

TESTIMONY: **Wyatt Prescott**, lobbyist for the Idaho Cattle Association (ICA), stated that the ICA is in support of **S 1111**.

TESTIMONY: **Brandy Kay**, Idaho Wool Growers Association, stated that they support **S 1111**.

MOTION: **Senator Bayer** moved that **S 1111** be sent to the floor with a **do pass** recommendation. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**. Senator Harris will be the floor sponsor.

S 1101 **Senator Brackett** presented **S 1101** and stated that he wanted it noted that he had a conflict of interest pursuant to Senate Rule 39(H). **Senator Brackett** said this legislation is a companion bill to **S 1111**.

Senator Brackett said this legislation amends Idaho Code § 42-1414, to limit the fees imposed for stock watering claims. In the Joyce Livestock Company decision, the Court held that the federal government could not appropriate a water right for watering stock on federal lands by beneficially using the water unless the federal government owns the stock drinking the water. **Senator Brackett** said the Joyce decision recognizes that the owner of the stock grazing and watering on federal lands is entitled to the stockwater right established by beneficial use.

Senator Brackett stated that in the Snake River Basin Adjudication (SRBA), small stockwater and domestic water right holders were not required to file claims in the adjudication, but could defer the filing until a later time. Claims filed in the SRBA for these uses are referred to as "deferrable claims." Many of the stockwater uses that the Joyce decision addressed qualify as deferrable claims.

Senator Brackett said that **S 1101** amends Idaho Code § 42-1414, which reads on page 1, lines 19 through 22: "Provided however, and notwithstanding any other provision of law, fees for stock watering right claims, regardless of the number of claims filed, shall only be imposed on the first four (4) claims per claimant, and there shall be no other fees or costs imposed for such claims."

Senator Brackett said a claimant would pay \$25 for a claim and a maximum of \$100 for four or more claims. It exempts stockmen of any costs of publication, investigation, assistance, and recommendation. **Senator Brackett** said the legislation also contemplates that the Idaho Department of Water Resources will assume the costs of investigation, assistance, and recommendation. There shall be no other fees or costs imposed for such claims.

Senator Stennett asked what were the previous assessed charges. **Senator Brackett** said that in addition to the \$25 fee, there were fees for publication, investigation, and for clerical time.

Gary Spackman, Director, Idaho Department of Water Resources (IDWR), was asked to respond to some questions. **Senator Stennett** inquired if there would be other fees beyond the \$100 fee that IDWR would incur. **Director Spackman** said that historically, the stockwater rights or claims were filed by the permit holder and the fee was \$25 per claim. That was the cost at the time the SRBA was acted. Many of the claims were called "deferrable claims", so in the SRBA there were a number of water rights that were in a special category of being deferrable. These were small domestic stock water uses. **Director Spackman** said the SRBA Court set up a process after the culmination of the SRBA for these claims to be filed and for notice to be published so that the interested water users would have a way of knowing that additional claims were being filed. The Court not only required the \$25 filing fee, but required that the person filing the deferrable claim, pay the cost of publishing notice in a newspaper. Also, IDWR was to estimate the cost for a particular claim that was filed and the claimant was required to prepay those costs prior to IDWR investigating and recommendation of the claim.

Senator Stennett asked if IDWR was prepared to absorb the costs as stated in **S 1101** which include two additional employees. **Director Spackman** said his interpretation of the legislation is correct that the fees and costs paid by the claimant would be limited to \$25 per claim, with a maximum of \$100 for four claims or more. There is a cost associated with it unless the Court changes its procedures in some way, and that would be up to Judge Wildman. **Director Spackman** said IDWR would then need to publish notice. **Director Spackman** also said that he has not read the fiscal impact statement for this legislation and assumes the numbers taken are from a budget proposal submitted by IDWR in September 2016, anticipating that some form of this legislation would come before the Legislature.

Senator Siddoway inquired if stockwater rights have to be filed on every tributary that enters into a mountain basin inside every allotment, or is there a method to file for the water within the boundaries of the allotment. **Director Spackman** said he thinks that most of those determinations would be on a case-by-case basis. With respect to filings for instream stockwater, **Director Spackman** said his guess would be that those claims would be filed based on the source and based on a continuous reach of the particular stream or water source. **Director Spackman** said he is doubtful that the permit holder, or the grazer, would be able to file one claim throughout an entire allotment for the diversions from a water source. The approach IDWR would take in receiving those claims would be that each independent system would need to have a claim filed for it.

Senator Stennett asked if it was for all water rights and not just instream. **Director Spackman** said IDWR has interpreted the Joyce Livestock decision more broadly than just its application to the instream stock set of facts raised in Joyce. IDWR has interpreted the Joyce decision to apply at least the reasoning for other water right processes. For instance, when the federal government files for a water right permit, IDWR asks for proof of beneficial use and ownership of stock, as part of the proof of beneficial use. **Director Spackman** said IDWR is also asking for that evidence when the federal government files claims in the ongoing Northern Idaho adjudication.

Vice Chairman Vick asked if the claims diminish over time and is the expense a short-term expenditure. **Director Spackman** replied that in anticipation of this legislation, it has been discussed with various legislators, the Farm Bureau, and others for the past three years. **Director Spackman** said he built a decision unit into his proposed budget and also did not know what the legislative language would be and how much IDWR would have to contribute. **Director Spackman** said the way in which he arrived at the numbers in the budget proposal may be different than what is presently proposed for this particular legislation. **Director Spackman** stated that he was not involved with the development of numbers with this specific language and that particular decision unit relating to stock water was not recommended by the Governor in his proposed budget.

TESTIMONY:

Tim Lowry, from Pleasant Valley, Owyhee County, testified in support of **S 1101**. **Mr. Lowry** said this is a good step in correcting an injustice that was done to the legitimate owners of stockwater rights in the Snake River Basin. **Mr. Lowry** stated that it was the State of New Mexico that took up the challenge and objected to the United States claiming under state law that they could hold the stockwater rights. **Mr. Lowry** said the State of Idaho objected only to the priority date and that date is secondary to the primary issue of can the U.S. hold the stockwater right.

Mr. Lowry said the U.S., with no opposition from the State of Idaho, vigorously attacked the private claimants. **Mr. Lowry** related a personal experience of trying to protect his stockwater rights and was told he would be facing three trials. With huge debts, **Mr. Lowry** said he withdrew his claims, as did other ranchers with the same problem. In closing, **Mr. Lowry** reiterated that this legislation is a good step in correcting an injustice and urged passage of **S 1101**.

Senator Brackett said he appreciated the testimonies and urged the Committee to pass **S 1101**.

MOTION:

Senator Siddoway moved that **S 1101** be sent to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **voice vote**. Senator Brackett will be the floor sponsor.

H 96

Senator Harris presented **H 96** and said this legislation is in regards to the Bear Lake Commission and provides for alternates to sit on the Commission when commissioners cannot attend meetings. **Senator Harris** said Idaho Code § 42-3303, provides the authority for the alternate commissioner to act in the absence of the appointed commissioner and there is no fiscal impact to the General Fund.

Senator Siddoway inquired, as to the absence of the commissioners. **Senator Harris** replied that the majority of the commissioners are farmers and due to their farming responsibilities, that is why they cannot always attend the meetings. **Senator Siddoway** then asked who they are appointed by and **Senator Harris** responded that they are appointed by the Governor but do not need Senate confirmation.

MOTION:

Vice Chairman Vick moved that **H 96** be sent to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **voice vote**. Senator Harris will be the floor sponsor.

H 52

Eric Wilson, Resource Protection and Assistance Bureau Chief, Idaho Department of Lands (IDL), presented **H 52**. This bill is in regards to membership in the Interstate Oil and Gas Compact Commission (IOGCC). IDL is the administrative agency for the Idaho Oil and Gas Conservation Commission (Commission). The duties of the Commission are to prevent waste during the exploration and development of oil and gas resources, protect the correlative rights of mineral owners, and protect fresh waters during oil and gas development on all federal, state, and private lands in Idaho.

Mr. Wilson stated the IOGCC was established in 1935 by the states of Texas, Oklahoma, California, Kansas, and New Mexico. Their purpose is to conserve oil and gas by preventing waste and maximizing production while protecting human health, safety, and the environment. The Chairman of the IOGCC is always a governor from a member state. Asa Hutchinson, Governor of Arkansas, is currently the Chairman.

Mr. Wilson said oil and gas regulation is handled largely by the states, and no federal standards exist. The only exceptions are federal agencies managing federally-owned surface and mineral resources, and the U.S. Environmental Protection Agency administering the Clean Water Act for water quality purposes and the Safe Drinking Water Act to protect groundwater quality from underground injections. Since 2011, Idaho has been updating its own oil and gas regulatory program.

Thirty states are now members of IOGCC. Idaho is currently an associate member as full membership is limited to oil and gas producing states. In 2016, Idaho became the newest oil and gas producing state in the union, and is now eligible to apply for full membership. Full membership will allow Idaho to have a voice in national oil and gas policy, will provide access to nationwide resources and assistance for enhancing programs, and will inform the State early on about emerging state and national trends. Full membership in the IOGCC will not have any impact on the State general fund, but an additional \$6,000 from existing dedicated fund appropriation is required to cover full membership dues.

Mr. Wilson said the Commission approved the draft bill at their September meeting and this bill uses model legislation supplied by the IOGCC.

Senator Stennett inquired as to what benefit the State would get out of belonging to the IOGCC. **Mr. Wilson** said as a full member, Idaho would have a vote in the decisions and direction that IOGCC would take. As an associate member, Idaho does not have a voting voice.

Vice Chairman Vick said on page three of the legislation, it talks about the coordination of police powers and asked for clarification. **Mr. Wilson** said those police powers are the regulations for oil and gas. Any regulatory function that the State has can be characterized as a police power. **Vice Chairman Vick** then asked what the coordination involves. **Mr. Wilson** said the coordination is so that all the states have an agreement that they will conserve oil and gas and do certain things.

TESTIMONY:

Julia Page testified in opposition of **H 52**. **Ms. Page** said she is a board member of the Idaho Organization of Resource Councils (IORC). IORC works to improve the economic vitality of communities and by promoting responsible stewardship of air, land, and water. **Ms. Page** stated that IOGCC is not open and accountable to the public. Also, the bill takes away money the State could be using to improve or enforce the oil and gas standards that are already in place.

Ms. Page said if IOGCC is really about the conservation of oil and gas, there would be reason to support it, but she doesn't believe that is the case. **Ms. Page** stated the record suggests IOGCC is really an unaccountable lobbying group that the Idaho taxpayer will subsidize and for those reasons, the IORC opposes **H 52**.

MOTION:

Senator Siddoway moved that **H 52** be sent to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion.

Senator Jordan said she appreciated the efforts and the benefits the IOGCC, but objected to how the police powers could affect the State.

The motion carried by **voice vote**. **Senators Stennett and Jordan** asked to be recorded as voting nay. Senator Heider will be the floor sponsor.

H 53 and H 64 **H 53 and H 64** were held due to lack of time and will be heard on the following meeting.

ADJOURNED: There being no further business at this time, **Chairman Bair** adjourned the meeting at 3:00 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, March 06, 2017

SUBJECT	DESCRIPTION	PRESENTER
Minutes	Approval of Minutes, February 20, 2017	Senator Brackett
S 1118	F&G, landowners/kill permit issuance	Senator Siddoway
H 53	State/school lands, oil/gas development	Mike Murphy, IDL
H 64	Oil and gas, permits, fees, hearing	Eric Wilson, IDL
H 51	Outfitters/guides, definition revised	Lori Thomason, OGLB
H 90	F&G, upland game bird shooting hours	Sharon Kiefer, IDFG

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Bair	Sen Bayer
Vice Chairman Vick	Sen Johnson
Sen Siddoway	Sen Stennett
Sen Brackett	Sen Jordan
Sen Heider	

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
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MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, March 06, 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.

S 1118 **Senator Siddoway** said **S 1118** is a bill that is brought as a request from some landowners in Eastern Idaho that are having serious depredation problems. The Idaho Department of Fish and Game (IDFG) has 72 hours to respond to a complaint and to survey the damage. Actions are taken to encourage the animals to leave by shooting the animals with rubber bullets and also by gas-operated guns making loud explosions.

Senator Siddoway said currently, the Director of IDFG issues kill permits to the landowners that are having persistent depredation problems and the number of kill permits depends upon what kind of damage the landowner is experiencing. Up to ten kill permits may be issued to a landowner. When a landowner shoots an animal, he is obligated to dress out the animal, keep it in good condition, and notify IDFG. IDFG then picks up the animal and takes it in for processing. A portion of money from fines pays for the processing and the meat is then distributed among the needy.

Senator Siddoway said this legislation allows the landowner that has suffered damage to keep an animal that has been harvested from one of the kill permits. If the damage persists, the landowner may keep a second harvested animal.

Senator Stennett asked for clarification regarding the number of kill permits. **Senator Siddoway** said it is at the discretion of the Director as to how many kill permits may be issued. **Senator Stennett** asked if it was correct that a landowner could keep one, or perhaps two, harvested animals for their use. **Senator Siddoway** said that was correct. **Senator Stennett** inquired if big game animals could be taken at an established feed site. **Senator Siddoway** responded by saying animals at an established feed site are protected. The kill permits are only for areas of depredation.

TESTIMONY: **Sharon Kiefer**, Deputy Director, IDFG, said **S 1118** provides additional direction relative to the Director's existing authority to provide authorization for possession of wildlife taken through a control action, such as a depredation kill permit, that is property of the State. IDFG does not believe this direction creates a conflict for other sections of Idaho Code or the Director's duties. **Ms. Kiefer** said the Fish and Game Commission (Commission) supports **S 1118**.

MOTION: **Vice Chairman Vick** moved that **S 1118** 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.

H 90

Ms. Kiefer said **H 90** aligns H 161, passed in 2015, with a Commission rule docket, also upheld by the Legislature in 2015. H 161 reclassified several existing fish and game misdemeanors to infractions; this was a bill the Fish and Game Commission supported. **Ms. Kiefer** said the purpose behind the reclassification was to better align punishment with crimes committed and save costs related to public defense, while maintaining penalties adequate for deterrence and enforcement. These changes originated with IDFG's input to recommendations from the Misdemeanor Reclassification Subcommittee of the Criminal Justice Commission, which were then reviewed and approved in concept by the Public Defense Reform Interim Committee.

Ms. Kiefer stated that one of the new infractions was (U) on page 2, lines 36-41, dealing with violating upland game bird shooting hours during the pheasant season on four WMAs where pheasants were stocked, so Upland Bird Permit requirements applied. At the same time this bill was moving through the Legislature, IDFG had a pending rule (Docket No. 13-0109-1401) moving through to final rule that allowed the Commission to designate shooting hours via proclamation for Wildlife Management Areas with Upland Game Bird Permit requirements. The rule provided greater flexibility during season setting to add (or subtract) WMAs with Upland Game Bird Permit requirements that had shooting hours. **Ms. Kiefer** said because of modifications in IDFG's pheasant stocking program, the Commission proceeded to add five new WMAs with shooting hours via proclamation as part of season setting. This can be found on page 11 of the Idaho Upland Game, Furbearer & Turkey Season and Rules brochure for 2016 and 2017.

Ms. Kiefer said that without this legislative change, violating the shooting hour at the four WMAs currently in section (U) would remain an infraction, but violating the shooting hours at the five new WMAs that the Commission has proclaimed for shooting hours would be a misdemeanor. IDFG believes consistency as an infraction is the right course. **Ms. Kiefer** said the Fish and Game Commission supports this bill and asks for a do pass recommendation.

MOTION:

Senator Siddoway moved that **H 90** be sent to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **voice vote**. Senator Heider will be the floor sponsor.

H 53

Mike Murphy, Endowment Leasing Bureau Chief, Idaho Department of Lands (IDL), presented **H 53** addressing oil and gas lease length. Currently, the length of the leases are for exactly ten years.

Mr. Murphy said that during the negotiated rulemaking process for IDAPA 20.03.16 conducted during the summer of 2016, IDL identified the need for oil and gas leases with shorter terms. Accordingly, rule language was adjusted, reviewed, and approved by this Committee earlier in the Session. **Mr. Murphy** said revised rule language removes the ten year lease length to instead reference Idaho Code § 47-801 to establish lease lengths. IDL proposed the rule change with the intent to introduce accompanying legislation to amend the statute and allow for oil and gas leases of any length up to ten years.

As part of the process, IDL reviewed lease lengths in other western states with active oil and gas leasing programs. Lease length typically depends on the level of production and existing infrastructure, but most states with fully developed oil and gas fields offer leases in the three to five year range, with frontier areas tending toward ten years. **Mr. Murphy** said that given this range, IDL is seeking flexibility in setting lease lengths to encourage production opportunities where they exist and to maximize revenue potential for the beneficiaries. To this end, IDL has proposed adding the words "up to" to the existing statute which would give IDL discretion to offer leases for any length up to ten years.

Mr. Murphy stated that discussion of this proposed statute change occurred during the negotiated rulemaking process. No party objected to the proposed change, recognizing that IDL has discretion to set lease lengths for other leases, such as grazing and cottage sites, for terms shorter than the statute-identified maximums. The only concern expressed cautioned that IDL not set oil and gas lease terms too short for reasonable development of wells and infrastructure.

Mr. Murphy said that with this statute change, IDL is simply seeking flexibility in setting appropriate lease terms - terms that encourage oil and gas development to the benefit of the endowed beneficiaries, and terms that balance the practical needs of the operator. As oil and gas development in Idaho progresses, IDL will continue to monitor the pace of development, and with input from oil and gas operators, will work to identify appropriate lease lengths for future oil and gas leases on an individual basis. **Mr. Murphy** said all of the leases will be offered at public auction.

MOTION:

Senator Johnson moved that **H 53** 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.

H 64

Eric Wilson, Resource Protection and Assistance Bureau Chief, IDL, presented this bill on administrative procedure improvements for the Oil and Gas Conservation Commission.

Mr. Wilson said IDL is the administrative agency for the Idaho Oil and Gas Conservation Commission. The Commission's duties under Idaho Code § 47-3 are to prevent waste during the exploration and development of oil and gas resources, protect the correlative rights of mineral owners, and protect fresh waters during oil and gas development on all federal, state, and private lands in Idaho.

H 64 proposes changes to three sections of Idaho Code § 47-3, beginning with Section 320 on page 1. The changes include:

- The completeness review timeframe for drilling and other administrative permits is eliminated, but total processing time is kept at 15 business days.
- Permit review times for Idaho Department of Water Resources and the public are synchronized.
- Some applications are excluded from public review because they do not increase surface disturbance and the activities are restricted to an existing well bore.
- Permit applications submitted and processed under Subsection 324(c) are excluded from the 15 day approval deadline.
- Some additional administrative permits are now included.

The second section with changes is Section 322, which starts near the top of page 3. Substantive changes include:

- Royalty of 1/8th is changed to a minimum.
- Bonus payments for leased and deemed lease options are clarified.
- Objector option for integration is removed.
- Newspaper publication requirements are modified to conform to Idaho Code § 60-106.
- The last paragraph of 322(c) was deleted because it is largely a duplicate of the working interest owners language in 322(c)(i) and (ii).

The last section with changes is Section 324, which starts near the top of page 6. Substantive changes include:

- The completeness review for applications processed under Subsection 324(c) is eliminated, but IDL has five days to notify the applicant if additional information is needed to evaluate the application. This does not affect the hearing schedule, but if additional information is not submitted, IDL may file an objection with the Hearing Officer.
- Mailing and notification requirements are modified. The applicant is responsible for redacting and mailing applications to potentially affected parties and the local city or county. Mailings must be done at least 45 days prior to the hearing, which is the same as the filing deadline with IDL.
- Objections or responses to an application with a hearing must now be filed 14 days prior to the hearing.
- If an application is uncontested, a pathway for approval without a hearing is provided.
- IDL will now hold regularly scheduled hearings for integrations and other applications that require a hearing. An application must be received 45 days prior to a scheduled hearing or it will be held over to the next hearing date. IDL staff may also testify at a hearing.
- The avenue for appeals and judicial review is clarified.

Mr. Wilson said that stakeholder feedback was solicited during September and October of 2017. This included Lone Tree Petroleum, AM Idaho, Idaho Conservation League, the Idaho Organization of Resource Councils, and Payette County Commissioners. The draft bill language was posted on IDL's website, and several meetings were held with these stakeholders. **Mr. Wilson** said the bill language was modified to address the stakeholders concerns prior to submittal at the October Commission meeting. Additional changes were discussed with the stakeholders during a recess at that Commission meeting before the final bill language was approved.

Senator Stennett inquired about the fees being charged and if they were enough to cover the costs. **Mr. Wilson** replied that for some of the applications, the costs are adequately covered, but for other applications, such as integrations, they are not. IDL chose to not ask for any fee increases at this time. **Senator Stennett** asked about communication between IDL and the Department of Environmental Quality (DEQ). **Mr. Wilson** said IDL has a memo of understanding (MOU) with DEQ that was signed about two years ago and the process is working quite well.

Senator Johnson asked what the difference was between a lease and a deemed lease. **Mr. Wilson** said that after an integration and it is approved, there is an election period. During the election period and after the hearing, the landowner can elect to sign the lease or do nothing. By doing nothing, that is a deemed lease. Under a deemed lease, the landowner receives a one-eighth royalty, but does not have a contract. By signing a lease, a landowner's royalty is no less than one-eighth, but could be substantially more.

**WRITTEN
TESTIMONY:**

Julia Page, board member of Idaho Organization of Resource Councils, submitted written testimony opposing **H 64**. Ms. Page supports the provision for IDL to have set hearing dates, a timeline for the submittal of applications requiring a hearing, and more time for IDL in preparing for a hearing. However, Ms. Page wrote that the bill fails to provide clear timelines or a clear process for landowners faced with oil and gas development to have meaningful engagement in the approval process.

MOTION: **Senator Siddoway** moved that **H 64** be sent to the floor with a **do pass** recommendation. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**. Vice Chairman Vick will be the floor sponsor.

H 51 **Lori Thomason**, Executive Director, Idaho Outfitters and Guides Licensing Board (OGLB), presented **H 51** and said the intent of this bill is to clarify the license year between Idaho Code § 36-2102(g) and Idaho Code § 36-2109. This clarification will make the two statutes consistent with each other. It clarifies that 36-2102(g) will read "license year" means that period of time beginning on April 1 and expiring March 31 of the following year. **Ms. Thomason** indicated that there is no fiscal impact for this clarification.

MOTION: **Senator Bayer** moved that **H 51** be sent to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **voice vote**. Senator Bayer will be the floor sponsor.

MINUTES APPROVAL: **Senator Brackett** moved to approve the Minutes of February 20, 2017. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Bair** adjourned the meeting at 2:25 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, March 08, 2017

SUBJECT	DESCRIPTION	PRESENTER
Presentation	"Upper Blackfoot Confluence" Results of 5 years of stream restoration efforts on the Blackfoot River	Keith Allred, UBC; Trent Clark, Monsanto Company; Justin Hayes, Idaho Conservation League
H 140	Water Plan	Rep. Kauffmann & Rep. Blanksma
H 169	Constitutional Defense Council, species	Norm Semanko, IWUA
H 170	Idaho primacy, fish/wildlife/water resources	Norm Semanko, IWUA
H 171	Fishways/Hells Canyon hydro project	Norm Semanko, IWUA
H 141	Wildlife tanneries	Rep. Moon
H 168	F&G, set-aside accounts	Sharon Kiefer, IDFG

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Bair	Sen Bayer
Vice Chairman Vick	Sen Johnson
Sen Siddoway	Sen Stennett
Sen Brackett	Sen Jordan
Sen Heider	

COMMITTEE SECRETARY

Juanita Budell
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MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, March 08, 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.

PRESENTATION: **Chairman Bair** welcomed Keith Allred who provided a PowerPoint presentation about "The Upper Blackfoot Confluence." Assisting with the presentation was Trent Clark, Monsanto Company, and Justin Hayes, Idaho Conservation League.

Mr. Allred said the Upper Blackfoot Confluence (UBC) is a conservation partnership with mining companies and conservation groups that work to improve water quality and the fishery in the Upper Blackfoot River and its tributaries. The mining companies are: Monsanto, Simplot, and Agrium Nu-West. The conservation groups are: Trout Unlimited and the Idaho Conservation League.

Mr. Allred said the UBC was formed in 2011 and was built on common interest in enhancing the Upper Blackfoot River. Work would be done outside of the mining sites, not directly where the phosphate mines are, and the work would be beyond what is required of mining companies by regulation.

Focus was on the health of the fishery, especially the Yellowstone cutthroat trout, and the watershed itself. The Upper Blackfoot is one of the gems and resources of the Yellowstone cutthroat trout and between 10,000 to 15,000 fish come up the river. Fish come from the Blackfoot Reservoir into the tributaries and spawn, then return to the reservoir. Trout Unlimited provided an assessment which included four categories: restoration complex, limiting factors, conservation objectives, and strategies. The assessment was completed in the winter of 2012.

Mr. Allred said additional partnerships were critical to the success of UBC. Local stakeholders include: Bear Lake Grazing Company, Caribou Cattle Company, private landowners, and grazing permittees. In addition to local stakeholders, **Mr. Allred** said they have had very good agency partnerships. Federal agencies include: Natural Resources Conservation Service, U.S. Forest Service, Environmental Protection Agency, U.S. Fish and Wildlife, and Bureau of Land Management. State agencies include: Idaho Department of Fish and Game, Idaho Department of Parks and Recreation, and Department of Environmental Quality.

In the PowerPoint presentation, **Mr. Allred** showed slides of some of UBC's restoration work. They included:

- Fish passages in Diamond Creek, Lanes Creek, and Upper Lanes Creek;
- Fish habitat on Sheep Creek;
- Stream restoration in Sheep Creek;
- Stream function that was done in Browns Canyon and the Main Stem Diversion;
- Improving irrigation efficiency;
- Improving on-ranch operations; and
- Improving recreation and access on Upper Lanes Creek Trail.

At the conclusion of the presentation, **Mr. Allred** invited the Committee to join the project tour in May to view the work that has been done and the projects that are in progress.

Chairman Bair thanked Mr. Allred for the update of the UBC.

H 140

Representative Kauffman presented **H 140**. This legislation is an amendment to Idaho Code § 42-1743B and would direct the Idaho Water Resources Board to notify each member of the legislature of any changes to the comprehensive State Water Plan. This amendment will ensure that any change to the State Water Plan is known by all legislators and the process remains transparent. The approximate fiscal impact is \$100.00 to cover postage and administrative services.

TESTIMONY:

Brandon Jensen, representing the Idaho Farm Bureau Federation, testified in support of **H 140**.

WRITTEN TESTIMONY:

Brian Patton, Executive Officer, Idaho Water Resource Board (IWRB) submitted written testimony indicating that the IWRB does not oppose **H 140**.

MOTION:

Senator Heider moved that **H 140** be sent to the floor with a **do pass** recommendation. **Senator Brackett** seconded the motion. The motion carried by **voice vote**. Senator Heider will be the floor sponsor.

H 169

Norm Semanko, Executive Director, Idaho Water Users Association, presented **H 169**. **Mr. Semanko** stated that Idaho Power Company's Hells Canyon Project is in the process of being relicensed by the Federal Energy Regulatory Commission. The State of Oregon has attempted to require Idaho Power to reintroduce salmon above the dams into Idaho waters. **Mr. Semanko** said that reintroduction of these fish without the consent of the State of Idaho violates Idaho law, policy, and sovereignty. Governor Otter has told Oregon's Governor that Idaho opposes reintroduction because of the adverse economic and regulatory impacts. Oregon is proceeding with requiring reintroduction through its Section 401 Clean Water Act certification process.

Mr. Semanko said that legislative approval is required for reintroduction under current law. **H 169** makes clear that this requirement applies to the actions taken by the State of Oregon, which threatens Idaho's sovereignty.

Senator Stennett asked for clarification regarding using taxpayer money to fight an industry problem. **Mr. Semanko** replied that this particular section of code comes under the chapter where the Constitutional Defense Council is housed. All this statute does is say that if there is going to be reintroduction proposed, it must be approved by the State Legislature. On line nine, it now includes "state and state agency."

Senator Jordan said her question was in regards to the tribes. **Mr. Semanko** said the tribes are actively involved, but there are differences of opinion.

Mr. Semanko said this legislation is supported by the Idaho Water Users Association, Food Producers of Idaho, Idaho Farm Bureau, Idaho Irrigation Pumpers, and the Idaho Association of Commerce and Industry.

**WRITTEN
TESTIMONY:**

Jonathan Oppenheimer, Government Relations Director, Idaho Conservation League, submitted written testimony opposing **H 169**. Mr. Oppenheimer included testimony in opposition to **H 169** from Marie Kellner, Idaho Conservation League's Water Associate.

MOTION:

Senator Siddoway moved that **H 169** be sent to the floor with a **do pass** recommendation. **Vice Chairman Vick** seconded the motion. **Senator Stennett** said she understands what is trying to be done, but cannot support the motion. The motion carried by **voice vote**. **Senators Stennett** and **Jordan** asked to be recorded as voting nay. Senator Siddoway will be the floor sponsor.

H 170

Mr. Semanko said this is the second of three bills dealing with the reintroduction issue. This requires the Governor's approval for reintroduction of species. **Mr. Semanko** said this statute needs to be clarified as it is not as comprehensive as it should be and this change will fix that. The State of Oregon has attempted to require Idaho Power to reintroduce salmon above the dams into Idaho waters. Reintroduction of these fish without consultation and approval by the Governor violates Idaho law, policy, and sovereignty.

Mr. Semanko stated that additional flows for salmon could be required from Idaho's reservoirs, depleting our supplies. Diversions for agriculture, cities, and industry could be reduced or cut off completely in certain cases. A coalition of water user interests has concluded that the costs of reintroduction above Hells Canyon could exceed \$1 billion.

Mr. Semanko said that the Governor's approval is required for reintroduction under current law. **H 170** fills a loophole in the current law to make sure it applies to all species. This will put the statute on par with the legislative approval required under the legislation that was just considered (**H 169**), which already applies to all species proposed for reintroduction in Idaho.

Mr. Semanko said this legislation is also supported by the Idaho Water Users Association, Food Producers of Idaho, Idaho Farm Bureau, Idaho Irrigation Pumpers, and the Idaho Association of Commerce and Industry.

Mr. Semanko advised the Committee that this legislation will have no adverse impact or hold up any of the fish and wildlife activities conducted by the Idaho Department of Fish and Game or by the tribes.

Senator Stennett asked how this would work with the tribes. **Mr. Semanko** replied that if the concern is that someone within the State's boundaries is going to reintroduce a species, both Legislative approval and Executive approval, would be required. Approval may take on different forms. It would be the Governor's responsibility to work with whoever is proposing the reintroduction and there may be different types of approval that is required of the proposals. **Mr. Semanko** said that if species are reintroduced in the State of Idaho and it has an adverse impact upon the economy, power rates, etc., we need to make sure State sovereignty is protected before those species are reintroduced into the State's waters.

Senator Johnson said he would like to know if the Office of Species Conservation (OSC) has reviewed this legislation and also, what would happen if a tribe tried to rebuild a population of a species, such as lamprey, into upstream reaches of a river. **Sam Eaton**, legal counsel for OSC, said they have reviewed **H 170** and have been in talks with the Water Users Association and others. **Mr. Eaton** said, in response to the first question, the bill shores up any loopholes. **Mr. Eaton's** response to the second question was that it would be dealt with on a case-by-case basis.

Senator Brackett asked when drafting the bill, was it ever considered to just add "federally listed and aquatic and terrestrial species." **Senator Brackett** said that wording seemed broader and stronger. **Mr. Semanko** said they looked at different options and the main concern was to make sure they were as comprehensive in **H 170** as they were in **H 169** which is not restricted to any particular kind of species.

**WRITTEN
TESTIMONY:**

Written testimony was submitted by the **Nez Perce Tribe** opposing **H 170**.

**WRITTEN
TESTIMONY:**

Mr. Oppenheimer, Idaho Conservation League, submitted written testimony opposing **H 170**.

MOTION:

Senator Brackett moved that **H 170** be sent to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. **Senator Johnson** said he was not comfortable with the responses he received from OSC and cannot support the bill at this time. The motion carried by **voice vote**. **Senators Johnson, Stennett, and Jordan** asked to be recorded as voting nay. Senator Brackett will be the floor sponsor.

H 171

Mr. Semanko said this bill is the most specific of the three bills. As relicensing moves forward, and the final conditions are arrived at for relicensing, **Mr. Semanko** reviewed the concerns: 1.) the impacts above Hells Canyon on the water supply alone is estimated to be \$1 billion; 2.) water quality; and 3.) time and goodwill efforts spent on the Nez Perce Water Agreement.

This amendment to the statute will ensure that it cannot be used to argue that fish passage and reintroduction should be required for the Hells Canyon Project. If reintroduction is required, Idaho Power customers would be hit with sizable rate increases for the cost of making it happen. Huge costs would be incurred by businesses, cities, and agriculture to comply with more stringent water quality requirements for salmon spawning. Lawsuits and calls for dam removal would be expected, as well. This amendment will help insure that doesn't happen.

Mr. Semanko said this legislation is supported by the Idaho Water Users Association, Food Producers of Idaho, Idaho Farm Bureau, Idaho Irrigation Pumpers, and the Idaho Association of Commerce and Industry. **Mr. Semanko** also said if the question arises, this legislation will not impact any of the existing conditions imposed on the Hells Canyon Project by the Idaho Department of Fish and Game.

**WRITTEN
TESTIMONY:**

Written testimony was submitted by the **Nez Perce Tribe** opposing **H 171**.

**WRITTEN
TESTIMONY:**

Mr. Oppenheimer, Idaho Conservation League, submitted written testimony opposing **H 171**.

MOTION:

Senator Heider moved that **H 171** be sent to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**. **Senator Jordan** asked to be recorded as voting nay. Senator Johnson will be the floor sponsor.

H 141

Senator Anthon said this is a unique bill as it will have very little impact on very few Idahoans. The impact that it will make will be huge, as there is no definition for a commercial wildlife tannery. There is a large tannery in Idaho that has to rely on the existing regulations and statutes that dictate how furs and hides are handled by taxidermists and small operations in this State. **Senator Anthon** said the regulations are onerous and this particular tannery has to spend a lot of money to comply with the current regulations.

Senator Anthon said this particular tannery receives hides and furs from all over the U.S. and the world. In many of the other jurisdictions and locales, there are no regulations as to the markings, tagging of hides, and other means to make sure there is no poaching taking place. What this bill will do is to provide a definition for the commercial wildlife tannery and essentially, shift the requirement to those who send the furs and hides to Idaho. They would need to certify, under penalty of perjury, that they are following the law in their own jurisdiction.

Senator Anthon said **H 141** will solve a lot of problems, save an Idaho business, and will shift the burden of proving compliance with the law is on those who send those furs to Idaho in the first place.

Senator Siddoway stated that he is not comfortable with replacing the current statutes with this legislation and there needs to be a paper trail. **Senator Anthon** said that this proposed statute will not change, nor delete, the current regulations. What this change addresses is that a commercial wildlife tannery is a tannery that takes in an excess of 10,000 hides a year, more than 75 percent of its business arrives by mail, and a compliance statement is signed by the shipper/client.

Senator Brackett asked how many tanneries are being talked about and **Senator Anthon** replied that it is only one. **Senator Brackett** said it appears to him that it would be reasonable to shift the burden of proof on the owner of the hides and supports the bill.

**WRITTEN
TESTIMONY:**

Sharon Kiefer, Deputy Director, Idaho Department of Fish and Game, submitted written testimony stating that the Fish and Game Commission supports **H 141**.

MOTION:

Senator Brackett moved that **H 141** be sent to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**. Senator Anthon will be the floor sponsor.

H 168

Due to time constrains, **H 168** will be heard at the next meeting.

ADJOURNED:

There being no further business at this time, **Chairman Bair** adjourned the meeting at 3:00 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

AMENDED AGENDA #1
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:00 P.M.
Room WW55
Monday, March 13, 2017

SUBJECT	DESCRIPTION	PRESENTER
	NOTE CHANGE OF MEETING TIME TO 1 P.M.	
Minutes	Approval of Minutes, February 22, 2017	Vice Chairman Vick
	Approval of Minutes, February 27 2017	Senator Jordan
	Approval of Minutes, March 1, 2017	Senator Johnson
H 211	Invasive species/non resident sticker fee	Rep. Erpelding
HJM 04	Invasive species/west states assist	Rep. Gestrin
H 168	F&G, set-aside accounts	Sharon Kiefer, Deputy Director, IDFG
H 230	Fish and Game, fees	Sharon Kiefer, Deputy Director, IDFG

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Bair	Sen Bayer
Vice Chairman Vick	Sen Johnson
Sen Siddoway	Sen Stennett
Sen Brackett	Sen Jordan
Sen Heider	

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
Phone: 332-1323
email: sres@senate.idaho.gov

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, March 13, 2017

TIME: 1:00 P.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: Senator Brackett

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: **Vice Chairman Vick** moved to approve the Minutes of February 22, 2017. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

Senator Jordan moved to approve the Minutes of February 27, 2017. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

Senator Johnson moved to approve the Minutes of March 1, 2017. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**.

H 211 **Representative Gestrin** said this legislation increases the invasive species sticker fee for non-residents from \$22.00 to \$30.00. After administration fees and vendor fees are deducted, approximately \$70,000 would be added to the Invasive Species Fund. **Representative Gestrin** said the Working Group found that out-of-state boaters are the greater risk to Idaho's waterways.

Representative Erpelding stated that the increase in the invasive species sticker fee will help the check stations and asked the Committee for their support.

MOTION: **Senator Siddoway** moved that **H 211** be sent to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**. Senator Stennett will be the floor sponsor.

HJM 04 **Representative Gestrin** presented **HJM 04**. As a member of the Working Group, **Representative Gestrin** said they recognized the need to cooperate with other states that have a problem with quagga mussels, as well as cooperation with the federal government. **Representative Gestrin** said this memorial encourages other states to join Idaho in cooperation with the federal government to stop the spread of mussels.

MOTION: **Senator Heider** moved that **HJM 04** be sent to the floor with a **do pass** recommendation. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**. Senator Heider will be the floor sponsor.

Sharon Kiefer, Deputy Director, Idaho Department of Fish and Game (IDFG), presented this legislation dealing with set-aside accounts. **Ms. Kiefer** said that currently in Idaho Code, there is a fish and game set-aside account in the dedicated fund that has monies paid into it from a variety of permits, licenses, and tags essentially "ear-marked" to support certain functions. This bill deals with the set-aside from steelhead trout or anadromous salmon permits to support important work for salmon and steelhead management such as providing boat ramps, parking lots, and sanitation facilities for fishermen. Salmon and steelhead fishing opportunity and management needs have evolved considerably in geography, time of year, and runs of salmon, in particular, that may offer fishing opportunity and thus, the focus on this particular set-aside.

Ms. Kiefer stated that section 1 deals with the set-aside from regular salmon and steelhead permits. Currently, \$4.00 of every resident and nonresident salmon and steelhead permit is directed to the set-aside account. Sportsmen have communicated they want a different paradigm- a proportional set-aside rather than a flat fee that will keep pace if fees change in the future. **Ms. Kiefer** said that essentially, with the current flat fee, sportsmen feel that the set-aside has lost "buying power" and in fact, IDFG spends additional discretionary license dollars to fund some of the set-aside functions.

Revenue from resident salmon and steelhead permits are the bread and butter of this set-aside. IDFG sold just over 35,000 permits in FY16. IDFG also sold about 6,100 regular nonresident salmon and steelhead permits and just over 9,800 three-day fishing with salmon and steelhead permits in FY16.

Ms. Kiefer said that IDFG evaluated the proposal to move to a proportional, rather than a flat fee set-aside. Because only the salmon and steelhead permits are affected and the prices between resident and nonresident are not substantially disparate, IDFG believes that they can feasibly administer this approach. **Ms. Kiefer** said that with this change, the set-aside would increase to 50 percent from the current 31 percent of a resident permit and the current 16 percent of a nonresident permit.

It is estimated the increase in annual revenue to the set-aside would be about \$270,000 with a corollary decrease to the fish and game account. This bill has no effect on the price of salmon and steelhead permits; it is just redistribution of fish and game funds.

Ms. Kiefer said section 2 on page 3 of the bill modifies the set-aside from the eighth class license, commonly called a Sportsman's Pack. Because of the complexity of this type of license with multiple discounted products, IDFG felt it most appropriate to just retain the current flat fee approach to the set-aside and increase it for consistency. Revenue from the resident salmon and steelhead permits in the Sportsman's Pack accounts for less than the regular permits; there were 21,000 sold in FY16.

Ms. Kiefer stated that the Fish and Game Commission supports this bill and requests a do pass recommendation.

Senator Siddoway asked if more money would go into the steelhead and salmon operations and what other programs would get less. **Ms. Kiefer** said the reality is that IDFG is spending some of the discretionary monies in the fish and game account for these functions. So, instead of spending out of the fish and game account, the money is redistributed to the salmon and steelhead account and will be more transparent as to what it takes to manage salmon and steelhead.

Written testimony was submitted by Butch Suor, Stites, Idaho, supporting **H 168**.

**WRITTEN
TESTIMONY:**

- MOTION:** **Senator Siddoway** moved that **H 168** be sent to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **voice vote**. Senator Jordan will be the floor sponsor.
- H 230** **Virgil Moore**, Director, IDFG, presented **H 230**. **Director Moore** said this bill arose when Chairman Gibbs of the House Resources and Conservation Committee returned two RSs to the Fish and Game Commission in January without a print hearing and encouraged the Commission and the IDFG to address concerns that the proposals did not do enough to address private land depredation by wildlife.
- Director Moore** stated that he believes **H 230** takes significant steps to both address the depredation concern and deliver important outcomes for sportsmen and landowners. **H 230** has four themes:
1. Dedicated revenue to compensate and prevent wildlife depredation on private land;
 2. Revisions to improve flexibility and responsiveness of the compensation claims program to landowner operations;
 3. New financial resources for sportsmen access programs; and
 4. New revenue for the broader portfolio of fish and game programs.
- Attached is Director Moore's full testimony (attachment 1) and a brief technical summary of sections 1 through 12 of **H 230** (attachment 2). **Director Moore** said his testimony demonstrates benefits of this bill to both sportsmen and also other stakeholders across the State and asked that all move forward together. **Director Moore** asked for the Committee's do pass recommendation.
- TESTIMONY:** **Michael Gibson**, Idaho Field Coordinator, Trout Unlimited, testified in support of **H 230**. Trout Unlimited is made up of angler conservationists with a mission to conserve, protect, and restore Idaho's coldwater fisheries and their watersheds. **Mr. Gibson** said Trout Unlimited applauds IDFG for thinking "outside the box" with their innovative price lock proposal. **Mr. Gibson** also stated that **H 230** strikes a balance with keeping up with increasing costs, effective management of Idaho's wildlife resources, protecting private landowners, increasing access opportunities, and rewarding loyal customers. **Mr. Gibson** asked for a do pass recommendation.
- TESTIMONY:** **Larry Fry**, President, Idaho Sportsmen's Alliance (ISA), and representing nearly 20,000 members, said they are in favor of **H 230**. **Mr. Fry** stated that today he is specifically representing the following groups: Pheasants Forever; Rocky Mountain Elk Foundation; National Wildlife Turkey Federation; Idaho Hunter Education Association; and the Poachers Club. **Mr. Fry** said that one of ISA's guiding principles is to "support the long-term economic viability of the Idaho Department of Fish and Game."
- TESTIMONY:** **Josh Kuntz**, Cochairman of Backcountry Hunters and Anglers, said that in conversations with the members, the general perception is that **H 230** is a step in the right direction and asked the Committee to support the bill.
- TESTIMONY:** **Brian Brooks**, representing the Idaho Wildlife Federation (IWF), said for multiple reasons, IWF asks for support of **H 230**. **Mr. Brooks** said that the bill addresses what some have considered a cumbersome process when it comes to assessing crop damages from wildlife. **Mr. Brooks** also said that if IDFG is not supported with the necessary capital investments, not only will Idaho lose its competitive edge in the United States sporting industry, but will pass to the next generation a State with less fish in the river, less elk on the mountain, and less pronghorn on the prairie.
- TESTIMONY:** **Forrest Goodrum**, Legislative Director, Ada County Fish and Game League, stated that they are in support of **H 230** and asked for a do pass recommendation from the Committee.

TESTIMONY: **Rob Thornberry** said he is from Idaho Falls and is here representing the Theodore Roosevelt Conservation Partnership, a national non-profit organization, to amplify the voice of sportsmen in state wildlife issues and federal land policy. The end goal is healthy fish and wildlife populations and access to them. **Mr. Thornberry** said the Partnership is in favor of IDFG to be able to make decisions based on the best available information and they believe **H 230** sets in motion a process to make that happen. **Mr. Thornberry** asked that **H 230** be sent to the floor with a do pass recommendation.

TESTIMONY: **Dennis Tanikuni**, Assistant Director of Governmental Affairs, Idaho Farm Bureau (IFB), stated they celebrated their 77th anniversary and is Idaho's largest agricultural organization representing approximately 76,300 families. Of those families, about 60 percent are sportsmen. IFB supports **H 230** and the bill is consistent with IFB's policy #84 which requires IDFG to show specific need for use for funds in order to get support for a license or general fund fee increase. **Mr. Tanikuni** said that **H 230** addresses a number of other policies and said this is a big step forward for the IDFG. It is also an opportunity for mutual progress for sportsmen.

TESTIMONY: **Blake Fischer**, Idaho Fish and Game Commissioner, said he is proud to have worked on **H 230** and the Commission supports this bill.

WRITTEN TESTIMONY: Written testimony was submitted by Daniel M. Herrig stating that he strongly supports **H 211, H 168, H 230, and HJM 04** and that he has purchased hunting and fishing licenses in Idaho for over 40 years.

MOTION: **Senator Heider** moved that **H 230** be sent to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion.

Senator Johnson said he liked most everything in the bill, but is getting calls with concerns about the non expendable big game fund. In section 10 of the bill, the legislative intent is that the IDFG will come back and the Commission will submit a report to the Committee reflecting the results of the provisions of the price lock discount order. It would be beneficial to have an end date on the non expendable big game depredation fund to find out how it is working. **Senator Johnson** said he would like to know how the money is being spent. **Senator Johnson** said he has also heard some concerns about trying to find a better process to do the crop loss adjustments and suggested that maybe an independent third party or another state agency might be involved. **Senator Johnson** said he needed to spend more time on getting that information.

The motion carried by **voice vote**. Senator Bair will be the floor sponsor.

ADJOURNED: There being no further business at this time, **Chairman Bair** adjourned the meeting at 2:15 p.m.

Senator Bair
Chair

Juanita Budell
Secretary



IDAHO DEPARTMENT OF FISH AND GAME

600 S Walnut / P.O. Box 25
Boise, Idaho 83707

C.L. "Butch" Otter / Governor
Virgil Moore / Director

March 13, 2017

To: The Senate Resources and Environment Committee

Testimony of Virgil Moore, Idaho Department of Fish and Game
House Bill 230

Chairman Bair and Committee:

Thank-you for the opportunity to describe House Bill 230. This bill arose when Chairman Gibbs of the House Resources and Conservation Committee returned two RSs to the Fish and Game Commission in January without a print hearing and encouraged the Commission and the Department to address concern that our proposals did not do enough to address private land depredation by wildlife.

We believe House Bill 230 takes significant steps to both address the depredation concern and deliver important outcomes for sportsman and landowners.

You have my testimony in your folder as well as a brief overview of each of the 12 sections of the bill with a diagram.

House Bill 230 has four themes:

Theme 1: Dedicated revenue to compensate and prevent wildlife depredation on private land.

This bill raises new revenue in Section 6, page 13, via a license endorsement fee required to purchase an annual license. The fee is \$5.00 for resident adults, \$2.00 for other residents such as juniors and seniors, \$10 for non-resident adults and \$4.00 for other non-residents.

The money is deposited in the Fish and Game set-aside account to annually transfer \$500,000 into the expendable big game depredation account to pay wildlife damage claims.

The next allocation of \$500,000 is for pronghorn antelope, deer, and elk depredation prevention on private land and control of predators affecting these species.

I note the new \$500,000 for claims enhances the existing \$200,000 of our license funds that are already transferred each year plus about \$50,000 of interest from the nonexpendable big game depredation fund. That essentially triples the financial commitment of sportsman money for wildlife damage compensation claims.

The bill also increases from \$1.50 to \$3.50 the moneys from pronghorn antelope, deer, and elk tags directed to the fish and game set-aside account for the winterfeeding account, and for pronghorn antelope, deer, and elk depredation prevention on private land and control of predators affecting these species. There is a complementary change for the set-aside from the Sportsman's Pak in Sections 2, page 3, and Section 4, page 8. This is not new money; these changes do not affect current fees for the affected tags. This is just redistribution of an estimated \$498,000 of discretionary revenue to the set-aside account to consolidate the financial resources for these programs.

In addition, the threshold of the expendable big game depredation account balance for which transfer provisions for any unexpended and unencumbered balance applies is increased from \$750,000 to \$2.5 million. When that threshold is reached, the unused balance flows back into the set-aside account specifically for pronghorn antelope, deer, and elk depredation prevention on private land and control of predators affecting these species. Thus, sportsman money allocated to address depredation issues remains focused on depredation and is not directed to any other purpose. This is found in Section 3, pages 4 and 5.

I specifically note that the Commission proposed doubling the existing \$750,000 threshold to \$1.5 million, which the Commission thought ample based on the expenditure history of this fund. Recognizing that legislative processes to create policy involve reconciling a range of perspectives, the Commission believes a threshold of 2.5 million is excessive. We commit to annually review and report to the you about how this threshold performs.

Theme 2: Revisions to improve flexibility and responsiveness of the compensation claims program to landowner operations.

To address concerns that the compensation claim program is too burdensome for landowners, this bill revises several provisions identified as barriers found in Section 3, pages 4 thru 7, Section 8, pages 17 thru 19, and Section 9, page 21. I highlight one on page 18 – the requirement for written follow-up to verbal notification of wildlife damage to crops is increased from 10 to 20 days, which also increases from 10 to 20 days the period prior to the initial damage notification that the department is held liable or accountable for wildlife damage. The bill allows electronic means for written notice. This proposal arose from recommendation from the Fish and Game Advisory Committee of landowners and sportsmen. Another change – To continue to encourage hunting as a tool in the depredation toolbox, we amend the reasonable access language to be more flexible and responsive to individual landowner circumstances, noted in Section 8, page 18 lines 25, and 44-46.

Theme 3: New financial resources for sportsman access programs.

Sportsmen access programs for easements and access agreements are a high priority for hunters and anglers. To address this, the balance after the first \$1 million from license endorsement fees is dedicated to wildlife depredation compensation and prevention, remains in the Fish and Game

set-aside account for sportsman access programs specifically excluding purchase of private property, found in Section 2, page 3.

Complementary to this provision, moneys in the fish and game account from combination and fishing licenses, authorized for certain fishery functions such as fish hatchery and reservoir rehabilitation, are increased from \$2.00 to \$5.00. This increase supports these important functions and the addition of fishing access as an authorized use of these funds, found in Section 1, page 2. This earmarking of an additional \$793,000 from discretionary license revenue for these purposes does not affect license cost.

Theme 4: New revenue for the broader portfolio of fish and game programs.

New revenue tools are:

1. A resident fee increase of about 20% is included with some other fee increases such as nonresident daily fishing licenses and creation of a new control hunt application fee for moose, sheep, and goats. Resident fees have not been adjusted since 2005. This is Section 7, pages 13 thru 17.
2. Legislative direction is given to the Fish and Game Commission to implement a Price Lock discount order, which would provide a discount to 2016 fees for eligible sportsmen who purchase an annual license in 2017 and every year for at least five years and until legislative review is complete. I want to emphasize that for those who are "Price Locked" the discount extends to all license, tag, and permit products, not just the annual license. You don't have to buy the same thing every year to be Price Locked – If I buy a fishing license and salmon permit in 2017 and then purchase a combo license and a deer tag in 2018 – my 2018 products would still be discounted. This is in Section 10, pages 21 and 22.

New revenue from this approach is provided from sportsmen who have not traditionally bought a license every year – they will either buy a license intermittently at the higher price or they will buy every year to get the Price Lock discount.

The Price Lock fee increase would generate an estimated \$3 million in additional revenue to be used to restore inflationary losses in programs and to fund sportsman desired enhancements such as: modernize hatcheries and increase fish production, conduct more big game population surveys, spend more to improve and maintain public shooting ranges, and conduct more wildlife enforcement patrols.

The Price Lock fee increase would become effective with the sale of the 2018 Fish and Game licenses on December 1, 2018 – this gives our sportsmen time to decide about purchasing their 2017 annual license to be eligible for Price Lock.

All other sections of this bill would become effective May 1, 2017 to accelerate the outcomes from the new license endorsement revenue and the related depredation policy revisions. Effective dates and severability clause are Sections 11 and 12 on page 22.

One other note – Section 5, page 12 is a clean-up reference for the three year nonresident junior fishing license.

Mr. Chairman and Committee, the Fish and Game Commission supports this bill with the caveat I previously discussed. Our testimony demonstrates benefits of this bill to both sportsmen and also other stakeholders across the state. Let's move forward together. I ask for your Do Pass recommendation.

A brief technical summary of H230 sections

IDFG 3/2/17

Section 1

Amend 36-107 to increase the authorized "ear-mark" of funds from combination and fishing licenses for construction, repair, or rehab of fish hatcheries, fishing lakes/reservoirs, and add fishing access as an authorized ear-mark.

Section 2

Amend 36-111 provisions for the fish and game set-aside account.

- a) Increases the amount from pronghorn antelope, deer, and elk tags directed to two set-aside functions: winterfeeding and pronghorn antelope, deer, and elk depredation prevention on private land/control of predators affecting these species.
- b) Provides that labor and mileage directly related to winter feeding are authorized for expenditure from the set-aside.
- c) Sets aside the funds from a new fee (license endorsement expected to raise \$2 million annually) for specific spending:
 - \$500,000 transferred to the expendable big game depredation fund (used to pay wildlife depredation compensation claims),
 - the next \$500,000 used for pronghorn antelope, deer, and elk depredation prevention on private land/control of predators affecting these species,
 - the balance used for sportsmen access programs that shall not be used to purchase private property.

Section 3

Amend 36-115 to revise provisions of the expendable big game depredation fund (funds wildlife depredation compensation claims).

- a) References the \$500,000 transfer noted in Section 2. Retains the existing \$200,000 transfer from the fish and game dedicated account for total transfer of \$700,000 annually plus about \$50,000 annual interest from nonexpendable big game depredation fund (\$750,000 accrual annually).
- b) Raises the threshold of the expendable big game depredation fund from \$750,000 to \$2.5 million, upon which any unexpended and unencumbered funds would transfer into the set-aside account

earmarked for pronghorn antelope, deer, and elk depredation prevention on private land/control of predators affecting these species in Section 2.

- c) Reduces claim deductible from \$1,000 to \$750 throughout this section.
- d) Increases from 25% to 50% the amount of the interest from the fund that can be used for forage compensation claim payments in a fiscal year.

Section 4

Amend 36-406 to modify sportsmans pak set-aside to complement tag set-asides in Section 2.

Section 5

Amend 36-407 to make a technical correction to provide reference for the three year nonresident junior fishing license.

Section 6

Create new section 36-414 to define the license endorsement fee required to purchase an annual hunting, fishing, combination or trapping license to create the \$2 million funding for the set-aside elements noted in Section 2.

Section 7

Amend 36-416 to raise resident fees about 20%, increase nonresident daily fishing license fees, create new trophy species control hunt application fee, create grizzly bear tag, and increase a few miscellaneous other fees such as the captive wolf license to fund fish and wildlife management programs.

Section 8

Amend 36-1108 to improve flexibility and responsiveness to landowner operations relative to provisions of compensation claims for crop damage.

Section 9

Amend 36-1110 to improve flexibility and responsiveness to landowner operations relative to provisions of compensation claims for forage damage.

Section 10

Provides Legislative Intent for Section 7 (raising resident fees) and provide legislative direction for the Fish and Game Commission to implement a “Price Lock” discount order that shall be in effect for at least five years and until legislative review is complete. The price lock order will discount to 2016 prices any of the annual licenses, tags, permits for anyone who has purchased a 2017 annual license and continues to purchase any annual license through the duration of the order.

Section 11

Severability clause

Section 12

Effective date for all sections except 7 and 10 is May 1, 2017 (includes new license endorsement fee in Section 6).

Effective date for Sections 7 and 10 (Fee Increase/Price Lock) is the beginning sale of 2018 licenses: December 1, 2017.

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:15 P.M.
Room WW55
Wednesday, March 15, 2017

SUBJECT	DESCRIPTION	PRESENTER
	NOTE TIME CHANGE TO 1:15 P.M.	
<u>SJM 102</u>	Recognizing Idaho's statewide Sage-grouse Conservation Plan	Senator Brackett

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Bair

Vice Chairman Vick

Sen Siddoway

Sen Brackett

Sen Heider

Sen Bayer

Sen Johnson

Sen Stennett

Sen Jordan

COMMITTEE SECRETARY

Juanita Budell

Room: WW37

Phone: 332-1323

email: sres@senate.idaho.gov

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, March 15, 2017

TIME: 1:15 P.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: Senators Johnson and Jordan

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 1:15 p.m.

SJM 102 **Senator Brackett** presented **SJM 102** and said it is directed to the U.S. Congress. **Senator Brackett** said the Joint Memorial has a multi-prong approach. The first prong is that Idaho will continue to seek legislation that would give a ten year moratorium on listing sage-grouse. That would provide time to implement the State's Sage-Grouse Conservation Plan and also time to evaluate its effectiveness. **Senator Brackett** stated that **SJM 102** also asks Congress not to fund or implement federal land use plan amendments for a period of ten years if they are inconsistent with the State's Sage-Grouse Conservation Plan.

Senator Brackett said the second prong pertains to legal issues. The State filed a lawsuit challenging the federal agencies opposing the State's plan, and that added additional layers to the State Plan. The Idaho State Plan designated three zones: priority, important, and general. The Bureau of Land Management (BLM) imposed a one-size fits all top-down management by overlaying a new designation called "focal areas." The focal areas added new restrictions that the State and the U.S. Fish and Wildlife Service said were not necessary. The focal areas included most all of the primary habitat and some of the important habitat areas. The lawsuit was dismissed for lack of standing, and was without prejudice; it is still subject to appeal. There are some indications that with the new administration, the federal agencies may have some desire to enter into settlement negotiations. **Senator Brackett** said the Legislature may want to encourage that.

In the third prong, the BLM and the U.S. Forest Service (USFS), in their action in the last year or two, particularly in making their land use plan amendments and going forward with implementation, are essentially making an end run with their rangeland health determinations. The agencies are using Standard 8 entitled "Threatened and Endangered Species", to make rangeland health determinations. With that, the agencies are making changes in management plans that do not conform with Idaho's State Sage-Grouse Plan. **Senator Brackett** said this Memorial speaks to stop that loophole that currently exists.

Senator Stennett asked about the lawsuit that was dismissed and was subject to appeal. She inquired if it would be appealed by the State. **Senator Brackett** replied it would be appealed by the State. **Senator Stennett** said if it should go to court, shouldn't there be a fiscal note. **Senator Brackett** said there is a litigation fund that the Speaker and the Pro Tem have control over that would be available. It is not a new appropriation and if the fiscal note needs changed, that could be done. **Senator Brackett** said he would need a higher ruling to do that. **Senator Stennett** inquired if what Senator Brackett is referring to is the Constitutional Defense Fund. **Senator Brackett** said there are two funds; one is the Constitutional Defense Fund and the second fund is called the Legislative Defense Fund and that is where the sage-grouse legal money was placed.

Vice Chairman Vick asked how recent was the court ruling and why was this Memorial introduced at such a late date in the Session. **Senator Brackett** responded by saying the court ruling is recent. The reason for the late date of introduction is one of several; one reason was a resolution last year. Another reason was just last week, **Senator Brackett** said he had a conversation with the Gentleman on the Second Floor and asked if there was anything that could be done in the Governor's efforts with the federal agencies regarding sage-grouse. The Governor replied, "Yes, get me a Memorial." **Senator Brackett** said that pretty well sums it up.

Senator Stennett asked that Sam Eaton, from the Office of Species Conservation (OSC), speak to this issue. **Mr. Eaton**, legal counsel for OSC, said that they did receive a ruling from the federal district in Washington D.C. in early January 2017 dismissing the Governor's claims on a procedural standing basis. **Senator Stennett** then asked, in the interim, if OSC is following the State Plan until the case is actually settled and is there a portion of the State Plan that OSC can move forward with. **Mr. Eaton** replied that there are aspects of the Governor's plan that OSC is able to move forward with and that are not in direct conflict with the land use plans. The federal plan did not follow the proper protocol. With the new administration, **Mr. Eaton** said OSC would pursue all legal options.

MOTION: **Senator Siddoway** moved that **SJM 102** be sent to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **voice vote**. Senator Brackett will be the floor sponsor.

ADJOURNED: There being no further business at this time, **Chairman Bair** adjourned the meeting at 1:30 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
 8:00 am
 Room WW55
 Thursday, March 23, 2017

SUBJECT	DESCRIPTION	PRESENTER
	NOTE MEETING TIME - <u>8:00 am to 9:30 am</u>	
Minutes Approval	Minutes of March 6, 2017	Senator Heider
Minutes Approval	Minutes of March 8, 2017	Senator Bayer
Minutes Approval	Minutes of March 13, 2017	Senator Siddoway
Minutes Approval	Minutes of March 15, 2017	Senator Brackett
	Page Recognition - Melissa Freeman	Chairman Bair
H 319	Water exceptions to the mandatory permit requirements	Speaker Bedke
H 301	Gas and Oil	Representative Boyle

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Bair	Sen Bayer
Vice Chairman Vick	Sen Johnson
Sen Siddoway	Sen Stennett
Sen Brackett	Sen Jordan
Sen Heider	

COMMITTEE SECRETARY

Juanita Budell
 Room: WW37
 Phone: 332-1323
 email: sres@senate.idaho.gov

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Thursday, March 23, 2017

TIME: 8:00 A.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 8:17 a.m.

MINUTES: **Senator Heider** moved to approve the Minutes of March 6, 8, 13, and 15, 2017. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

PAGE RECOGNITION: **Chairman Bair** acknowledged Melissa Freeman as Page for the Committee during the second half of the Session. **Chairman Bair** presented Melissa with a letter signed by all Committee members and a gift card to Barnes and Noble Bookstore and wished her good luck in the future.

H 319 **Clive Strong**, Deputy Attorney General for the State of Idaho, presented **H 319**. This bill creates three exceptions to the mandatory permit requirement for three temporary uses of water. The first exception authorizes the Director of the Idaho Department of Lands (IDL) to allow the diversion of water to prevent flood damage. The second exception authorizes the Director to allow the use of unanticipated high flows for the purpose of ground water recharge. The third exception allows the Director to authorize the use of water in response to State or federal health and safety requirements. These uses do not constitute a water right.

Mr. Strong said that in subsection 6 of the bill, page 2, line 20, it reads "for reservoir flood control authorized by state or federal laws" and said the purpose for this provision is to make it clear that this statute does not deal with the current conflict that exists with refilling reservoirs. That is a separate issue and will be handled either through litigation or through settlement discussions that have been ongoing. For purposes of today, this is separate and apart from any refill issues and solely for temporary uses.

Senator Stennett inquired if diverting water in existing ditches and canals would need extra emergency permits. **Mr. Strong** replied that this issue does not deal with water rights, it is just a use and the contemplation is that it is used for existing facilities.

MOTION: **Senator Siddoway** moved that **H 319** be sent to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**. Chairman Bair will be the floor sponsor.

H 301aa **Chairman Bair** said that Senator Lee will give a brief introduction to **H 301aa**, followed by Tom Schultz, Director, IDL, providing a brief walk-through of the bill.

Senator Lee said a month ago, this was a different bill; however, today, it is a compromise bill. One question that had been asked is: have you worked with the industry? **Senator Lee** acknowledged several individuals who have tirelessly worked on the bill and they are: Chairman Bair; Representatives Boyle and Kirby; House Leadership; Chairman Gibbs; and the industry, Alta Mesa. **Senator Lee** stated that she also wanted to acknowledge Director Schultz's hard work and his expertise in helping to write this bill.

Director Schultz indicated that he would be brief and would provide a quick walk-through of **H 301aa**. The first part of the bill has to do with definitions. The next part concerns the make-up of the Oil and Gas Conservation Commission, which had been a point of contention with some folks. The Commission will be made up of three experts, appointed by the Governor, who have degrees in the geoscience or engineering field and have at least ten years of experience in the oil and gas industry. Also on the Commission will be the director of IDL and a county commissioner from a county where oil and gas are being produced or has been produced within the last ten years. The intent of the requirements for the members of the Commission is to increase the expertise.

Director Schultz said the next section has to do with permits to drill or treat a well, and the fees involved. IDL notifies the applicant within five business days of receipt of an application; the Idaho Department of Water Resources has 10 business days to recommend conditions necessary to protect fresh water supplies; and then IDL approves or denies the application in a timely and efficient manner.

Director Schultz said a new section was added to the bill which was for drilling locations, which he reviewed. The next section covered was well spacing and setbacks. Setbacks are defined on page 16 of the bill, lines 1 through 10. The next item **Director Schultz** talked about was integration; previously a point of contention. Integration is described on page 16, lines 14 through 27. In the absence of voluntary integration, IDL shall order integration of all tracts or interests in the spacing unit for drilling of a well and for the sharing of production.

The next topic covered was oil and gas metering systems. **Director Schultz** said all meters shall be properly constructed and installed. Calibrations shall be by a third party at least quarterly in each calendar year and records kept for five years.

Director Schultz explained the reporting requirements as found on page 23 of the bill, starting on line 23. Required reports are as follows:

- monthly production;
- gathering facility;
- transportation and storage;
- well tests;
- well production potential tests;
- logs;
- additional reports; and
- IDL's quarterly report to the Commission.

Director Schultz next discussed royalties. It was determined that each royalty payment shall be accompanied by a check stub that includes information regarding wells, sales, volume, price, taxes, and other pertinent information.

Director Schultz said the exemptions from disclosure include archaeological, endangered species, libraries, and licensing exams. The following records are exempt from disclosure:

1. Records, maps or other records identifying the location of archaeological or geophysical sites or endangered species, if not already known to the general public.
2. Archaeological and geologic records concerning exploratory drilling, logging, mining and other excavation.
3. Documents and data related to oil and gas production submitted to IDL or the Oil and Gas Conservation Commission.
4. Library records that reveal the identity of the library patron checking out, requesting, or using an item from a library.
5. Material of a library, museum or archive that has been contributed by a private person.
6. Test questions, scoring keys, and other data used to administer a licensing examination or employment.
7. Land management plans.

Director Schultz stated that pages 38 through 42 of **H 301aa** consists of cleanup language.

TESTIMONY: **Jim Classen**, representing himself, is a member of the Oil and Gas Conservation Commission, testified that he is strongly in favor of **H 301aa**. **Mr. Classen** stated that he is a geologist and has been in the oil and gas business for five decades and this bill is a step forward.

TESTIMONY: **C. J. McDonald**, Lone Tree Petroleum, said the data provides checks and balances for the landowners, allows the data to be utilized by his company as well as other companies to move forward, and allows for more protection for certain drilling operations. **Chairman Bair** said he appreciated Mr. McDonald's participation in this whole process and the time that he has spent.

TESTIMONY: **Larry Craig**, former U.S. Senator, indicated that he was speaking as a private citizen. **Mr. Craig** stated that for the last two years, he has worked with the delegation from District 9 and congratulated them on recognizing the problems in their district with the growth of the gas and oil industry in Idaho. **Mr. Craig** thanked Senator Lee, Representative Boyle, and Representative Kerby for their tremendous effort that they have put into **H 301aa**. **Mr. Craig** said this bill represents the kind of transparency and openness that all law must reflect that comes about with spacing, reporting, and metering. It protects the State's interest and it protects the landowners' interest. **Mr. Craig** said **H 301aa** is a step in the right direction.

TESTIMONY: **Julia Page**, board member of the Idaho Organization of Resource Councils (IORC), said they have been involved with the gas and oil issue since exploration first started in Washington and Payette Counties. **Ms. Page** stated that IORC supports the bill, even though it isn't perfect, and appreciates the delegation for listening to their concerns.

WRITTEN TESTIMONY: **Braden Jensen**, Energy and Natural Resources Specialist for the Idaho Farm Bureau Federation, submitted written testimony supporting **H 301aa**.

DISCUSSION: **Vice Chairman Vick** inquired if an oil and gas bill, **H 64** that is on the Governor's desk, conflicts with this bill, **H 301aa**. **Director Schultz** replied that the two bills do not conflict.

Chairman Bair invited Senator Lee to offer some closing remarks regarding **H 301aa**. **Senator Lee** said she appreciated all the work that had been done on this bill and asked that the Committee support the bill.

MOTION: **Senator Heider** moved that **H 301aa** be sent to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**. Senator Lee will be the floor sponsor.

ADJOURNED: There being no further business at this time, **Chairman Bair** adjourned the meeting at 9:25 a.m.

Senator Bair
Chair

Juanita Budell
Secretary