

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, January 15, 2018

SUBJECT	DESCRIPTION	PRESENTER
Welcome	Committee members and Page - Jack Sherlock	Chairman Bair
Rules Review	Comments	Vice Chairman Siddoway

**DEPARTMENT OF
ENVIRONMENTAL QUALITY**

Docket No. 58-0102-1502	Water Quality Standards	Barry Burnell, Water Quality Division Administrator
Docket No. 58-0102-1701	Water Quality Standards	Barry Burnell, Water Quality Division Administrator
Docket No. 58-0102-1702	Water Quality Standards	Barry Burnell, Water Quality Division Administrator
Docket No. 58-0125-1701	Rules Regulating the Idaho Pollutant Discharge Elimination System Program	Barry Burnell, Water Quality Division Administrator

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 Siddoway	Sen Johnson
Sen Brackett	Sen Stennett
Sen Heider	Sen Jordan
Sen Vick	

COMMITTEE SECRETARY

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

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, January 15, 2018

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Siddoway, Senators Brackett, Heider, Vick, 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.

WELCOME: **Chairman Bair** welcomed the audience; the Committee members; Juanita, the Committee secretary; and Jack Sherlock, the Committee page. **Chairman Bair** asked Jack to address the Committee and to provide information regarding his schooling and future plans.

Jack stated that he is from Gooding, Idaho and attends Gooding High School. His favorite subjects are science and health, which were instilled in him by a teacher during his freshman year. Upon graduating from high school, Jack plans to attend Vanderbilt University. Following his undergraduate education, Jack aspires to attend Johns Hopkins Medical School to become a cardiothoracic surgeon.

PASSED THE GAVEL: Chairman Bair passed the gavel to Vice Chairman Siddoway who will preside over the rules.

DEPARTMENT OF ENVIRONMENTAL QUALITY RULES: **Vice Chairman Siddoway** said the rules discussed today pertain to the Department of Environmental Quality (DEQ). Barry Burnell, Water Quality Division Administrator, will present.

DOCKET NO. 58-0102-1502 **Rules Governing Water Quality Standards. Mr. Burnell** said this rule was initiated to update DEQ's existing hardness dependent copper criteria by using the Environmental Protection Agency's (EPA) 2007 Clean Water Act Section 304(a) copper criteria. This update is identified in the National Oceanic and Atmospheric Administration's (NOAA) May 7, 2014 biological opinion (BiOp) on Idaho's criteria for toxic substances to support aquatic life.

This BiOp concluded that the current copper criteria were not always protective of aquatic life and would result in adverse modification of critical habitat. By adopting a copper criterion based on the Biotic Ligand Model (BLM), DEQ will employ the most current science to ensure that the criteria are more precise and are neither unnecessarily burdening dischargers, nor increasing risk to aquatic life. If DEQ had not undertaken this rulemaking activity, then EPA would have had to undertake a rulemaking for Idaho.

Mr. Burnell stated that there is no controversy surrounding this rule. However, monitoring costs for facilities with copper limits - and those facilities without a limit, but with monitoring requirements - will see higher monitoring costs associated with collecting and analyzing the samples. Costs are estimated to be \$157 per sample.

MOTION: **Senator Vick** moved to approve **Docket 58-0102-1502**. **Chairman Bair** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 58-0102-1701 **Rules Governing Water Quality Standards.** **Mr. Burnell** stated that this rule is to update the selenium criteria relating to aquatic life. The BiOp concluded that the current selenium criterion was likely to adversely affect endangered species and would result in adverse modification of critical habitat. The NOAA recommendation is to use the EPA's 2016 Clean Water Act Section 304(a) selenium criterion based on fish tissue concentrations.

Aquatic organisms exposed to selenium accumulate it primarily through their diets and not directly through water. Selenium toxicity effects fish primarily through transfer to the eggs which reduces reproductive success and survival. Current criteria are generally underprotective of aquatic life. The proposed criterion is derived from the allowable concentration of selenium in fish tissue found to be protective of aquatic life. The fish tissue concentration can be used to determine the allowable concentration of selenium in ambient water. By adopting the fish tissue-derived criterion, DEQ will ensure that its criterion neither unnecessarily burdens dischargers, nor increases risk to aquatic life.

Mr. Burnell provided a handout showing the site-specific criterion (attachment 1). Site-specific selenium criteria included the following locations: Upper Blackfoot River; Georgetown Creek Watersheds; Hoopes Spring; Sage Creek; Crow Creek; and all waters of the state, except the main stems of the Kootenai, Salmon, and Snake Rivers within the historic range of white sturgeon. It also included sub-basins flowing directly into the aforementioned rivers and those designated as critical salmonid or bull trout habitat.

MOTION: **Chairman Bair** moved to adopt **Docket 58-0102-1701** and to correct the typographical error of 151¹ to 15¹ on page 66 of the 2018 Pending Rules Review Book. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 58-0102-1702 **Rules Governing Water Quality Standards.** **Mr. Burnell** said this rule was initiated for administrative purposes including: housekeeping, streamlining, and reorganizing the Criteria for Toxic Substances table in Subsection 210.01. This table contains the criteria for protection of aquatic life and human health.

Water quality standards adopted and submitted to the EPA since May 30, 2000 are not effective for federal Clean Water Act (CWA) purposes until the EPA approves them. This is known as the Alaska Rule. DEQ proposes a new rule section, which establishes a rulemaking process. This would return the existing rule that continues to be effective for CWA purposes, until the EPA approves the rule revisions. This rulemaking process will allow the regulated community to stay informed regarding the status of rules enacted for CWA purposes.

The tables in Subsection 210.01 contain criteria for protection of aquatic life and human health. This rulemaking simplifies and streamlines the existing table by moving the information into two separate tables. One table will contain the criteria for protection of aquatic life and another will contain the criteria for protection of human health. Two separate tables will make it more manageable and easier to follow. The proposed revisions are for organizational purposes only and are not substantive. None of the criteria have changed, only the table format. All criteria values remain the same.

MOTION: **Senator Jordan** moved to approve **Docket 58-0102-1702**. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
58-0125-1701**

Rules Regulating the Idaho Pollutant Discharge Elimination System Program. **Mr. Burnell** said the purpose of this rule is to ensure that the Rules Regulating the Idaho Pollutant Discharge Elimination System Program (IPDES), IDAPA 58.01.25, remain consistent with federal regulations.

The federal regulations incorporated by reference will be updated to the July 1, 2017 Code of Federal Regulations (CFR) effective date. Included in the rule books is the "Overview of Incorporation By Reference for the DEQ IPDES Program" document. This document outlines which "incorporated by reference" rules could affect Idaho facilities and describes the impact. These are federal requirements and are applicable for Idaho facilities. It is important for DEQ to incorporate these rules so that IPDES will be judged as equivalent to the EPA's National Pollutant Discharge Elimination System (NPDES). It is hopeful that the first phase of IPDES primacy - the municipal discharges - will be approved by the EPA on or before July 1, 2018.

In December 2015, the EPA's rule on electronic reporting became effective for NPDES permitting authorities. DEQ is proposing to update those portions of the IPDES rules affected by including the electronic reporting requirements of 40 CFR Part 127.

The EPA's Municipal Separate Storm Sewer System (MS4) remand rule became effective on January 9, 2017. Changes to these regulations are in response to the remand from the United States Court of Appeals for the Ninth Circuit. These changes allow the state to select an approach for permitting these discharges and establishing the method for permittees to meet standards established by the Clean Water Act.

Additional changes to the federal regulations include updates to effluent limitation guidelines for steam electric generating point sources, oil and gas point sources, and approved test methods for analysis of parameters in effluent discharges.

Mr. Burnell stated that there are no additional costs to the regulated community and there are no controversial issues with this rule.

MOTION:

Chairman Bair moved to approve **Docket 58-0125-1701**. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

**PASSED THE
GAVEL:**

Vice Chairman Siddoway thanked Mr. Burnell for his presentation regarding DEQ's rules, then passed the gavel to Chairman Bair.

ADJOURN:

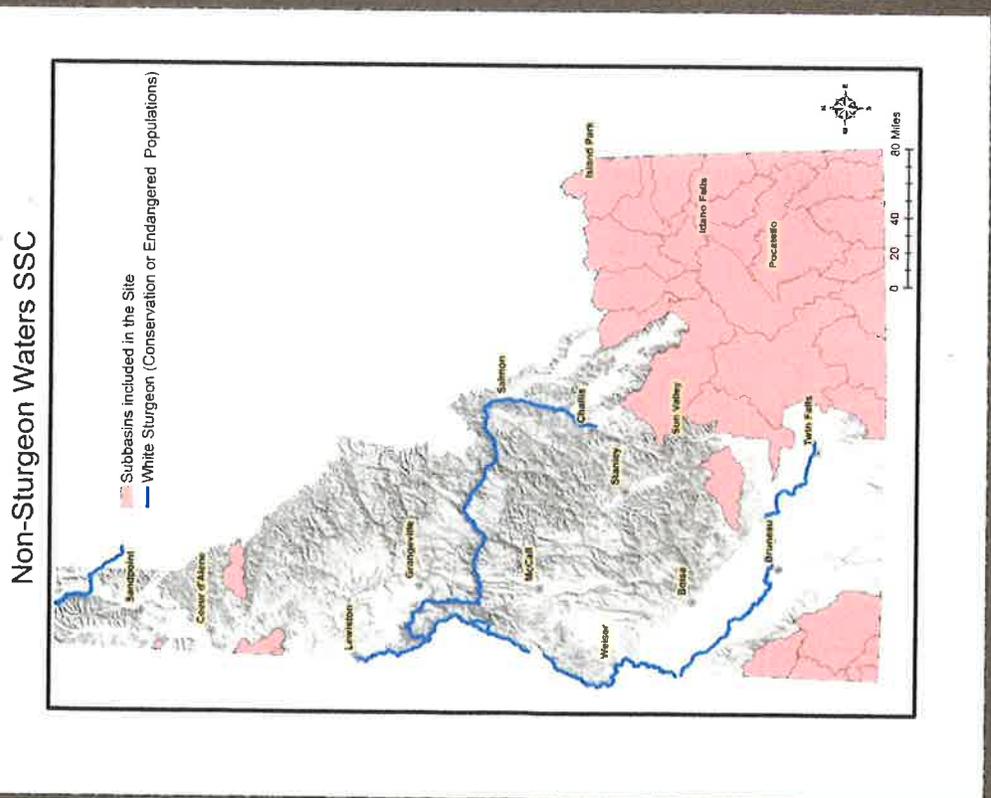
Chairman Bair said he would also like to thank Mr. Burnell and the Committee for their good work. There being no further business at this time, **Chairman Bair** adjourned the meeting at 2:50 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

Portions of Idaho

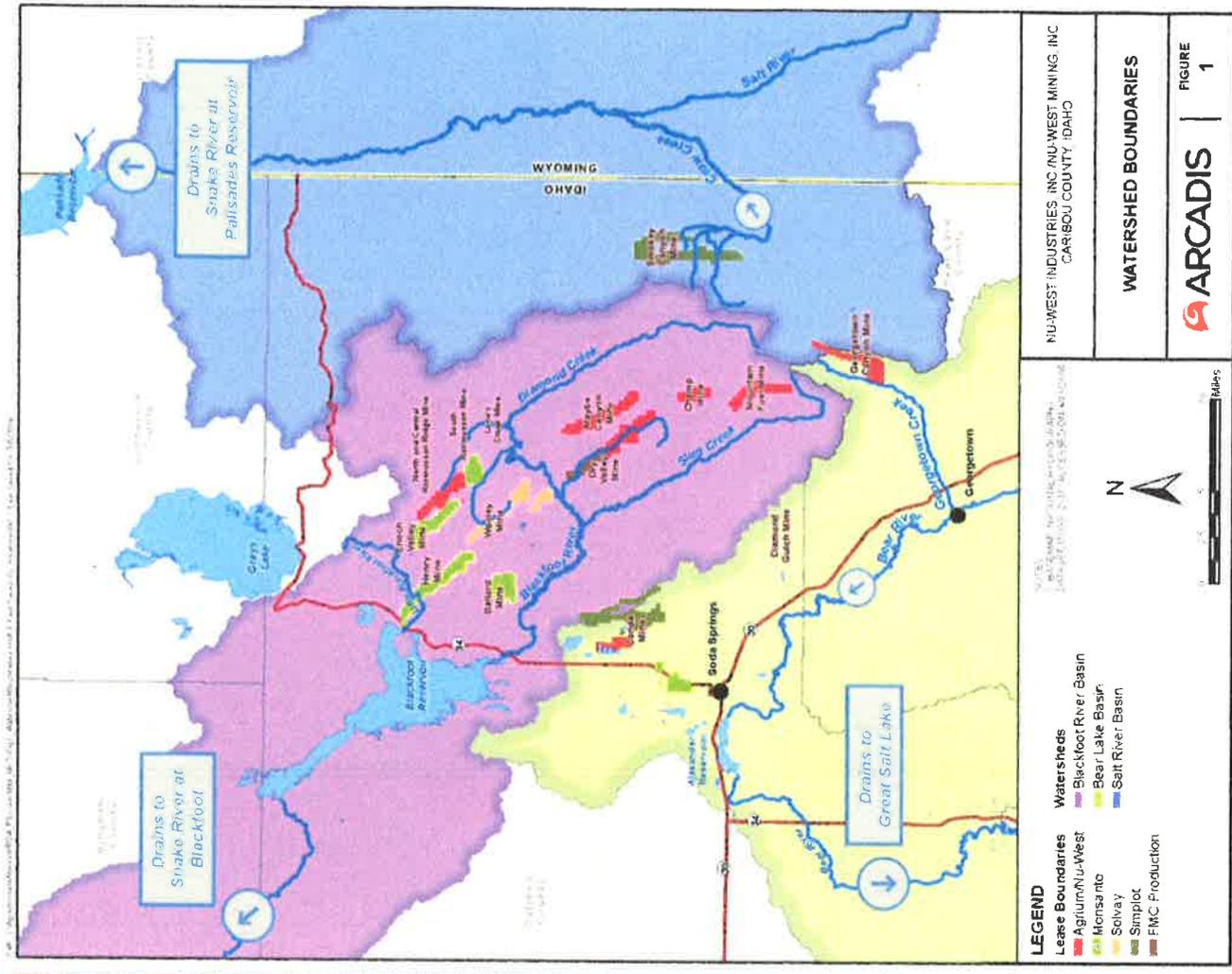
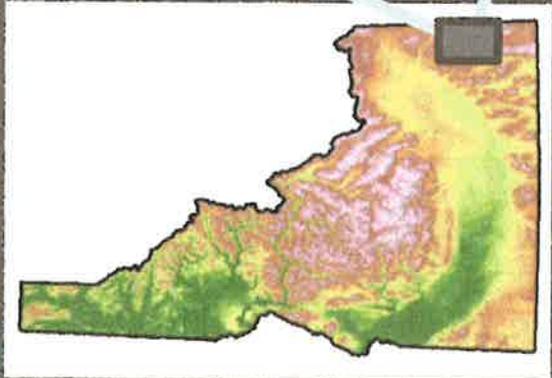
Site-specific criterion - 287.05



Selenium Criterion Version	Chronic		
	Fish Tissue (mg/kg dw)	Whole Body	Muscle
Idaho Proposed	15.1	8.5	11.3
Portions	19.0	9.5	13.1

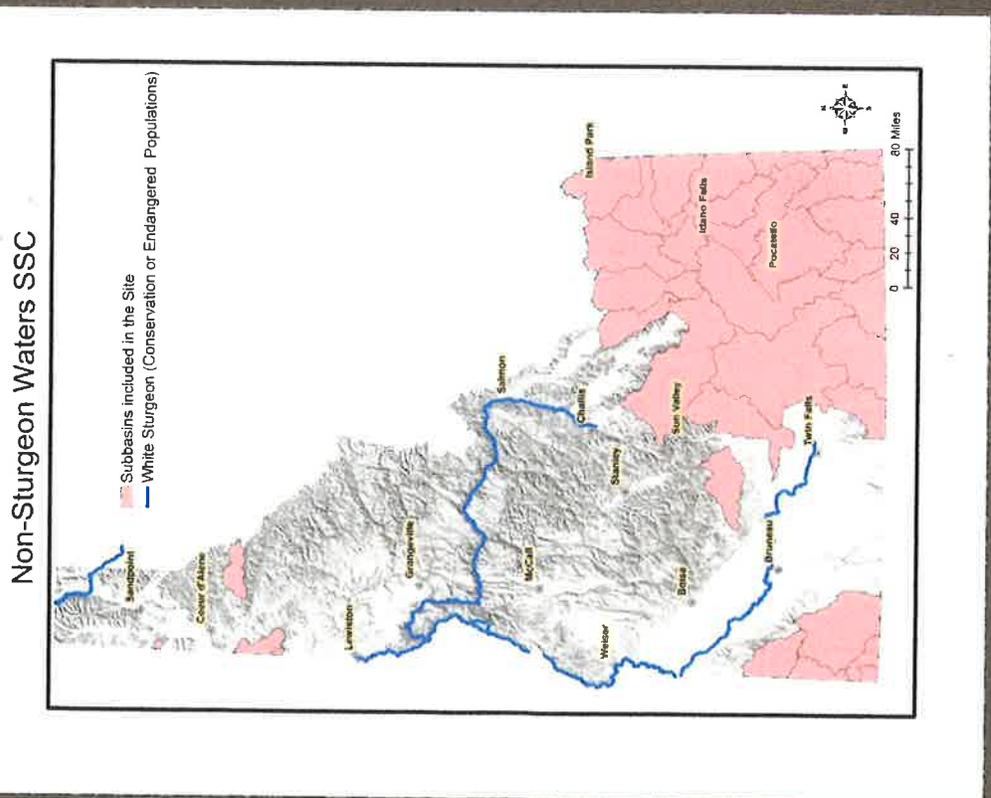
Site Specific Criteria 287.01-287.04

Attachment 1 (page 2 of 2) 1/15/18



Portions of Idaho

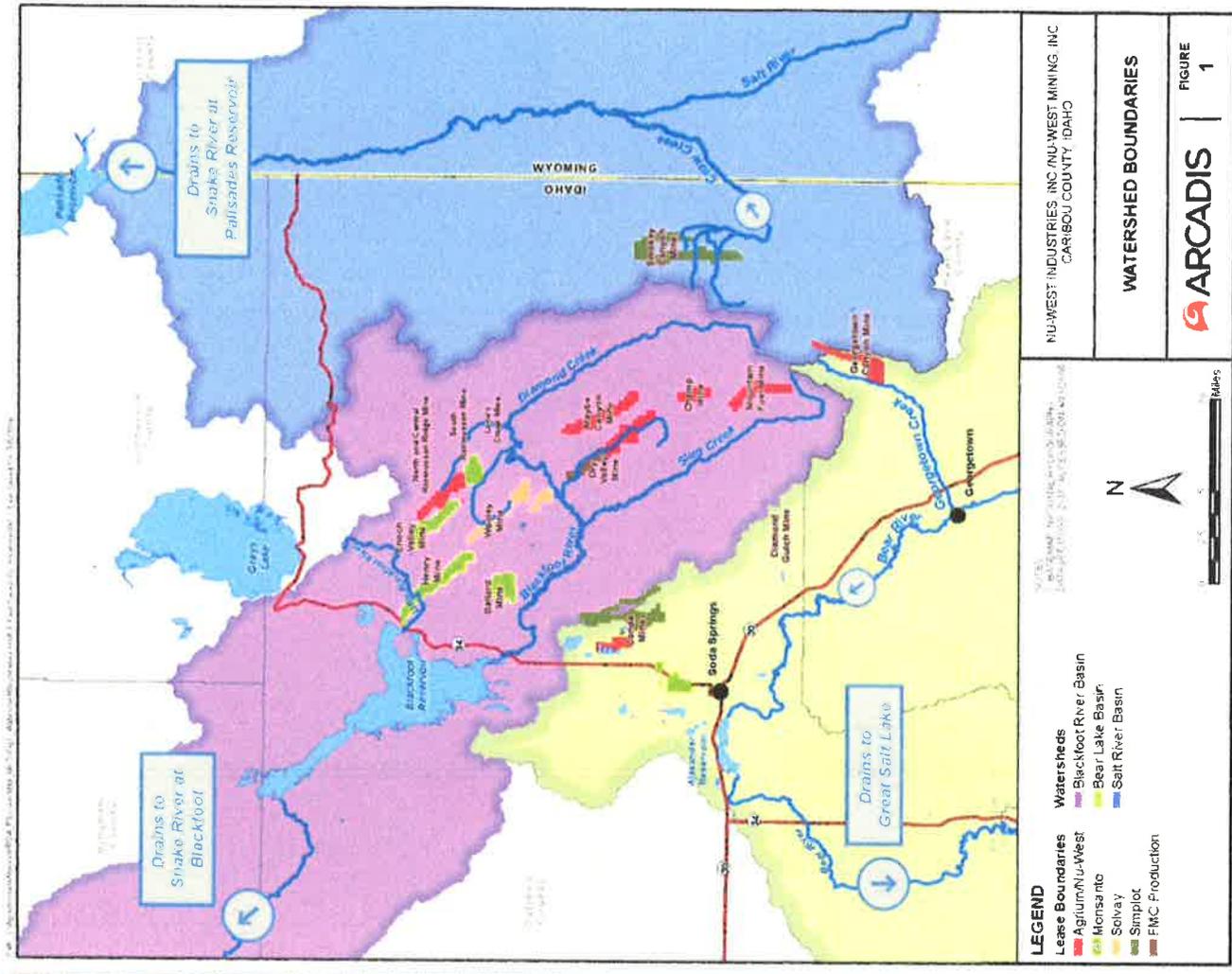
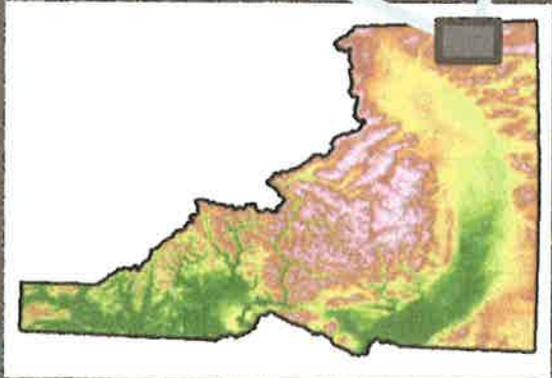
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Site Specific Criteria 287.01-287.04

Attachment 1 (page 2 of 2) 1/15/18



AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, January 17, 2018

SUBJECT	DESCRIPTION	PRESENTER
DEPARTMENT OF FISH AND GAME		
Docket No. 13-0104-1701	Rules Governing Licensing	Sharon Kiefer, Deputy Director, Programs/Policy
Docket No. 13-0104-1702	Rules Governing Licensing	Sharon Kiefer, Deputy Director, Programs/Policy
Docket No. 13-0104-1703	Rules Governing Licensing	Sharon Kiefer, Deputy Director, Programs/Policy
Docket No. 13-0106-1701	Rules Governing Classification and Protection of Wildlife	Sharon Kiefer, Deputy Director, Programs/Policy
Docket No. 13-0108-1704	Rules Governing the Taking of Big Game Animals in the State of Idaho	Sharon Kiefer, Deputy Director, Programs/Policy
Docket No. 13-0108-1706	Rules Governing the Taking of Big Game Animals in the State of Idaho	Sharon Kiefer, Deputy Director, Programs/Policy
RS25706	Collect certain credit card fees	Sharon Kiefer, Deputy Director, Programs/Policy

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 Siddoway	Sen Johnson
Sen Brackett	Sen Stennett
Sen Heider	Sen Jordan
Sen Vick	

COMMITTEE SECRETARY

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MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, January 17, 2018

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Siddoway, Senators Brackett, Heider, Vick, 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.

PASSED THE GAVEL: Chairman Bair passed the gavel to Vice Chairman Siddoway who will conduct the rules review.

Vice Chairman Siddoway welcomed Ms. Sharon Kiefer, Deputy Director of Policy and Programs, Idaho Department of Fish and Game (IDFG), who will present the rules.

Ms. Kiefer introduced Mr. James Stoll, Deputy Attorney General for IDFG, who will provide legal assistance, if needed.

DOCKET NO. 13-0104-1701 **Rules Governing Licensing.** **Ms. Kiefer** said this docket addresses two special tag programs that are authorized by statute. One program is a children's special needs tag that is only available to children that are terminally ill; the other is a special tag program for disabled American military veterans. The rule docket creates certain limitations on these tags, which excludes controlled hunts which have less than five tags. The tag is valid for only one of the following species: deer, elk, pronghorn, moose, black bear, or mountain lion. Any other open hunt for that species, whether it is a controlled hunt, general hunt, or a capped zone, would be available for use with that tag.

Up to five big game tags will be made available for children with life-threatening medical conditions each year. In order to be eligible for a special needs big game tag, the applicants must be a resident or nonresident minor (17 years of age or younger) and must have a life-threatening medical condition, as certified by a qualified and licensed physician. Furthermore they must be sponsored by a nonprofit organization that qualifies under Section 501(c)(3) of the Internal Revenue Code. A hunting license is not required to apply for, or receive, a special needs big game tag. However, an applicant must be accompanied by an adult who has a current hunting license. Applicants may receive only one special needs tag in a lifetime. Eligible applications will be randomly drawn for tag issuance if the number of applications exceeds the number of available tags. No more than one special needs tag will be issued to a nonresident unless there is an insufficient number of applications for resident applicants.

Ms. Kiefer said up to five big game tags will also be made available for disabled veterans, of which one tag will be designated to the Idaho Division of Veterans Services (IDVS) for a resident applicant. Eligibility for resident or nonresident disabled veterans to receive a disabled veterans special big game tag must be certified by the United States Department of Veterans Affairs. The applicant must also be sponsored by a nonprofit organization that is qualified under Section 501(c)(3) of the Internal Revenue Code, or by a governmental agency. Applicants may receive only one special needs tag in a lifetime. Hunter education requirements are waived and a license is not required to apply for, or receive, a disabled veterans special big game tag. Eligible applications will be randomly drawn for tag issuance if the number of applications exceed the number of available tags. Not more than one disabled veterans special big game tag will be issued to a nonresident unless there is an insufficient number of applications for resident applicants.

Ms. Kiefer noted that there is one change of substance for the disabled American veterans special big game tag that does not apply to the special needs children's tag. Since the inception of this program, the IDVS has sponsored two disabled American veterans in a competitive process that includes an essay as to why this hunting opportunity would be important to them. Because they are a partner state organization, **Ms. Kiefer** said that IDFG felt there was legitimate interest in "hard-wiring" them in for a tag every year. Under this proposal, one of the five tags available would automatically go to the IDVS for a disabled American veteran resident.

Chairman Bair inquired as to the oversight of these tags and processes to ensure they are used as intended. **Ms. Kiefer** stated that IDFG's oversight is no different than oversight for any other tag. IDFG has enforcement officers in the field that check these tags. The credibility of the organizations are at stake and would suffer harm if they do not operate according to the rule.

Senator Brackett inquired as to why IDVS previously received two tags and now would receive a reduction. **Ms. Kiefer** said that IDFG heard strongly from other veteran organizations that they felt as if they were not receiving fair treatment.

Senator Johnson noted that negotiated rulemaking was not conducted, but many responses were received by IDFG. He requested **Ms. Kiefer** to elaborate about the responses. **Ms. Kiefer** said they received enthusiastic support for the specific application period for the special big game tags; noteworthy support for a random draw that exceeded the number of tags available; and sixty-three percent supported excluding controlled hunts with less than five tags from the special big game tag program. A letter was received from the IDVS which acknowledged the challenges that arose in processing so many legitimate applications; and IDVS made it clear they wanted to be a partner and were accepting of having a "hard-wired" tag for a resident.

MOTION:

Senator Brackett moved to hold **Docket No. 13-0104-1701**, and schedule it again so constituents in his district who could not attend may have an opportunity to testify. **Senator Johnson** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
13-0104-1702**

Rules Governing Licensing. **Ms. Kiefer** stated that it is proposed that Sections 700 and 800 be amended to include all of Controlled Hunt Area 11, rather than Unit 11, for the bighorn sheep auction and lottery tags to be consistent with the general controlled hunt tag for this hunt.

Section 700. The bighorn sheep auction tag shall be valid in Controlled Hunt Area 11 only during odd-numbered years and during even-numbered years when the bighorn sheep lottery tag holder chooses not to hunt in Controlled Hunt Area 11.

Section 800. The bighorn sheep lottery tag shall be valid in Controlled Hunt Area 11 only during even-numbered years and during odd-numbered years when the bighorn sheep auction tag holder chooses not to hunt in Controlled Hunt Area 11.

Ms. Kiefer stated that Controlled Hunt Area is all of Units 13 and 18 and that portion of Unit 11 that drains into the Snake River from the mouth of the Salmon River to, but excluding, Ten Mile Creek.

MOTION:

Senator Heider moved to approve **Docket No. 13-0104-1702**. **Senator Vick** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
13-0104-1703**

Rules Governing Licensing. **Ms. Kiefer** said this rule allows the Idaho Fish and Game Commission the flexibility to create an outfitter allocation of big game tags for an unlimited controlled hunt when a nonresident big game tag limitation is established. The purpose of this change is to maintain nonresident clientele for outfitters participating in unlimited controlled hunts. Unlimited controlled hunts are a midway tool between a general hunt and a controlled hunt. They only permit deer hunts. The areas affected are Units 26, 27, and 28 and are located in the Middlefork zone and Unit 73 in southeast Idaho near the Utah border. This allows IDFG to monitor trends of participation in these Units.

Senator Stennett stated that there is a lot of ambiguity in the language about how the formula is determined as described in the pending rule. **Ms. Kiefer** said average historic use is reflected in the determination.

MOTION:

Chairman Bair moved to approve **Docket No. 13-0104-1703**. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
13-0106-1701**

Rules Governing Classification and Protection of Wildlife. **Ms. Kiefer** said this rule reclassifies the red squirrel from a Protected Nongame Species to an Upland Game Animal which will allow the Idaho Fish and Game Commission to set a regulated harvest season. Red squirrels are native to Idaho and are not a conservation concern. A request organized in northern Idaho that IDFG consider setting a hunting season for red squirrels.

Senator Heider inquired if the red squirrel was the same as the fox squirrel in the Midwest. **Ms. Kiefer** said the red squirrel is an entirely different species.

Senator Brackett asked for background information relating to the Pygmy rabbit. **Ms. Kiefer** stated that, although the Pygmy rabbit is identified as an Upland Game Animal, there is no open season; open season is not appropriate because of limited distribution of the Pygmy rabbit and conservation concerns.

MOTION:

Senator Johnson moved to approve **Docket No. 13-0106-1701**. **Senator Vick** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
13-0108-1704**

Rules Governing the Taking of Big Game Animals in the State of Idaho. **Ms. Kiefer** explained that this rule change allows the Idaho Fish and Game Commission flexibility to proportionately limit the number of non-outfitted, nonresident big game tags allocated in an unlimited controlled hunt. These restrictions would be established during the time of the Idaho Fish and Game Commission's annual season setting. The purpose is to reduce crowding among hunters, to support continued resident participation, and ensure a quality hunt experience.

There were no questions from the Committee regarding this docket.

MOTION:

Senator Heider moved to approve **Docket No. 13-0108-1704**. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
13-0108-1706**

Rules Governing the Taking of Big Game Animals in the State of Idaho. **Ms. Kiefer** stated this docket is an assortment of changes needed in Chapter 8; Chapter 8 pertains to the taking of big game animals. There are three elements in this docket. The first is a "Super" tag draw for hunters that filled out their mandatory harvest report form. This program had no effect on early reporting or compliance. IDFG is suggesting to rescind this particular program, as they are using other methods to collect information. The second element is a controlled, archery-only hunt that had a very prescriptive hunter orientation class for anyone who drew that tag. The changes include removing duplicative language regarding mandatory reporting and updating the rule to reflect the current reporting procedure. The final element deletes the mandatory requirement that successful wolf hunters report wolf harvest with a telephone report; the telephone report no longer has application for in-season management. However, a report must be made within 10 days of a harvest so that biological information may be obtained.

Senator Brackett said he understood the House Resources Committee rejected the "Failure to Report" section of this rule and asked for information regarding their request. **Ms. Kiefer** stated that a Committee member wanted to maintain a hard line that would penalize a hunter who did not fill out their mandatory report. The Committee member wanted the rule to remain as written.

Senator Stennett inquired as to how much of the information acquired pursuant to mandatory reporting requirement was used by IDFG. **Ms. Kiefer** said they use hunter information, but it comes to IDFG by different channels, such as check stations, telephone surveys, and information collected when a hunter purchases a license.

Senator Johnson stated concern that this section of this rule discourages hunters from filing a report, as it is no longer mandatory.

MOTION:

Senator Johnson moved to approve **Docket No. 13-0108-1706** except in Section 421, adopt the new, 01, reject the new, 02, and adopt the old Subsection 04. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

**PASSED THE
GAVEL:**

Vice Chairman Siddoway passed the gavel to Chairman Bair.

RS 25706

Ms. Kiefer presented **RS 25706** which gives authority to the Director of IDFG to charge a fee for the acceptance of credit cards at IDFG regional offices. These include headquarters, and at IDFG sponsored events, where persons may wish to pay for licenses, tags, and permits, related applications, and materials using a credit card. Currently, only cash, checks, and debit cards are accepted to avoid a fee. This proposal is a customer service enhancement.

MOTION:

Senator Heider moved to print **RS 25706**. **Vice Chairman Siddoway** seconded the motion. The motion carried by **voice vote**.

ADJOURN: 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, January 22, 2018

SUBJECT	DESCRIPTION	PRESENTER
Minutes	Approval of Minutes, January 15, 2018	Senator Heider
Gubernatorial Appointment Hearing	Mr. Jim Yost, Meridian, Idaho was reappointed to the Northwest Power & Conservation Council by the Governor to serve a term commencing January 15, 2018 and expiring January 15, 2021	
S 1217	Authorize IDFG to collect certain credit card 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 Siddoway	Sen Johnson
Sen Brackett	Sen Stennett
Sen Heider	Sen Jordan
Sen Vick	

COMMITTEE SECRETARY

Juanita Budell
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MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, January 22, 2018
TIME: 1:30 P.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman Bair, Vice Chairman Siddoway, Senators Brackett, Heider, Vick, 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.
MOTION: **Senator Heider** moved to approve the Minutes of January 15, 2018. **Vice Chairman Siddoway** seconded the motion. The motion carried by **voice vote**.
Chairman Bair welcomed Jim Yost to the Committee meeting for his reappointment hearing.
GUBERNATORIAL APPOINTMENT HEARING: Mr. Yost, Meridian, Idaho was reappointed to the Northwest Power & Conservation Council (NPCC) by the Governor to serve a term commencing January 15, 2018 and expiring January 15, 2021.

Mr. Yost was born in Rupert, Idaho and raised in the Magic Valley of Southern Idaho where he learned and applied knowledge of water, agriculture, and natural resources. He owned and operated a dairy distributorship for a number of years in Wendell, Idaho and worked for the Union Pacific Railroad for ten years. In 1988, he was named Assistant Public Affairs Director for the Idaho Farm Bureau and in 1991 was promoted to Public Affairs Director.

Mr. Yost graduated from the College of Southern Idaho in 1968 with an Associate of Arts degree. In 1971, he received a Bachelor of Arts degree in education from Boise State University. Mr. Yost was elected in 1972 to the Idaho State Senate at the age of 24, the youngest Idaho Senator ever elected, and served two terms.

Mr. Yost said the NPCC is an interstate compact that was created in 1980. Four northwestern states - Washington, Oregon, Idaho, and Montana - comprise the NPCC. The Governors of each state appoint two representatives, usually for three-year terms.

The three major issues that NPCC is required to address are: "1.)" to improve fish and wildlife; "2.)" to provide an economical and reliable power system; and "3.)" to interact with the public.

Senator Stennett inquired about renewable energy. **Mr. Yost** said about ten years ago, there was an extensive effort to include more intermittent resources - wind and solar - into the system; it was very effective with federal subsidies and tax credits. As the region has developed more renewable energies, it has become more difficult to balance the system and to integrate those renewables into the system. **Mr. Yost** stated that the struggle he foresees in the ensuing years will involve capacity, which relates to reliability.

Senator Stennett queried as to how much of the power that is generated by the four northwestern states goes out-of-state. **Mr. Yost** replied that in the past, it was common for energy to be exported to California in the summer and imported to the northwest in the winter. California is increasing its sources of solar power and the relationship is changing.

Senator Stennett said she understood that the Governor had appointed Mr. Yost to be Idaho's representative for the Columbia River Treaty sessions and inquired about the frequency and substance of the meetings. **Mr. Yost** said he was appointed on both the policy position and technical position to the Columbia River Treaty. He worked with the Bonneville Power Administration (BPA) and the United States Army Corps of Engineers (Corps) to provide a recommendation. The recommendation was submitted in 2013. Mr. Yost stated that he attended three meetings a month for three years, either in person or by telephone conference calls. Since 2013 and until last year, the Parliament of Canada in Ottawa had not authorized any negotiation with the United States on the Columbia River Treaty. The three issues for the Columbia River Treaty are: a power exchange for Canada; a coordinated flood control operation; and an ecosystem function. **Mr. Yost** indicated that this information is on BPA and the Corps websites.

Senator Vick asked how NPCC is preventing the spread of quagga mussels and zebra mussels. **Mr. Yost** said NPCC does not have direct funding or responsibilities for prevention, but they have had discussions on the matter. NPCC have made recommendations to BPA; however, the way BPA funds quagga mussel activities is through a lump sum payment to the Pacific Marine Fisheries Service in Seattle, Washington which, in turn, funds specific projects or tasks. **Mr. Yost** said that Idaho is a leader in developing programs and being active in testing and cleanup regarding quagga mussels. NPCC has written letters to Congress, which were signed by the four Governors, in support of federal funding in the northwest for quagga mussels and zebra mussels issues.

Vice Chairman Siddoway asked if NPCC gives direction to the Corps and BPA regarding water issues for fish. **Mr. Yost** said he has worked to ensure that NPCC does not manage Idaho's water and NPCC views water as a resource for hydroelectric energy.

Chairman Bair thanked Mr. Yost for appearing before the Committee and said consideration of his reappointment would occur at the next Committee meeting.

S 1217

Sharon Kiefer, Deputy Director of Programs and Policy for the Idaho Department of Fish and Game (IDFG), presented **S 1217**. This bill revises Idaho Code § 36-301 to give the Director of the Idaho Department of Fish and Game authority to collect a credit card fee from persons who choose to use a credit card at IDFG offices or other fish and game sponsored events to purchase licenses, applications, and other materials such as maps. Currently, IDFG only allows customers to purchase items using cash, check, or a debit card.

With this authority, **Ms. Kiefer** said IDFG intends to accept the major credit card brands - VISA, MasterCard, Discover, and potentially American Express. The plan is to apply a surcharge of three percent, which is IDFG's best estimate of the average of the fees charged by the aforementioned cards.

IDFG will work with Wells Fargo because they have the statewide contract with the State Treasurer. Moreover, the card machine terminals provided by Wells Fargo have been confirmed as PCI compliant. PCI is "Payment Card Industry" compliance, and is the set of security rules that all vendors must comply with to ensure that transactions are secure. If there is a fraudulent transaction, the cardholder is not liable for the purchase, so PCI compliance is an important element.

Ms. Kiefer stated that the Wells Fargo terminals that are already PCI compliant also means that IDFG does not need additional appropriation to meet PCI compliance. However, the state Treasurer's Office has informed IDFG that they need appropriation to pay the fee, instead of "netting it" against the revenue, because this is the state's agreement with Wells Fargo. This makes the fees charged as transparent as possible with the agencies, so IDFG will receive revenue from the sales of items and from a three percent fee when a credit card is used. IDFG will then receive a separate invoice to pay the three percent fee out of their budget authority. Thus, the three percent fee is not retained by the agency; it is passed through to Wells Fargo and can be tracked transparently.

Ms. Kiefer said the IDFG Commissioners support this bill and request a do pass recommendation.

Senator Bayer inquired if there are any costs involved in debit card transactions.

Ms. Kiefer said debit cards do not carry a surcharge fee like credit cards, so there are no costs involved for debit cards.

MOTION:

Senator Jordan moved that **S 1217** be sent to the floor with a **do pass** recommendation. **Senator Bayer** seconded the motion. The motion carried by **voice vote**. Senator Jordan will be the floor sponsor.

ADJOURN:

There being no further business at this time, **Chairman Bair** adjourned the meeting at 2:00 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, January 24, 2018

SUBJECT	DESCRIPTION	PRESENTER
Gubernatorial Appointment Consideration	Jim Yost was reappointed to the Northwest Power & Conservation Council by the Governor to serve a term commencing January 15, 2018 and expiring January 15, 2021.	
Wilderness Study	Recommended Wilderness Area (RWA)	Wade Kaufman, Advocate for Multiple Use of Public Lands

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 Siddoway	Sen Johnson
Sen Brackett	Sen Stennett
Sen Heider	Sen Jordan
Sen Vick	

COMMITTEE SECRETARY

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

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, January 24, 2018

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Siddoway, Senators Brackett, Heider, Vick, 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) meeting to order at 1:30 p.m.

GUBERNATORIAL APPOINTMENT: **Chairman Bair** stated that Jim Yost appeared before the Committee on Monday, January 22, 2018 regarding his reappointment to the Northwest Power & Conservation Council by the Governor to serve a term commencing January 15, 2018 and expiring January 15, 2021. **Chairman Bair** said a motion was in order.

MOTION: **Vice Chairman Siddoway** moved to send the Gubernatorial appointment of Jim Yost to the Northwest Power & Conservation Council to the floor with recommendation that he be confirmed by the Senate. **Senator Heider** seconded the motion. The motion carried by **voice vote**. **Senators Stennett** and **Jordan** asked to be recorded as voting nay. Senator Heider will be the floor sponsor.

WELCOME: **Chairman Bair** welcomed the Mayor, a City Councilman and Wade Kaufman, all from Driggs, Idaho. Mr. Kaufman has been invited to speak to the Committee.

PRESENTATION: **Mr. Kaufman**, an Advocate of Multi-Use of Public Lands (AMPL), said he would like to address concerns of individuals in Teton and Bonneville counties, located in Eastern Idaho and bordering Wyoming. **Mr. Kaufman** said he also represents the Idaho Snowmobile Association and Skyline Motor Club, of which he is the President. **Mr. Kaufman** said, most importantly, he is a citizen of Driggs.

Mr. Kaufman stated one issue that he wished to address is the Wyoming Public Lands Initiative (WPLI). It was instigated by the Wyoming County Commissioners Association to have committees formed in each county throughout the state. Since Teton County borders Wyoming, Mr. Kaufman is authorized to sit on a substitute seat on WPLI. There are 22 seats, comprised of representatives from conservation groups and from the community, as well as recreational users of the Palisades. They have been asked by the Wyoming County Commissioners Association to come to a conclusion as to what they would like done with the Wilderness Study Area (WSA).

Mr. Kaufman explained that the Palisades is in both Idaho and Wyoming and comprises roughly 200,000 acres of diverse recreational opportunities. The western boundary of the WSA is the Idaho-Wyoming state line and everything east (Wyoming) in the Palisades is the WSA. The Bridger Teton Wilderness Act was enacted in 1984 and acquired WSA at the same time. A Recommended Wilderness Area (RWA) on the Idaho side was also created.

Conversations have been held with the Commissioners of Teton and Bonneville counties to show their concern for this issue and to receive their input. There are over 43 different WSA's in the State of Wyoming. They provide information to WPLI; WPLI, in turn, provides information to Congress as to what to do with the WSAs.

Mr. Kaufman said of the 22 committees, there are only three individuals that represent summer recreational use, winter recreational use, and equestrian use. The remaining members represent conservation groups, wilderness societies, and other individuals who are promoting the importance of changing the WSA into a wilderness or some other type of use. **Mr. Kaufman** said that whatever happens in Wyoming will have an effect in Idaho. WPLI has power to suggest anything that can be changed into wilderness within their county. It would also include the west slope of the Tetons, which is in Idaho, to change any wilderness lines and/or recommend any changes.

Mr. Kaufman said his purpose is to inform the Committee of the importance of this issue, to respond to questions, and to make clear that what happens in the Palisades is important. Snowmobiling contributes to Idaho's economy with \$9.8 million spent in Bonneville County and \$2 million to Teton County per year. Teton Valley has changed from an agricultural driven area to an economy based on skiing, fishing, hiking, biking, equestrian, and motor recreation. The Palisades is a key element in providing diverse economic stability to the communities in that area.

Mr. Kaufman indicated that Congress has chosen not to act on millions of acres of land designated as WSAs. Despite the national policy, Wilderness Advocates, within and outside of federal land management agencies, have crafted policy that directs that proposed wilderness be managed under the strict prescriptions of the 1964 Wilderness Act. In Idaho, Region 1, which includes the Panhandle and the Nez Perce Clearwater National Forests, have chosen to manage RWAs as wilderness. As a result, we have Congressionally-designated wilderness and administratively-created Wilderness. The policy to manage RWAs as wilderness in Region 4, which includes the Payette, Boise, Salmon-Challis, Sawtooth, Caribou-Targhee National Forests, was discussed. It was not adopted; however, **Mr. Kaufman** said they have great concern that it will be adopted. He asserted that this will adversely impact not only the quality of life for many Idahoans and visitors, but the economic stability of many small rural communities who depend on motorized recreation.

Mr. Kaufman stated that Congresswoman Liz Cheney of Wyoming has introduced a bill, HR 4697, that would eliminate all WSAs in Wyoming. She claims to be a heli-skiing advocate. Heli-skiing has existed in the Palisades since 1974, but when it was designated as WSA, the Congressional delegation allowed existing uses to remain. In 2005, a court ordered heli-skiing activity was reduced to 1984 levels. That business activity was reduced by eighty percent.

Mr. Kaufman provided data relating to the economic impact of snowmobiling in Idaho. He also provided a letter from the Teton County Board of Commissioners to the members of the Advisory Committee for the Teton Wyoming Public Lands Initiative informing them of Teton County's desire for the removal of the Palisades WSA and RWA from consideration as wilderness.

Mr. Kaufman urged the Committee to send a letter to Idaho's Congressional delegation that urges them to sunset the Recommended Wilderness Areas and the Wilderness Study Areas. **Mr. Kaufman** also asked the Committee to send a letter to the Chief of the United States Forest Service, Tony Tooke, that encourages him to direct all national forests to manage Recommended Wilderness Areas according to the current policy.

Chairman Bair thanked Mr. Kaufman for his presentation and said the Committee would take his requests under advisement.

ADJOURNED: There being no further business at this time, **Chairman Bair** adjourned the meeting at 2:10 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, January 29, 2018

SUBJECT	DESCRIPTION	PRESENTER
Presentation	Midas Gold - Idaho Update	Mckinsey Lyon, Director, Public Affairs
Gubernatorial Appointment Hearing	Brad Corkill was reappointed to the Idaho Fish and Game Commission to serve a term commencing July 1, 2017 and expiring June 30, 2021.	Brad Corkill
Discussion	The Idaho Fish and Game Commissioners will share their thoughts on issues of importance.	IDFG Commissioners

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 Siddoway	Sen Johnson
Sen Brackett	Sen Stennett
Sen Heider	Sen Jordan
Sen Vick	

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
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MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

- DATE:** Monday, January 29, 2018
- TIME:** 1:30 P.M.
- PLACE:** Room WW55
- MEMBERS PRESENT:** Chairman Bair, Vice Chairman Siddoway, Senators Brackett, Heider, Vick, 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.
- WELCOME:** **Chairman Bair** welcomed the audience; the Idaho Fish and Game Commissioners; Virgil Moore, Director, Idaho Department of Fish and Game; and Mckinsey Lyon, Director, Public Affairs, Midas Gold Idaho. **Chairman Bair** then asked Ms. Lyon to make her presentation.
- PRESENTATION:** **Ms. Lyon** said she is prepared to update the Committee regarding Midas Gold Idaho's activities involving the Stibnite Gold Project in Valley County. Midas Gold Idaho is based in Idaho and presently has 30 employees. The corporate office is located in Vancouver, Canada with five employees who mainly focus on investments and financial matters.
- Ms. Lyon** stated the Idaho project is located in the historic Stibnite mining district. This area has been mined for over 100 years for gold, antimony, tungsten, and silver. For most of the time, there were very little, or no regulations, as to how mining was done. As a result, a legacy was left behind. In 1938, the East Fork of the South Fork of the Salmon River was diverted into a tunnel to facilitate mining of the Yellow Pine pit. This cut off fish passage. Today, the river flows directly into the Yellow Pine pit and blocks fish migration.
- Tailings were covered with spent heap leach ore and deposited, unlined, in the Meadow Creek Valley. **Ms. Lyon** said the area has been revegetated and legacy materials continue to degrade water quality and leach metals into the surface and groundwater. In 1965, an earthen dam failed, resulting in hundreds of tons of sediment eroding into surrounding streams and rivers. Some material remains even to this day. This erosion provides the most significant source of sediment in the watershed and degrades water quality and fish habitat, and also diminishes wetlands functionality. Forest fire damage also contributes to the erosion and sediment runoff.
- Ms. Lyon** said that in 2009, Midas Gold Idaho consolidated the land package and evaluated the area, not only for minerals, but also for an environmental cleanup project. A plan was devised and it is referred to as a Plan of Restoration and Operation (PRO). This is a 12-year plan of operation, preceded by two or three years of construction. It will take \$1 billion to bring this project to life, employing 400-500 Idahoans at a time, to repair the legacies. It will also grow economic opportunity with an estimated \$43 million in direct annual payroll during operations and \$86 million in local and state taxes.

As to environmental issues, Midas Gold Idaho plans to:

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

Ms. Lyon said, as proposed, their project would repair over 50,000 feet of stream channel; build over 450 acres of wetland and open water to enhance wildlife habitat; restore fish passage to historic spawning ground; repurpose seven-and-one-half million tons of spent ore; and reprocess three million tons of tailings.

Ms. Lyon said they have identified that over four million ounces of gold can be produced. The Stibnite Gold Project would be the fourth-highest grade open pit operation in the United States and the sixth-largest in gold production. Gold is not only used for jewelry, but also for industrial purposes, aerospace, technology, and medical equipment. Antimony is a little known, but much needed, mineral. It is estimated that 100 million pounds of antimony are at the site; the Stibnite Gold Project would be the only domestic source of antimony mined in the United States. The United States uses 44 million pounds of antimony each year for fire prevention, national defense, and use in everyday electronics and batteries. The United States is 83 percent dependent on foreign sources to supply this strategic mineral.

Ms. Lyon stated that Midas Gold Idaho is investing in Idaho, having spent \$30 million since 2014 in studies and permits - of which \$22.8 million has gone to vendors, \$7.6 million to Idaho employees, and over \$351,000 in community giving. It is projected that, to build and operate the Stibnite Gold Project, it will cost \$1 billion to construct, \$86 million in local and state taxes, and \$43 million in direct annual payroll during operations.

Over the life of the mine, direct employment will range between 400-600 employees per year, with salaries ranging between \$70,000-\$80,000. This does not include the indirect jobs that result from the project. Midas Gold Idaho plans to partner with an apprentice program and a workforce training program with the State to make sure a workforce will be available when needed.

The next topic that Ms. Lyon discussed was permitting, which takes from seven to ten years to complete. Presently, the regulatory review takes three or more years. There are 11 State and federal agencies overseeing this permitting process which require 50 or more permits for environmental, safety, and regulatory standards.

Ms. Lyon stated that approximately one year ago, an agreement was signed by the agencies that outlined how they would communicate, collaborate, and streamline this process. Before the 50 or more permits are achieved, millions of dollars must be set aside for reclamation.

Ms. Lyon said the PRO was filed with the United States Forest Service (USFS) and was accepted as complete in December 2016. 2017 was a period of public scoping and agency review. The focus this year will be to draft the Environmental Impact Statement, with a comment period later this year.

Ms. Lyon stated that one of the things that Midas Gold Idaho is noted for is its social licensing; social licensing is recognizing that achieving the regulatory licensing is only half of what the industry should be doing. In addition to that, mining companies must also be responsible for earning, illustrating, and maintaining public trust. **Ms. Lyon** said that Midas Gold Idaho has been working very hard to do this. In 2017, \$124,000 was invested in community partnerships. A statewide public opinion survey, conducted by Boise State University in December 2017, showed that 80 percent of Idahoans believe mining can be done in an environmentally responsible manner.

Ms. Lyon said that not only do they have a responsibility for the social licensing, but they also have a responsibility to start telling the story of mining better. They want to ensure that people in Idaho have a voice in the process. One way Midas Gold Idaho is doing this is through the "Support Stibnite" coalition. This gives them an audience to start teaching more about how mining plays a role in everyday lives and Idaho's economy.

Chairman Bair thanked Ms. Lyon for her presentation. He called on Brad Corkill to address the Committee regarding his reappointment by the Governor to the Idaho Fish and Game Commission (Commission).

GUBERNATORIAL APPOINTMENT: Mr. Corkill was reappointed to the Commission to serve a term commencing July 1, 2017 and expiring June 30, 2021. In addition to serving on the Commission, Mr. Corkill has served on the St. Maries School District 63 Board of Trustees for three years; Kellogg School District 391 Board of Trustees for nine years, of which he was the Board Chairman for six years; Shoshone Medical Center Foundation for six years, and Foundation President for two years; and the Idaho Public Charter School Commission for five years. Mr. Corkill is also a member of the Timber Framers Guild, Timber Frame Business Council, and the International Log Home Builders' Association. Since 1988, Mr. Corkill has been the owner and president of Whiteman Lumber Company, Inc. in Cataldo, Idaho.

Mr. Corkill said he represents Region 1 and it has been an honor to have served for four-and-one-half years. One of his early goals was to get the "either sex" elk season reinstated and it has been partly accomplished. **Mr. Corkill** feels that is a shining example of what IDFG is capable of accomplishing.

Mr. Corkill stated that he looks for opportunities for sportsmen in all situations that come before the Commission. Some hunting and fishing regulations have been changed to further benefit sportsmen. A fishing regulation was changed on the Clark Fork River to allow for the use of bait in a catch-and-release situation when the fish are spawning. This allows the fisherman on the bank the same fishing experience as a fisherman in a boat on the river. Another example of a regulation change is the pine squirrel hunting season.

Mr. Corkill said he would like, in the future, to expand the elk cow season in northern Idaho and also investigate the possibility of having a swan season. Three neighboring states have a swan season: Montana, Utah, and Nevada. An inquiry was made if swans are edible and **Mr. Corkill** said they are, as they eat the same ingredients as duck and geese. **Senator Stennett** inquired as to the length and time of a hunting season. **Mr. Corkill** replied that it would be a short season with limited tags, be held in early to mid-fall, with concentration in the Panhandle and southeastern Idaho.

Senator Brackett asked Mr. Corkill his thoughts regarding the Wolf Depredation Board, which is to sunset this year unless renewed. **Mr. Corkill** replied that he fully supports the Wolf Depredation Board and they have been successful in the Panhandle controlling the numbers and finding a balance of coexistence. **Senator Brackett** said trapping of wolves is allowed, along with hunting. He asked for Mr. Corkill's opinion of the trapping regulations in the Panhandle and if they are reasonable, user-friendly, and effective.

Mr. Corkill said that he believes they are, and the Commission has instigated a mandatory trappers course which will start this July. One-third of the wolves taken in Idaho are taken in the Panhandle area and the majority are trapped. The trapping season was opened early in a few selected, very remote areas that were likely to be inaccessible when the traditional season opened on November 15. That resulted in the take of several wolves that would not have been possible otherwise.

Chairman Bair thanked Mr. Corkill for his testimony and his service on the Commission. He then announced the other Commissioners would share what they have been working on in their respective regions.

DISCUSSION:

Derek Attebury, Vice Chairman of the Commission, was the first to speak. **Mr. Attebury** represents Region 6 and said he is grateful to the Governor and the Legislature for forming the Commission in 1938.

One of Mr. Attebury's concerns is the delisting of the grizzly bear. **Mr. Attebury** said District 6 is adjacent to Montana, Wyoming, and Yellowstone Park, as such the Commission works hand-in-hand with them. Recently, the Wyoming Game and Fish Commission directed their department to draft grizzly bear hunting regulations; **Mr. Attebury** said he is awaiting that outcome.

Senator Siddoway said the money contributed to the Wolf Control Board Fund by the livestock industry is matched by IDFG for wolf control. **Senator Siddoway** said it is not a fair formula, as it goes into separate accounts. He asked Mr. Attebury to comment. **Mr. Attebury** said he does not like to use the word "fair"; instead, "a collaborative effort" would better describe the situation. The wolves harm both livestock and game animals and the Wolf Control Board spends the IDFG money in accordance to the wishes of the sportsmen. **Mr. Attebury** stated that the end result of the Wolf Control Board is to control wolves and that can be done together, with the Commission having purview over how those funds are spent.

Mr. Attebury said he understands there is a surplus in that particular account and indicated more of those funds should be spent. **Senator Siddoway** asked if the livestock industry spent their allotment in the fund and there are still predator problems, and IDFG has not spent all their allotment, what Mr. Attebury would suggest happen to the remaining balance of the fund. **Mr. Attebury** said, with the approval of the Commission, that he would want to work with the Idaho Department of Agriculture with regards to the over-all objective to keep wolves in check and not have the money simply accumulate. **Mr. Attebury** said he would support that.

Senator Siddoway asked, with regards to the grizzly bear delisting, if there are any further restrictions on baiting of bears and restrictions on black bear hunting when the State takes control. **Mr. Attebury** stated that, currently, in Unit 61 there is no baiting in an area; however, in another area, one has the ability to bait. The history of that country is that baiting has had minimal conflicts, but the Commission should investigate further.

Senator Stennett inquired, if the livestock industry and the IDFG each used their portion of the Wolf Control Board Funds, could the remaining balance go back to the General Fund for other uses. **Mr. Attebury** said the way he looks at it is that if money is taken from whomever, it needs to be spent wisely and a surplus is not all bad. A surplus could be due to weather or other conditions.

Greg Cameron, Region 4 Commissioner, said he has been on the Commission for one-and-one-half years and would like Idaho to stay like it is for future generations. With regards to last year's bill increase of fees, **Mr. Cameron** said he has not heard any objections during his travels around the State. Depredation has not been a problem in his area, due to the low snowpack, and the need for feeding near Ketchum has not been necessary this winter.

Mr. Cameron stated there are problems with shed (antler) hunters: 1.) the Commission does not control the hunting, and 2.) hunters come in droves from out-of-state and the roads were damaged. This damage hinders ranchers from doing their normal duties. Another problem with so many shed hunters was that game could not disperse in the normal way and were pushed back on ranchers property. **Mr. Cameron** said this problem was discussed at the landowners meeting this winter. **Senator Brackett** said last spring, he was approached by landowners, as well as sportsmen, regarding shed hunting. He stated that it looked like a real "can of worms" and did not want to get involved; he stated he is glad that Commissioner Cameron is involved.

Mr. Cameron agreed that it is a "can of worms" and it will be a problem to work through. **Chairman Bair** suggested that, as IDFG has scoping meetings regarding this subject, they invite the agricultural community to make sure their private land is considered. **Senator Stennett** inquired as to the standard hunting season and its parameters, licensing, and tags for shed hunting and asked for an example. **Mr. Cameron** said the way Utah operates is that a person applies online, then receives a stamp. The season is for two months in the spring

The next Commissioner to speak was Blake Fisher, Region 3. **Mr. Fisher** stated that he is from Boise and has a goal to create the best fish and game agency in the world; he has set that bar, and is working towards that end. **Senator Vick** said there is a problem with geese in Boise and asked what could be done. **Mr. Fisher** replied that he didn't know and it is under the jurisdiction of the city of Boise.

Mr. Dan Blanco said he is from Latah County and represents Region 2. He asked for support for the reappointment of Brad Corkill. **Mr. Blanco** stated that he enjoys being on the Commission and is grateful for his appointment by the Governor.

One of Mr. Blanco's projects pertains to pheasant hunting in the Clearwater Region. **Mr. Blanco** said that he is happy to report that through the work of a lot of volunteers, over a long period of time, they now have Idaho's first Access Yes 800-acre property devoted exclusively to youth hunts for pheasants. This was done with little expense. **Mr. Blanco** stated that a generous landowner waived his normal Access Yes rental fee to make this possible. Also, volunteers raise pheasants for release on the property. **Mr. Blanco** said their goal was to not lose a generation of pheasant hunters. He would like to get similar opportunities for adults in the Clearwater.

Mr. Blanco said another project is studying and learning about chronic wasting disease and developing a plan to address it. The question is not whether it will affect Idaho, but when. Montana's situation has sparked people into action. Two things that will be included in the plan is a provision for rulemaking on carcass importation and control over the use of urine products.

Mr. Blanco said the numbers related to wolves are notably high. In 2002, 60 bull moose tags were given out and 46 bulls were taken in Unit 15, which is south of Grangeville. By 2011, eight tags were issued, with one bull taken. This fall, no tags were issued and no bulls were taken. **Mr. Blanco** said he talked to the local people and outfitters in that area and they are blaming wolves; he feels that something needs to be done. **Mr. Blanco** said the bottom line is that the IDFG, the Commission, and the people of Idaho need to manage the wildlife, not the wolves.

Chairman Bair asked Mr. Blanco if the wolves that were planted in Idaho are moving into Montana and Washington; if so, he inquired if those states are having issues with wolves as the result of that movement. **Mr. Blanco** said Idaho is harboring the core population of wolves for the northern Rocky Mountains. There are some issues and conflicts arising on the Washington and Oregon borders. The most recent figure on the number of packs in Idaho is 108, with 20 of them considered border packs, meaning they move interstate. There is no question that they do move around and repopulate.

Mr. Blanco stated that Canadian wolves were released in Idaho in 1995-96 and had the run of the country for ten years. The neighboring states have an opportunity to make a decision on how many wolves they will have. **Mr. Blanco** said a strategy should be adopted, now that Idaho knows what the minimum requirements are to avoid delisting. The needle is not moving enough to suit a lot of people, using Unit 15 as an example.

Chairman Bair then asked the Director of IDFG to address the Committee.

Virgil Moore, Director, IDFG, thanked the Committee for the fee bill passed last year. Early signs of the price-lock is providing a lift. The sale of the three-year license has increased, compared to past sales. **Director Moore** said that IDFG has implemented improvement, retention, and reactivation and price-lock is a large part of that. IDFG hired a marketing director which will help IDFG evaluate the matrix that they receive and can adapt to the patterns that they see from the license sales.

Chairman Bair asked for an update on the RFP - licenses and lottery tags. **Director Moore** said IDFG has a new vendor for the license sales system and it should be completed during the months of April and May. As part of that contract, they have the responsibility for the controlled hunt draw. **Chairman Bair** inquired if there were increased security measures with the new vendor. **Director Moore** assured the Chairman that IDFG has adapted to the new standards that are in place, relative to the state-wide expectation for how those data bases are handled and that vendor has been bonded and is responsible to meet those standards.

Senator Johnson said the Minutes from March 2017 reference IDFG submitting a report in 2018 to this Committee regarding the depredation fund. **Director Moore** said he would be glad to provide a report to the Committee showing how the money is moving through the system.

Chairman Bair thanked the Director and Commissioners for their participation in the meeting.

ADJOURN:

There being no further business at this time, **Chairman Bair** adjourned the meeting at 2:45 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, January 31, 2018

SUBJECT	DESCRIPTION	PRESENTER
Presentation	Idaho Water Resource Board - Update of Activities	Roger Chase, Chairman
Presentation	Idaho Department of Water Resources - Update of Activities	Gary Spackman, Director
Gubernatorial Appointment Hearing	Dr. John Rusche, Lewiston, Idaho was appointed to the Idaho Water Resource Board to serve a term commencing August 31, 2017 and expiring January 1, 2019.	Dr. John Rusche
Gubernatorial Appointment Consideration	Brad Corkill was reappointed to the Idaho Fish and Game Commission to serve a term commencing July 1, 2017 and expiring June 30, 2021.	
<u>RS25868</u>	Update Idaho Code § 39-8503 which is the enabling statute for the Lake Pend Oreille, Pend Oreille River, Priest Lake and Priest River Commission. The updates would allow the Commission to participate in proceedings related to the Columbia River Basin.	Senator Keough
<u>RS25894</u>	Update Idaho Code § 70-507 to clarify that management of the state-owned dam on Priest Lake at Outlet Bay is under the jurisdiction of the Idaho Water Resource Board.	Senator Keough

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 Siddoway	Sen Johnson
Sen Brackett	Sen Stennett
Sen Heider	Sen Jordan
Sen Vick	

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
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MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, January 31, 2018

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Siddoway, Senators Brackett, Heider, Vick, 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.

Chairman Bair welcomed the Idaho Water Resource Board (IWRB) members and the Director of the Idaho Department of Water Resources (IDWR), Gary Spackman.

PRESENTATION: **Mr. Spackman** said he wanted to discuss diversion works and measuring devices, as IDWR is assisting with a three-year effort to install measuring devices across the Eastern Snake Plain Aquifer (ESPA). There are also ongoing measurements in the Snake River, Water District 02, which is from Milner to the Oregon-Idaho state line. **Mr. Spackman** began his presentation by showing three unique slides pertaining to water diversion. The first slide was a washing machine used with rocks as rip-rap. The second slide showed a car motor mounted in a pickup bed that provided energy to pump water. The third slide contained a picture that resembled bed springs of a mattress, but in actuality, was a flume to measure water flow in the stream. **Mr. Spackman** thought the Committee might appreciate what IDWR encounters.

Mr. Spackman continued his slide presentation by discussing pending transfer applications, which have been reduced from 500 to 100. **Chairman Bair** inquired as to the length of time taken for an application to work through the channels before being granted. **Mr. Spackman** replied that it usually takes three-to-four months for review, publication, and a period of protest. He has delegated authority to the regional offices to expedite the applications.

Other graphs that were referred to were resolved transfer applications, active water appropriation permits with proof submitted, pending water right ownership change notices, and pending water supply bank rental applications. These rental applications are accumulated the first of the year as people anticipate the need for water for the upcoming year. **Mr. Spackman** said they reassign staff for a few months to review these applications; he noted that hiring one additional person has helped significantly.

Mr. Spackman stated another matter that will come before the Committee will include Priest Lake and the outlet structure. In 1950, the Legislature granted the Director of IDWR authority to oversee the regulation of lake levels in Priest Lake and also assigned the Director oversight regarding the outlet structure of Priest Lake. A slide of the down-stream side of the outlet structure showed 11 gates that can be raised or lowered. The operator of these gates, Carl Duncan, has been working there since the early 1960s. Mr. Duncan is now 80 years old, and is retiring.

Mr. Spackman said there is also a need for work on the thoroughfare, which is a connecting channel between Upper Priest Lake and Lower Priest Lake. One of the needs is reducing the sedimentation that restricts navigation. **Chairman Bair** asked for further clarification regarding the sedimentation and what might be done. **Mr. Spackman** said a study funded by the IWRB in 2015 analyzed if there was flexibility in operations to keep the lake level elevation at three feet during the recreational season. After the study, there was an agreement that those water levels could be held at three-and-one-quarter to three-and-one-half feet to create a reserve, in case the lake level declined.

Mr. Spackman said there are two components regarding this proposed project. One is to reconstruct the outlet structure, which is a State responsibility. The total cost for the project was \$5 million. The Governor recommended \$2.4 million to be paid by the State and asked that other sources contribute to the project. In addition to granting the additional water levels, the transfer of the ownership and responsibility for regulation was transferred to the IWRB. The reason for the change of responsibility is the transfer of ownership of this facility.

Mr. Spackman stated that IDWR is involved in "other notables." They are:

1. Implementation of Surface Water Coalition (SWC) Delivery Call Settlement Agreement;
2. Negotiations to end objections to ESPA groundwater management area;
3. Fall reset for reservoir rights;
4. METRIC expertise internalized into IDWR;
5. Stockwater legislation;
6. Class II injection wells;
7. National Flood Insurance Program discussions.

Mr. Spackman said he would discuss these seven "notables."

1.) IDWR is engaged in the implementation of the SWC delivery call and to verify that the terms of the agreement are being addressed and to identify deficiencies.

2.) IDWR is in negotiations with the ESPA groundwater management area, and if not challenged, will litigate the impasse for senior waterright holders.

3.) **Mr. Spackman** said IDWR is in the midst of controversy regarding resetting the fill of reservoirs in the fall. Conflicts between natural flow water right holders and reservoir space holders have come to a head. **Mr. Spackman** hopes the conflict will be settled soon, so that he will not have to determine the outcome.

4.) A recommendation was made to bring expertise into IDWR relating to GIS in order to analyze satellite data. This analysis will help to determine how much water is used statewide. The information was previously compiled by satellite imagery, relying on the University of Idaho. However, it has been determined that the analysis needs to be internalized.

5.) **Mr. Spackman** said two pieces of legislation regarding stockwater will come before the Committee. One of the issues pertains to the tens of thousands of stockwater rights that have been issued to the federal government and addresses the current status of them. Last year's legislation recognized the *Joyce* decision and put in place a process where the stockholder on the allotment could file a claim in the Snake River Adjudication which would eliminate some fees.

6.) **Mr. Spackman** stated there is an issue pending regarding injection wells with the disposal of fluids into the ground. These have been classified as Class II Injection Wells. IDWR has, for a long time, administered what are classified as Class V Injection Wells, which is a "catch-all" category. Because of the oil and gas activity in the State, IDWR has been criticized because they have attempted to obtain primacy over the Class II wells. The Environmental Protection Agency (EPA) told IDWR they needed to look at both Class V and Class II jurisdictions. Even though IDWR's regulations were identical to EPA's, EPA said IDWR needed to adopt interpretations that were identical to EPA's. One of those interpretations is that in the recharge site - Milepost 31 in particular - water is diverted through an existing canal system that the construction of the outlet of the canal and the delivery of that water resulted in what EPA called an improved sinkhole. IDWR said nothing was improved by placing a release out into the recharge basins. EPA said it was an improvement. IDWR has come to an impasse with EPA. **Mr. Spackman** said he has promised the water users that he would not capitulate on that subject. As a result, the best way the oil and gas industry can obtain an injection well program, and possible approval for the reinjection, is to return it to the EPA.

7.) **Mr. Spackman** said the final issue is related to the National Flood Insurance Program. It is in regards to the revocation because of cleaning issues of ditches and canals in the flood plain.

That concluded Mr. Spackman's presentation. **Chairman Bair** called on Roger Chase, Chairman of IWRB, to continue the slide presentation.

Mr. Chase said he has been on IWRB for ten years and enjoys his position. IWRB was founded in 1963 when California wanted to take Idaho's water and transfer it from Twin Falls to Lake Mead. Idaho has aggressively protected its water since.

Mr. Chase stated that the next slide is of the workhorse of the recharge system, Mile Post 31 on the Milner Gooding Canal. Another managed recharge site is the Frandson Site on the Snake River Valley Canal. **Mr. Chase** said the recharge season for 2014-2015 was 75,234 acre feet; 2015-2016 was 66,536 acre feet; and 2016-2017 was 317,714 acre feet. The current season-to-date is 224,151 acre feet. The key is to have an average of 250,000 acre feet a year; if that can be done, they can sustain the ESPA. Several goals have been met regarding the aquifer.

The next slide addressed Priest Lake in north Idaho. It provides recreational opportunities and the economic activity. IWRB is working to help provide money, along with the Governor's request for \$2.4 million.

Mr. Chase said there is a large study being conducted regarding the Treasure Valley. IWRB does not want to have the problems in the Treasure Valley that they had in the Snake River Plain. They want to prevent the aquifer from dropping. Storage sites are another area that IWRB is analyzing in the Treasure Valley. Little progress has been made with the United States Army Corps of Engineers, so IWRB is working with the Bureau of Reclamation to see if the three dams can be raised for additional storage.

Mr. Chase indicated that IWRB does many small projects. Generally, the projects involve loans from IWRB. One project is located on the Bear River and is the Last Chance Canal diversion dam. A loan was made for \$2.5 million. Another successful program is the salmon recovery in the Upper Salmon Basin on the Lemhi River.

IWRB plans to start construction on the Mountain Home Air Force Base Sustainable Water Project this fall. The air base is a billion dollar industry in the State of Idaho and IWRB needs to make sure they have water. The project is moving forward with the help of the Simplot Foundation. Other projects are in Lewiston, Twin Falls, Idaho Falls, and Elmore County.

In closing the presentation, **Mr. Chase** mentioned cloud seeding. IWRB works with Idaho Power on this program. Since the project commenced, there has been an increase in moisture of 10 to 14 percent. **Mr. Chase** said water sustainability happens for one reason - a great team and a Legislature that understands the goal.

Chairman Bair thanked Mr. Chase for the update regarding IWRB's activities. He then asked Dr. Rusche to address the Committee.

GUBERNATORIAL APPOINTMENT: Dr. John Rusche, Lewiston, Idaho, was appointed to the Idaho Water Resource Board to serve a term commencing August 31, 2017 and expiring January 1, 2019.

Dr. Rusche served in the Idaho House of Representatives from 2004 to 2016. He was Minority Caucus Chairman in 2006 and the Minority Leader from 2008 to 2016. Some of the committees he served on are: Revenue and Taxation; State Affairs; Health and Welfare; Energy, Environment and Technology; Business; and Ways and Means. Dr. Rusche continues to be involved in the medical and health industry. He received his M.D. degree from Washington University School of Medicine in St. Louis, Missouri and holds an active license with the Idaho Board of Medicine. In 1983, Dr. Rusche received certification from the American Board of Pediatrics and served at the Valley Medical Center, Lewiston, Idaho as a general pediatrician.

Dr. Rusche said he has always been involved in the community regarding health care. As a legislator, he has observed water activities in the State. **Dr. Rusche** stated that last summer, Chuck Cuddy, a member of IWRB, asked him to finish out his term, to which he agreed. **Dr. Rusche** admitted that he doesn't know a lot about water law or hydrology, but he brings a broad view of the importance of this resource to the State of Idaho, its people, and the cities. **Dr. Rusche** stated that he feels he has the skills and abilities to understand the issues facing IDWR.

Senator Johnson inquired as to what motivated Dr. Rusche to want to serve on the IWRB. **Dr. Rusche** said Mr. Cuddy was concerned about preserving access to the Snake River for transportation and was also involved in trying to identify ways to increase the water supply. **Dr. Rusche** said these are also important to him.

Dr. Rusche said he has been involved with the Lewiston Orchards Irrigation District project for the last seven years. He has worked with the tribes and the Bureau of Reclamation. **Dr. Rusche** stated that some people in his area think that water issues are southern Idaho issues, but there are significant problems in north Idaho. He asserted there needs to be a plan for the aquifer.

Senator Johnson said he wanted to recognize Chuck Cuddy for his long-time service on IWRB. He expressed sadness that Mr. Cuddy was unable to finish his term.

Senator Siddoway stated that he respected and appreciated Dr. Rusche's time in the Legislature. He noted that Dr. Rusche oftentimes was in the middle of tough issues. **Senator Siddoway** expressed some anxiety about the presence of Dr. Rusche serving on IWRB. He stated he knows Dr. Rusche has the ability, but he wanted to make sure he has the willingness to represent all of Idaho's interests. **Dr. Rusche** replied that all he can do is to commit his best effort; he stated that he is a quick learner and has an understanding of the terminology and some basic hydrology. He feels he brings a broad view of how the State of Idaho plays together, not just in terms of agriculture. **Dr. Rusche** said he also has the ability to build relationships and coalitions.

Chairman Bair thanked Dr. Rusche for appearing before the Committee and said voting on the appointment would occur next Monday.

Mr. Chase said he inadvertently forgot to introduce two IWRB members when he spoke earlier. He introduced Vince Alberti and Bert Stevenson of the IWRB.

GUBERNATORIAL APPOINTMENT: **Chairman Bair** stated that the next item on the agenda was the consideration of the Governor's reappointment of Brad Corkill to the Idaho Fish and Game Commission to serve a term commencing July 1, 2017 and expiring June 30, 2021.

MOTION: **Senator Brackett** moved to send the gubernatorial reappointment of Brad Corkill to the Idaho Fish and Game Commission to the floor with recommendation that he be confirmed by the Senate. **Senator Heider** seconded the motion. The motion carried by **voice vote**. Senator Vick will be the floor sponsor.

RS 25868 **Senator Keough** presented **RS 25868** and said it updates Idaho Code § 39-8503 which is the enabling statute for Lake Pend Oreille, Pend Oreille River, Priest Lake and the Priest River Commission. The updates would allow the Commission to participate in proceedings related to the Columbia River Basin.

MOTION: **Senator Siddoway** moved to print **RS 25868**. **Senator Jordan** seconded the motion. The motion carried by **voice vote**.

RS 25894 **Senator Keough** presented **RS 25894** and stated this RS updates Idaho Code § 70-507 to clarify that management of the state-owned dam on Priest Lake at Outlet Bay is under the jurisdiction of the Idaho Water Resource Board.

MOTION: **Senator Siddoway** moved to print **RS 25894**. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

Chairman Bair said there will be a full hearing on each RS at a later date. He also thanked all participants in today's meeting.

ADJOURN: 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
Monday, February 05, 2018

SUBJECT	DESCRIPTION	PRESENTER
Minutes	Approval of Minutes - January 17, 2018	Senator Brackett
Minutes	Approval of Minutes - January 22, 2018	Senator Johnson
Minutes	Approval of Minutes - January 24, 2018	Senator Vick
Gubernatorial Appointment Consideration	Dr. John Rusche, Lewiston, Idaho was appointed to the Idaho Water Resource Board to serve a term commencing August 31, 2017 and expiring January 1, 2019.	
Gubernatorial Appointment Hearing	Robert Barowsky, Fruitland, Idaho was reappointed to the Outfitters and Guides Licensing Board to serve a term commencing May 31, 2017 and expiring May 31, 2020.	Robert Barowsky
Gubernatorial Appointment Hearing	George McQuiston Jr., Challis, Idaho was reappointed to the Outfitters and Guides Licensing Board to serve a term commencing April 20, 2017 and expiring April 20, 2020.	George McQuiston Jr.
RS26017	Drainage Districts	Paul Arrington, Idaho Water Users Association
Docket No. 13-0104-1701	Continued discussion regarding this docket - "Rules Governing Licensing".	Constituents of District 23 and other interested parties

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 Siddoway	Sen Johnson
Sen Brackett	Sen Stennett
Sen Heider	Sen Jordan
Sen Vick	

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
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MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, February 05, 2018

TIME: 1:30 P.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: Vice Chairman 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. He announced that each Committee member has been given the 2017 Director's Annual Report from the Idaho Department of Water Resources and encouraged them to read it. He then asked the Secretary to call the roll.

MINUTES APPROVAL: **Senator Brackett** moved to approve the Minutes of January 17, 2018. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Johnson** moved to approve the Minutes of January 22, 2018. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Vick** moved to approve the Minutes of January 24, 2018. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: **Chairman Bair** said the gubernatorial appointment of Dr. John Rusche to the Idaho Water Resource Board to serve a term commencing August 31, 2017 and expiring January 1, 2019 was open for discussion or a motion. **Senator Bayer** said he would like to discuss this appointment. He felt there were some important issues, and further dialogue was needed. **Senator Bayer** said his concerns are in regard to the nature of the responsibility of the position and - for lack of a better term - politics.

Senator Bayer said he stated that with the utmost respect and recognition of the right to freedom of speech. Wearing elected "hats" and wearing appointment "hats" come with certain compromises with regard to those responsibilities. **Senator Bayer** stated he is referring to social media and commentaries in the media that can be rather frank and polarizing. These can cause concern in regard to when one has responsibilities in an elected or appointed position. **Senator Bayer** expressed his thought that it would be proper to have further conversations on the matter.

MOTION: **Senator Bayer** moved to hold the Gubernatorial appointment of Dr. John Rusche, subject to the call of the Chair, so that those conversations can constructively take place. **Senator Vick** seconded the motion.

Senator Stennett asked for clarification as to what the next steps are for reconsideration; she queried what those discussions would be. She inquired if this would be in front of the Committee or independently. She queried if this will be a litmus test to be applied to all appointees in the future. **Chairman Bair** replied that it is a litmus test that ought to be applied to all political appointees to the various boards and commissions throughout the State. **Chairman Bair** added that we ought to make sure that, especially on boards that are non-partisan in nature, there is a level of decorum and expectation.

Chairman Bair said he would be glad, and welcomed any Committee member, to visit with Dr. Rusche and share the sentiments that were expressed.

Senator Jordan stated that she is reluctant to support the motion; other appointees have not been as tactful as they might have been, and yet they were moved forward. **Senator Jordan** said Dr. Rusche is a person of great respect for the process and a person who would be willing to take any feedback and make the most of it. **Senator Jordan** said this is a step that is not needed. **Chairman Bair** stated that the Committee has held Republicans as well as Democrats in similar situations. A Republican nominee, at one point, did not get confirmed.

Senator Bayer said there is no question of respect. He stated that it is his intention to analyze an appointee without regard to political influence. He would have the same concerns if it came from a different facet of the political spectrum. **Senator Bayer** stated this is not a single incident that he is referring to. This is more of a transition of responsibilities and how that position is best served. **Senator Bayer** said the way forward is to have a healthy, clear dialogue with the Gubernatorial nominee and have professional exchanges to recognize those concerns. **Senator Bayer** said his motion was intended to facilitate that.

Senator Johnson said he has known Dr. Rusche for awhile and, often, they have disagreed; but it has never stopped them from being objective and serving honestly. He inquired as to the concerns and their validity. **Senator Johnson** stated that he does not have any reason to not support the nomination, but wants to respect the concerns of the Committee. He then asked as to how long it will take to complete the dialogue. **Senator Bayer** said he proposes as soon as possible, hopefully within this week, pending availability and scheduling.

Senator Brackett stated that it is important to not read into this anymore than what is there. He said this is not unprecedented, as other appointees have been questioned, then later confirmed. **Senator Brackett** said he thinks Dr. Rusche will perform well after he is approved.

**ROLL CALL
VOTE:**

Chairman Bair asked if there was further discussion and, hearing none, inquired if there were more motions. He then asked for a roll call vote on the motion to hold Dr. Rusche's appointment consideration, subject to the call of the Chair. **Chairman Bair** and **Senators Johnson, Bayer, Vick, Heider, and Brackett** voted **aye**. **Senators Stennett** and **Jordan** voted **nay**. The motion carried.

**GUBERNATORIAL
APPOINTMENT
HEARING:**

Chairman Bair invited Ms. Lori Thomason, Executive Director, Outfitters and Guides Licensing Board (OGLB), to introduce the two candidates who have been reappointed by the Governor, George McQuiston, Jr. and Robert Barowsky.

Chairman Bair welcomed Mr. Barowsky and asked him to speak first. **Mr. Barowsky** said his career has been in law enforcement for 35 years, 24 years as Payette County sheriff. He said he has appeared before this Committee several times, having previously served on the Idaho Fish and Game Commission. **Mr. Barowsky** said OGLB is a self-governing board that relies on the outfitters association to let them know what they expect from their members. Most of the recommendations address the health and safety of the association.

Chairman Bair inquired if there are, or have been, any particular issues that have arisen; if so, he inquired as to how it was resolved. **Mr. Barowsky** said there is one issue regarding tag allocation which is presently in a court review. Most cases have to do with guides' backgrounds and decisions are made as to approve the licensing or deny the licensing. Most guides follow the guidelines set forth, and OGLB ensures that those guidelines are followed.

Mr. Barowsky's public service history includes: Fruitland City Council from 1974 to 1980; Deputy Sheriff with Payette County from 1972 to 1980; Payette County Sheriff from 1980 to 2005; Idaho Fish and Game Commission from 2006 to 2015; and OGLB from 2015 to 2017. Mr. Barowsky's education and training include over 2,000 hours of training in law enforcement and receiving an Executive Certificate in 1999. He also studied criminal justice at Treasure Valley Community College from 1970 to 1972. Community service includes: 43-year member of the Fruitland Lions Club and 9 years on the Payette County Abatement District Board.

Chairman Bair thanked Mr. Barowsky for his service to OGLB and the community. He then welcomed George McQuiston, Jr. and asked him to address the Committee. **Mr. McQuiston** said this is his thirteenth season as an outfitter; he is the owner of Wild Idaho Outfitters, Inc. which is located in Challis, Idaho.

Senator Stennett inquired about the activities of OGLB and his reaction to them. **Mr. McQuiston** replied that it is a self-governing board, as Mr. Barowsky earlier stated, and he has been on the Board for four years. **Senator Stennett** asked if the Board is helpful to the industry. **Mr. McQuiston** replied that it is very helpful, as there is a critical need for a governing licensing agency.

Senator Heider asked Mr. McQuiston if he ever encountered other guides or outfitters who violated the code of ethics, and if so, how he would reprimand that person. **Mr. McQuiston** said it is seen often, but he has no jurisdiction in the field. As far as his company, he has a written policy. Most of the violations they might see are Fish and Game violations.

Mr. McQuiston's resume listed his skills and abilities as follows:

- licensed real estate principal broker;
- licensed Realtor;
- licensed outfitter/guide;
- former race team mechanic; and
- business owner.

Mr. McQuiston's education includes:

- Kearns High School, Kearns, Utah;
- Salt Lake Community College, Salt Lake City, Utah; and
- Stringham Schools, Salt Lake City, Utah;

Mr. McQuiston has many years of experience in several different types of businesses, and also as a real estate investor in properties in the Salt Lake City and Challis areas. He operates the Flying J Outfitters in Myton, Utah, as well as the Wild Idaho Outfitters in Challis, Idaho.

Chairman Bair thanked Mr. McQuiston and said consideration of the reappointments would occur at the Committee's next meeting.

He welcomed Paul Arrington, Executive Director, Idaho Water Users Association (IWUA), to present **RS 26017**.

RS 26017

Mr. Arrington said IWUA is an association of irrigation districts, canal companies, groundwater districts, and professionals throughout the State of Idaho. The association has a legislative committee that voted to present **RS 26017**. The amendments seek to update and modernize some drainage districts statutes to provide for more flexibility in the operation of a drainage district.

Mr. Arrington said the first proposed change seeks to provide more flexibility in setting the compensation for drainage district directors. Presently, compensation is set at \$50 for meetings that usually take a significant amount of travel and require one-half day or more. The second amendment seeks to clarify a limitation on assessments. The way the statute is written permits assessments to be issued for 20 percent of the original cost; there is some confusion as to what is applied. This seeks to clarify that the 20 percent only applies to warrants and bonds. It would also provide flexibility in the sale and trade of personal property.

MOTION:

Senator Brackett moved to print **RS 26017**. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

INTRODUCTION:

Jane Whittmeyer, Whittmeyer & Associates, introduced representatives from the Southern Idaho Timber Protective Association and the Clearwater Potlatch Timber Protective Association. **Ms. Whittmeyer** invited the members of the Committee to a reception at the Wheat Commission Building to visit with these representatives.

**DOCKET NO.
13-0104-1701**

Chairman Bayer asked Sharon Kiefer to review **Docket No. 13-0104-1701** for the benefit of the Committee. This rule was held so that testimony could be taken from constituents who were unable to attend the previous hearing.

Ms. Kiefer, Deputy Director of Programs and Policy, Idaho Department of Fish and Game (IDFG), said this docket addresses two special tag programs that are authorized by statute. One program is a children's special needs tag that is only available to children who are terminally ill; the other is a special tag program for disabled American military veterans. The rule docket creates certain limitations on these tags, which exclude controlled hunts which have less than five tags. The tag is valid for only one of the following species: deer, elk, pronghorn, moose, black bear, or mountain lion. Any other open hunt for that species - whether it is a controlled hunt, general hunt, or a capped zone - would be available for use with that tag.

Up to five big game tags will be made available for children with life-threatening medical conditions each year. In order to be eligible for a special needs big game tag, the applicants must be a resident or nonresident minor (17 years of age or younger) and must have a life-threatening medical condition, as certified by a qualified and licensed physician. Furthermore they must be sponsored by a nonprofit organization that qualifies under Section 501(c)(3) of the Internal Revenue Code. A hunting license is not required to apply for, or receive, a special needs big game tag. However, an applicant must be accompanied by an adult who has a current hunting license. Applicants may receive only one special needs tag in a lifetime. Eligible applications will be randomly drawn for tag issuance if the number of applications exceeds the number of available tags. No more than one special needs tag will be issued to a nonresident unless there is an insufficient number of applications for resident applicants.

Ms. Kiefer said up to five big game tags will also be made available for disabled veterans, of which one tag will be designated to the Idaho Division of Veterans Services (IDVS) for a resident applicant. Eligibility for resident or nonresident disabled veterans to receive a disabled veterans special big game tag must be certified by the United States Department of Veterans Affairs. The applicant must also be sponsored by a nonprofit organization that is qualified under Section 501(c)(3) of the Internal Revenue Code, or by a governmental agency. Applicants may receive only one special needs tag in a lifetime. Hunter education requirements are waived and a license is not required to apply for, or receive, a disabled veterans special big game tag. Eligible applications will be randomly drawn for tag issuance if the number of applications exceed the number of available tags. Not more than one disabled veterans special big game tag will be issued to a nonresident, unless there is an insufficient number of applications for resident applicants.

Ms. Kiefer noted that there is one change of substance for the disabled American veterans special big game tag that does not apply to the special needs children's tag. Since the inception of this program, the IDVS has sponsored two disabled American veterans in a competitive process that includes an essay as to why this hunting opportunity would be important to them. Because they are a partner state organization, **Ms. Kiefer** said that IDFG felt there was legitimate interest in "hard-wiring" them in for a tag every year. Under this proposal, one of the five tags available would automatically go to the IDVS for a disabled American veteran resident.

DISCUSSION:

Senator Stennett inquired as to the demand for these tags for children and also the number of resident veterans versus nonresident veterans. **Ms. Kiefer** said she has already returned 15 applications. If there are children's unused tags by July 15, those remaining tags are then transferred to the veterans drawing; however, this year the demand is rising.

Senator Heider asked about the definition of a disabled veteran. **Ms. Kiefer** replied that the definition is a 40 percent or greater disability service rating as outlined in code.

Senator Brackett said the disabled veterans sponsoring organizations are one side of the equation. He asked for a further explanation. **Ms. Kiefer** said for these tags, there are no requirements for landowner participation and some of these organizations work directly with landowners and some have outfitters who are willing to provide the hunts at no cost. Freedom Hunters is an organization that typically hunts in north Idaho with a mix of public and private land. **Senator Brackett** asked if this applied to all tags. **Ms. Kiefer** said it does apply to all ten tags - children's special needs and the disabled American veterans.

TESTIMONY:

Bill Mulder, representing Tree Top Ranches (TTR), testified in support of IDVS and the job they have done in collaboration with TTR and the program. TTR had the honor and privilege of hosting the two veterans selected each year and provides necessary materials, except for personal items. **Mr. Mulder** stated that it is quite an adventure for veterans who might be confined to a wheelchair (Attachment 1) or who have lost their sight (Attachment 2).

Mr. Mulder said of those they have hosted, there has been a 100 percent record of success. It works very well to have two veterans on a hunt. The new rule proposes one tag, rather than two, to be designated to IDVS and the rest of the tags be put into a random drawing. **Mr. Mulder** said they are not in favor of random drawings. When this program was started, the intent was to provide the best experience to the most deserving, worst-wounded veterans. When TTR became involved, Dr. Wright, who was Chairman of the Idaho Fish and Game Commission, referred to it as "worst-wounded" program. **Mr. Mulder** said they understand IDFG's handling of tags, but the experience of TTR in this program, discretion is much more important.

Mr. Mulder stated that the current rule has worked extremely well, and in their opinion, the Committee should send the proposed rule back and work on some options, such as a more defined application form. **Mr. Mulder** said a random draw does not align with the intent of the program.

Mr. Mulder provided letters to the Committee from Tree Top Ranches (Attachment 3); Specialist Andrew Pike (Attachment 4); and David E. Brasuell, Administrator, IDVS (Attachment 5).

Jay Rosenthal, Attorney, said he was asked to be involved with this program since the beginning. He explained that disabled veterans don't cease to function, they just function differently - emotions are different and their confidence level is different. When two disabled veterans are together they work together and the hunt is more productive and successful. **Mr. Rosenthal** said the efforts of TTR to provide every service to the veterans has been well-received and he urged the Committee to keep the program as it is now.

Josh Callihan testified that he is a disabled veteran and works for the Department of Veterans Affairs at the Boise VA Medical Center. He was chosen to go on a hunt, and since that time, Mr. Callihan has stayed involved with the program. **Mr. Callihan** said he is concerned about the change in the rule which would remove one of the designated tags. He asked the Committee to consider the testimony of Mr. Mulder and Mr. Rosenthal.

Chris Tschida stated that he is a veteran and participated in a hunt. He was very thankful that another veteran was along on the hunt, as it helped to relieve some of the anxiety.

Chairman Bair thanked everyone that testified. He then asked Ms. Kiefer to make closing remarks.

Ms. Kiefer said the work done by IDVS with TTR has been phenomenal. Those tags have not been carved out specifically for IDVS, but because of the close agency relationship, they understood the existing rules and are committed to submitting the applications. **Ms. Kiefer** stated that she wanted to clarify the Idaho Code that describes 36-4087. It talks about notwithstanding any other provisional law. The Commission may issue permits or tags to disabled military veterans who have been certified eligible by a qualified organization.

Senator Johnson inquired if the various organizations determine what applicant is put in the pool for the random drawing. **Ms. Kiefer** said that is the role of the qualified organization to certify applicants.

MOTION:

Senator Brackett moved to approve **Docket No. 13-0104-1701** except for Subsection 901.01, and to form a special committee comprised of various interests to consider this rule and to make a recommendation. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

Chairman Bair inquired of Dennis Stevenson, Administrative Rules Coordinator, as to the next step with regards to the House Resources Committee accepting the docket in its entirety. **Mr. Stevenson** replied that a concurrent resolution be made and presented to the House Committee to see if they would concur.

ADJOURNED: There being no further business at this time, **Chairman Bair** adjourned the meeting at 3:03 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

Attachment 1

2/5/18



Attachment 2

2/5/18





February 1, 2018

Resources and Environment Committee
 Idaho Senate
 Sen. Steve Bair, Chairman
 Idaho State Capitol Building
 700 W. Jefferson St.
 Boise, ID 83702

Re: Idaho Disabled Veterans Special Big-Game Tags Proposed Rule

Mr. Chairman and Senators:

Thank you for the opportunity to submit written testimony regarding the proposed Rule change affecting Idaho Special Big Game Tags for Disabled Veterans.

Tree Top Ranches (“TTR”) has been a supporter of this program since it was first proposed by [then] IDF&G Commission Chairman Dr. Wayne Wright, and brought to fruition by Attorney Jay Rosenthal. Dr. Wright and Attorney Rosenthal deserve full credit for making this excellent program happen.

Since then, TTR has had the honor and the privilege of, in collaboration with the Idaho Division of Veteran Services (“IDVS”), hosting the Special Big Game Tag recipients selected by IDVS. Usually we host two (2) disabled veterans for an elk hunt at our Bennett Mountain Ranch. Our guests have included veterans with all manner of serious disabilities—significant paralysis, missing limbs, and so on. Two years ago we hosted a veteran who was totally blind. Nevertheless, our collaboration has been 100% successful; every single veteran we’ve hosted has gone home with a very nice elk and a once-in-a-lifetime experience.

Under the current Rule IDVS has received two tags; these and the other 3 are distributed at the “discretion of the [IDF&G] Director”. Under the proposed Rule, our IDVS program would be designated one (1) tag, with the others distributed by random-drawing. We believe changing from this IDVS 2-tag/discretion-based program to a random drawing is entirely out of line with the intent, and the best interests of this program. We offer the following comments:

- 1) The **intent** of this program was very clear; to provide the **best experience** for the **most deserving, worst-wounded** veterans. This should continue to be the basis for this program;
- 2) These hunts should be set up for success. It’s crucial that the sponsors/hosts are not only able to provide a first-class hunt, but also that they are ready and able to deal with problems. Not all sponsors/hosts are equally suited to meet these objectives. Sponsors/hosts should be deliberately chosen for their ability to provide the best, safest experience. This doesn’t happen by random drawing;
- 3) Discretion is also critical in the selection of tag recipients themselves. Applicants need to be vetted for their service and disabilities. And going back to the intent, tags cannot be distributed to the most-deserving and worst-wounded by drawing names out of a hat;

- 4) Lastly, the IDVS-TTR 2-tag program has been **exemplary** of how this program can be carried out. There is no reason it should be changed.

We respectfully request that the Committee decline to approve the proposed Rule. Instead, we would hope that IDF&G would reach out to IDVS and other experienced, interested parties to find better ways to resolve the "more applicants than tags" situation. IDVS and others are passionate and devoted to veteran opportunities, and dedicated to finding improvements through challenges like this.

Thank you for your consideration.

Respectfully,



Larry Williams
Tree Top Ranches, LP

To Whom It May Concern,

I want to start out by apologizing for not being able to attend this event in person. If there was any way in my power to be there in attendance I would prefer to have given my opinion on this matter in person. I am facing some medical issues that have me confined to bed rest, so once again I apologize and want to thank you for allowing this letter to be read on my behalf.

My name is Specialist Andrew Pike (ret). I was catastrophically injured in Iraq while serving with in the 1st of the 505th Parachute Infantry Regiment; 82nd Airborne Division. On March 26, 2007 while on a routine foot patrol I was shot and paralyzed by an enemy sniper. Since this day I have been confined to a manual wheelchair and have found ways to adapt to continue to do the things I enjoy.

I am writing today to speak out and support an event, and a program that has forever impacted my life. Several years ago I was blessed with the opportunity to take part in the hunt set up through the Idaho Division of Veteran Affairs (IDVA). I was not just blessed with a hunt, but a life changing experience that is still apart of my life to this day. I had a world-class experience through this hunt and established friendships that have still continued.

I am understanding that the State is proposing to take the two tags given to the Idaho Division of Veteran Affairs and reduce this to one tag while offering the second tag as a random drawing for non-profits. I think this is a huge mistake on part of the State of Idaho. The IDVA's establish program has proven itself to be effective and is getting these tags to Idaho's most severe veterans. I have undergone this process, and I can say that the IDVA's process is the most thorough application process that leaves no questions on if the veteran is eligible and deserving of this opportunity. I have seen firsthand of how other organizations select veterans to participate, and I thin you would be doing Idaho veterans a dis-service to remove one of these tags and put it in the hands of a non-responsible party. The VA ensures that the veteran left his/her service honorably and meets VA disability/injury requirements. I think this is the best way to make sure that these tags are going to actual veterans. Additionally this process helps keep veterans in touch with the VA and the help/aide they need.

In closing, I think that we should not change this process and should keep the VA in charge of these special purpose tags and this process. I do not think that it could be done any better, or be more memorable. Please do not take the experiences I had away from our future veterans, they deserve these opportunities.

Attachment 5

2/5/18



State of Idaho
DIVISION OF VETERANS SERVICES
"Caring for America's Heroes"



C.L. "BUTCH" OTTER
Governor

DAVID E. BRASUELL
Division Administrator

351 Collins Road
Boise, ID 83702-4519
(208) 780-1300
Fax (208) 780-1301

July 7, 2017

Virgil Moore, Director
Idaho Department of Fish and Game
600 S. Walnut
P.O. Box 26
Boise, ID 83707

RE: Notice of Intent to Promulgate Rules Governing the Disabled Veterans Special Big Game Tag Program

Dear Director Moore, *Virgil*

The Idaho Division of Veterans Services (IDVS) wishes to participate in the Department of Fish and Game's negotiated rulemaking process concerning the proposal to revise the provisions for Disabled Veteran Special Big Game Tags (IDAPA Rule 13.01.04.9.01).

As you are aware, since 2009, IDVS has coordinated an annual expense paid elk hunt for two (2) disabled Veterans. This annual hunt is coordinated on behalf, and is possible due to the generosity, of a very successful local businessperson and large landowner who is dedicated to helping meet IDVS's mission of providing a superior benefit opportunity to disabled Veterans. The purpose of this program is to offer an annual big game hunt for two (2) significantly disabled veterans who would otherwise be denied this option due to the seriousness of their disability.

Currently, this program is set up where in May of each year our selection committee meets, reviews the disabled Veterans' applications, and makes the top two (2) selections based on the information supplied. After selection, the hunts are then planned for October or November of each year, and take place on a private ranch. While hunters are expected to provide their own transportation to the Boise area, rustic cabin/bunkhouse (or hotel) accommodations, meals, and on-site transportation and assistance are then provided at the ranch at no cost to the Veteran. If the Veteran requires a medical caregiver, these items are also provided at no charge for the caregiver. This year, seventy-one (71) Veterans applied and two (2) Veterans with 100% disability ratings were selected.

This important program currently depends upon IDVS receiving two (2) Disabled Veterans Special Big Game Tags annually. While we understand the circumstances your agency is facing, and the need to establish protocols regarding allocation of these limited tags, we also fear the proposed rulemaking will

make it impossible for IDVS to continue to offer this important mission driven program each year. With the issuance of tags by random draw, there is a very significant chance IDVS will not receive any tag, thus denying this once in a lifetime program opportunity to our disabled Veterans.

As previously mentioned, IDVS supports IDFG's need to revise your existing rule to establish a defined application period for these tags and a fair method of allocation. As part of your agencies Rule Proposal, however, we ask that you think about identifying IDVS as a partner in meeting the intent of existing statute for making these big game tags available for disabled Veterans. As the State Agency empowered to support and serve Idaho Veterans, we believe it would be appropriate, and meet statutory intent, to reserve at least one (1) tag for use by an Idaho Veteran sponsored by IDVS. As such, we urge you to consider reserving at least one (1), if not two (2), of these tags for the Idaho Division of Veterans Services to allocate annually for our sponsored Disabled Veterans Elk Hunt.

IDVS is appreciative of you and your staff's past support and assistance in obtaining tags for this well recognized and supported program. We also appreciate your consideration of our recommendation described above, and for your continued support in "Caring for America's Heroes."

Please be sure to contact my Deputy Administrator, Tracy Schaner, or me should there be any questions.

Sincerely,


David E. Brasuell, Administrator
Idaho Division of Veterans Services

c: Sharon Kiefer, Deputy Director, Idaho Department of Fish and Game

AMENDED AGENDA #1
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, February 07, 2018

SUBJECT	DESCRIPTION	PRESENTER
RS26033	Provide continuing focus on wolf management	Senator Lee
Gubernatorial Appointment Consideration	Dr. John Rusche, Lewiston, Idaho was appointed to the Idaho Water Resource Board to serve a term commencing August 31, 2017 and expiring January 1, 2019.	
Gubernatorial Appointment Consideration	George McQuiston Jr., Challis, Idaho was reappointed to the Outfitters and Guides Licensing Board to serve a term commencing April 20, 2017 and expiring April 20, 2020.	
Gubernatorial Appointment Consideration	Robert Barowsky, Fruitland, Idaho was reappointed to the Outfitters and Guides Licensing Board to serve a term commencing May 31, 2017 and expiring May 31, 2020.	
RS26046	A memorial to urge Congress to introduce legislation opposing any federal land designations that restrict land use unless approved by Congress and the Idaho Legislature.	Senator Siddoway
RS26088	Removes the sunset clause allowing the Wolf Control Fund and a State Board to continue to direct and manage the fund.	Senator Bair Rep. Burtenshaw
S 1260	Lake and river commission	Senator Keough
S 1261	Priest Lake	Senator Keough
Gubernatorial Appointment Hearing	Dr. Renee Breedlovestrout, Moscow, Idaho was appointed to the Oil and Gas Conservation Commission to serve a term commencing July 1, 2017 and expiring July 1, 2019.	Dr. Renee Breedlovestrout
Gubernatorial Appointment Hearing	James Classen, Boise, Idaho was appointed to the Oil and Gas Conservation Commission to serve a term commencing July 1, 2017 and expiring July 1, 2021.	James Classen
Gubernatorial Appointment Hearing	Kevin Dickey, Emmett, Idaho was appointed to the Oil and Gas Conservation Commission to serve a term commencing July 1, 2017 and expiring July 1, 2020.	Kevin Dickey
Gubernatorial Appointment Hearing	Marc Shigeta, New Plymouth, Idaho was appointed to the Oil and Gas Conservation Commission to serve a term commencing July 1, 2017 and expiring July 1, 2021.	Marc Shigeta

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 Siddoway
Sen Brackett
Sen Heider
Sen Vick

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, February 07, 2018

TIME: 1:30 P.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: Senator Stennett

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 announced that Senator Lee would present her RS at the beginning of the meeting due to time constraints.

RS 26033 **Senator Lee** said the purpose of **RS 26033** is to provide legislative intent for the Idaho Department of Fish and Game to continue to focus on wolf management techniques in Idaho. The proposal codifies current practice and plans to continue collaring wolves as part of the wolf management plan to reduce livestock depredation in Idaho.

MOTION: **Senator Siddoway** moved to print **RS 26033**. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: **Chairman Bair** said the next order of business was to consider the gubernatorial appointment of Dr. John Rusche to the Idaho Water Resource Board, to serve a term commencing August 31, 2017 and expiring January 1, 2019.

MOTION: **Senator Jordan** moved to send the gubernatorial appointment of Dr. John Rusche to the Idaho Water Resource Board to the floor with recommendation that he be confirmed by the Senate. **Senator Johnson** seconded the motion. The motion carried by **voice vote**. Senator Stennett will be the floor sponsor.

GUBERNATORIAL APPOINTMENT: The next consideration was the gubernatorial reappointment of George McQuiston, Jr. to the Outfitters and Guides Licensing Board, to serve a term commencing April 20, 2017 and expiring April 20, 2020.

MOTION: **Senator Heider** moved to send the gubernatorial reappointment of George McQuiston, Jr. to the Outfitters and Guides Licensing Board to the floor with recommendation that he be confirmed by the Senate. **Senator Brackett** seconded the motion. The motion carried by **voice vote**. Senator Heider will be the floor sponsor.

GUBERNATORIAL APPOINTMENT: The next consideration was the gubernatorial reappointment of Robert Barowsky to the Outfitters and Guides Licensing Board, to serve a term commencing May 31, 2017 and expiring May 31, 2020.

MOTION: **Senator Siddoway** moved to send the gubernatorial reappointment of Robert Barowsky to the Outfitters and Guides Licensing 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 Siddoway will be the floor sponsor.

RS 26046 **Senator Siddoway** said this memorial urges Congress to introduce legislation opposing any federal land designations that restrict land use, unless approved by Congress and the Legislature.

MOTION: **Senator Vick** moved to print **RS 26046**. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

RS 26088 **Chairman Bair** stated that this RS proposes to remove the sunset clause. Doing so would allow the Wolf Control Fund and the Idaho Wolf Depredation Control Board to continue to direct and manage the fund.

MOTION: **Senator Vick** moved to print **RS 26088**. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

S 1260 **Senator Keough** presented **S 1260**. It pertains to Lake Pend Oreille, Pend Oreille River, Priest Lake, and the Priest River Commission (Lakes Commission). This legislation proposes to amend existing law to provide that the Lakes Commission shall have the authority to designate representatives to participate in proceedings regarding the Columbia River Basin. It also provides that moneys in the Lakes Commission fund may also be used to provide for participation in proceedings regarding the Columbia River Basin.

TESTIMONY: **Molly McCahon**, Executive Director of the Lakes Commission, testified in support of **S 1260**.

Ms. McCahon said the Lakes Commission was created in 2003 by statute as an advisory board on water related issues in the Pend Oreille Basin. The waters of the Pend Oreille Basin are the heartbeat of the economy, and the Lakes Commission works to ensure it remains as such. Just as southern Idaho needs to protect its water rights for irrigation and beneficial uses, **Ms. McCahon** stated they need to protect their water for recreation and other beneficial uses which are primarily fishing, boating, and real estate values. Irrigation in the south and recreation in the north both contribute significantly to Idaho's economy. They do not conflict with one another and can be equally protected .

Ms. McCahon stated that Lake Pend Oreille is just one lake in the Pend Oreille Basin, but is an enormous natural lake with approximately one million acre feet of storage water. The lake level fluctuates by 11.5 feet and is operated and controlled by Albeni Falls Dam and the United States Army Corps of Engineers. The dam is only authorized to operate for power and flooding. Other interests and needs, such as fish and wildlife habitat, recreation, and scenic beauty, are secondary and require negotiation. Albeni Falls Dam is also a "Treaty" dam in the Columbia River Treaty.

 The Lakes Commission has undergone challenging negotiations with tribal and federal interests in order to establish a consistent and reliable summer pool for their recreation season, while simultaneously balancing flood control, power generation, and fish and wildlife needs. Those negotiations took place over a period of years and created a valued working relationship with governing agencies.

Ms. McCahon said they have learned it is essential to have a respected and recognized body present during crucial discussions and negotiations. The Lakes Commission has established itself as that board by working collaboratively with all stakeholders.

Ms. McCahon stated the upcoming Columbia River Treaty negotiations are unique and pressing. United States negotiators are unfamiliar with the geography and diverse water issues in Idaho and Pend Oreille Basin's specific limitations. In order to maintain and uphold the summer pool and recreation needs, north Idaho needs authorized representatives during these discussions, but especially now, while they are just learning the breadth of issues in the Columbia River Basin.

Ms. McCahon said the Lakes Commission was created because Idaho had the foresight to recognize that the northern portion of the State needed representation to balance the many demands being placed on its northern water resources; those demands would only become more pressing over the years. **Ms. McCahon** closed by thanking the Committee for their consideration regarding this legislation.

Norm Semanko, representing the Lake Pend Oreille Alliance, said it is a group of citizens and businesses supporting the lake level to keep the economy strong.

Mr. Semanko said the Alliance is supportive of what the Lakes Commission's efforts over the past 15 years; they are also supportive of **S 1260**.

Mr. Semanko said, in 1927, the United States government proposed utilizing the waters in the lake beds of Lake Coeur d'Alene, Lake Pend Oreille, and Priest Lake to build an irrigation reservoir system for farmlands in Washington state. The Legislature did not like the idea and wanted to keep the water in Idaho. A bill was passed in 1927 which authorized the Governor to file an application and appropriate all the unappropriated water in those three lakes to be held in the lakes for the benefit of all the people in the State of Idaho. That was licensed in 1928. There is a water right, held in trust by the Governor for the people of Idaho, for all the water in Lake Coeur d'Alene, Lake Pend Oreille, and Priest Lake. When Albeni Falls was built, that was a major issue, and Idaho needs to make sure that the lake continues to be operated for multiple purposes as stated in the state law water right. The authorizing document for Albeni Falls Dam recognizes those multiple purposes.

DISCUSSION:

Senator Johnson inquired about the current budget for the Lakes Commission.

Ms. McCahon said she will send him a copy of the Lakes Commission's budget.

Senator Johnson inquired as to the amount of General Fund dollars and the amount of dedicated fund dollars. **Ms. McCahon** replied that it is all from the General Fund. **Chairman Bair** asked Senator Keough if she would supply budget information. **Senator Keough** said the money is all from the General Fund and has been since the Lakes Commission was first established. The statute allows for other money to flow in.

Paul Arrington, Executive Director, Idaho Water Users Association (IWUA), stated that IWUA supports **S 1260**.

MOTION:

Senator Johnson moved to send **S 1260** to the floor with a **do pass** recommendation. **Senator Vick** seconded the motion. The motion carried by **voice vote**. Senator Keough will be the floor sponsor.

S 1261

Senator Keough presented **S 1261** which involves Priest Lake. This legislation proposes to amend existing law to provide that the Priest Lake outlet control structure shall be under the supervision and control of the Idaho Water Resource Board. This will also revise provisions regarding the operation and maintenance of the structure and will revise provisions regarding the maintenance and regulation of the water surface level of Priest Lake.

MOTION:

Senator Siddoway moved to send **S 1261** to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **voice vote**. Senator Keough will be the floor sponsor.

Chairman Bair noted there were four gubernatorial appointees present for their hearings and they were appointed to the Oil and Gas Conservation Commission (Commission). He asked Dr. Renee Breedlovestrout to speak first.

**GUBERNATORIAL
APPOINTMENT
HEARING:**

Dr. Breedlovestrout stated on her application for appointment the reasons why she would like to serve. She has conducted petroleum research on the producing field north of New Plymouth, Idaho, for the past two years at the Idaho Geological Survey. Before that, she was a Senior Geologist at ExxonMobil Exploration Company. She also has a vast understanding of the subsurface in the New Plymouth field, which would directly benefit the Oil and Gas Conservation Commission's goals.

Dr. Breedlovestrout is a current member of the following organizations:

- American Association of Petroleum Geologists (AAPG);
- Geological Society of America;
- Association for Women Geoscientists; and
- Professional Women in Earth Science Committee of AAPG.

Past boards, commissions, and councils of which Dr. Breedlovestrout has served include:

- Field Analogues and Lessons Learned (FALL) Committee, ExxonMobil;
- Early Career Professional Mentorship Program, ExxonMobil;
- Cross Company Forum Committee, ExxonMobil;
- Senator for the Graduate and Professional Student Association, University of Idaho; and
- Environmental Task Force Committee, Washington State University.

Dr. Breedlovestrout is a licensed professional geologist with the State of Idaho and holds a B.S. and PhD in Geology. She taught fourth grade science, served as a laboratory instructor at the high school level, and as a tutor and supplemental instructor. Dr. Breedlovestrout's interests are in carbonate and siliciclastic sedimentology, stratigraphy, basin analysis, paleobotany, paleoclimatology, seismic facies analysis, and petroleum systems.

Dr. Breedlovestrout said she is presently an adjunct faculty member in the Department of Geological Sciences at the University of Idaho. She is also an instructor at Washington State University.

Chairman Bair asked how she sees her responsibilities on the Commission and what she would like to accomplish. **Dr. Breedlovestrout** responded by saying, at the University of Idaho, she is an instructor as well as a research scientist. She conducted petroleum research at New Plymouth and has a vast understanding of the subsurface in the New Plymouth field. **Dr. Breedlovestrout** said the reason she applied to be on the Commission was to share her expertise. The goal is to regulate the exploration of drilling and production of the resources and to make sure those resources and the rights of landowners, groundwater, and surface water owners are preserved.

Senator Siddoway said he has concern that government may regulate the oil and gas industry out of business in the State of Idaho. He said he wants to hear from the applicants that they are willing to work with the industry to make sure the industry is successful, while reaching that balance with the landowners and the State. Currently, Idaho is spending more money regulating than it earns from royalties. **Dr. Breedlovestrout** said she doesn't see the Commission's goal as being over-regulation. Oil and gas in Idaho are relatively new energy resources. 2009 was the first production of wells. Other states have had regulations in place for many years; Idaho is trying to catch up with the regulations.

Chairman Bair thanked Dr. Breedlovestrout and invited Jim Classen to speak to the Committee next.

**GUBERNATORIAL
APPOINTMENT
HEARING:**

Mr. Classen said he has been a geologist for 37 years and grew up in an oil and gas family due to his father's involvement. Mr. Classen's membership of organizations and societies include:

- American Association of Petroleum Geologists;
- Society of Independent Professional Earth Scientists;
- Association of Independent Professional Geologists - emeritus;
- American Institute of Professional Geologists;
- Houston Geological Society;
- Lafayette Geological Society;
- New Orleans Geological Society;
- Rocky Mountain Association of Geologists - emeritus; and
- Society of Petroleum Engineers.

Mr. Classen stated that he has an engineering degree for geology from the Colorado School of Mines and a master's degree in geology from Stanford University. He served in the military at Ft. Belvoir, Virginia and Ft. Carson, Colorado with the Combat Engineers with the United States Army. **Mr. Classen** said his hobbies are hunting, fishing, and gardening.

Mr. Classen said the reason he has volunteered to work with the Commission is the difficulty in understanding the complexity of the business. The Commission wants to align the rules, regulations, and operational procedures with the rest of the industry in other states.

Senator Siddoway stated that he has visited with some of the oil and gas industry's staff and they have expressed their frustration regarding the rules and regulations. He inquired given Mr. Classen's experience and familiarity with the rules and regulations, if he sees a need to change or modify the regulations.

Mr. Classen replied that Idaho basically copied the rules and regulations from Montana and Utah and merged them into our State's rules and regulations. It is Mr. Classen's opinion that people who use rules and regulations from active oil and gas states do not understand the meaning of words. He stated that it has been a long five years, but progress is being made. **Mr. Classen** said he wants to encourage more companies and more drilling in Idaho for the benefit of Idaho. The problem is there is only one company working in Idaho and that company makes choices as to where they will spend money based upon their exploration. He feels the problem with the rules and regulations has been interpretation, primarily because of the lack of expertise.

Chairman Bair thanked Mr. Classen and invited Kevin Dickey to address the Committee.

**GUBERNATORIAL
APPOINTMENT
HEARING:**

Mr. Dickey stated that he is a resident of Emmett, Idaho, and loves Idaho. He is a member of the Society of Petroleum Engineers and a graduate of the Colorado School of Mines, with a B.S. in petroleum engineering. Mr. Dickey has experience working with the Wyoming, Colorado, and Utah oil and gas commissions and would like to help Idaho develop its Commission. **Mr. Dickey** said, as commissioners, it is their job to be advocates for responsible energy development.

Mr. Dickey is a petroleum engineer with extensive engineering, operations, business development, and management experience. He has 30 years of progressive petroleum production, completion, reservoir, and evaluation experience with both large and small independent oil and gas companies.

Senator Siddoway inquired about the status of injection wells. **Mr. Dickey** replied that, recently, the Commission turned over the regulations of the injection site to the Environmental Protection Agency (EPA). He stated that he preferred to not turn over States' rights to the federal government, but in this case the injection wells can be in the ground sooner. From that standpoint, it made sense to Mr. Dickey and he added that injections wells are a part of the business. Also, by having EPA involved, the Commission does not have to have additional staff.

Chairman Bair thanked Mr. Dickey and asked the final appointee, Marc Shigeta, to testify.

**GUBERNATORIAL
APPOINTMENT
HEARING:**

Mr. Shigeta said it was an honor to be appointed to the Oil and Gas Conservation Commission. He has been involved in oil and gas explorations since the first well was permitted in Payette County in July 2009.

Mr. Shigeta's education includes a B.S. in business and accounting from the University of Idaho. He was employed by the Boise Cascade Corporation, Internal Audit Department, from 1972 to 1973. Following that, he has been a self-employed row crop farmer from 1974 to the present. In 2002, Mr. Shigeta was elected as a Payette County Commissioner and continues to serve. Other achievements include: Noble Ditch Company Board of Directors, 1988 to present; Water District 65 Advisory Board, 1992 to present; Idaho Association of Counties Board of Directors, 2007 to present; and Idaho Counties Risk Management Program Board of Directors, 2007 to present.

Chairman Bair thanked the participants and the Committee members. He said consideration of the gubernatorial appointments would take place during the next meeting.

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 12, 2018

SUBJECT	DESCRIPTION	PRESENTER
Minutes	Approval of Minutes - January 29, 2018	Senator Bayer
Minutes	Approval of Minutes - January 31, 2018	Senator Siddoway
Presentation	"Increasing Harvest on Idaho's Federal Forest Lands: Improving Ecosystem Health and Idaho's Economy"	Tom Schultz, Vice President Governmental Affairs, Idaho Forest Group
Gubernatorial Appointee Consideration	Dr. Renee Breedlovestrout, Moscow, Idaho was appointed to the Oil and Gas Conservation Commission to serve a term commencing July 1, 2017 and expiring July 1, 2019.	
Gubernatorial Appointee Consideration	James Classen, Boise, Idaho was appointed to the Oil and Gas Conservation Commission to serve a term commencing July 1, 2017 and expiring July 1, 2021.	
Gubernatorial Appointee Consideration	Kevin Dickey, Emmett, Idaho was appointed to the Oil and Gas Conservation Commission to serve a term commencing July 1, 2017 and expiring July 1, 2020.	
Gubernatorial Appointee Consideration	Marc Shigeta, New Plymouth, Idaho was appointed to the Oil and Gas Conservation Commission to serve a term commencing July 1, 2017 and expiring July 1, 2021.	
RS26154	Resolution rejecting a certain rule of Fish and Game	Senator Siddoway
RS25924C1	Legislation relating to stockwater.	Senator Harris
RS26078	Legislation relating to local land use planning	Senator Anthon
RS26121	Recognizing the 50th anniversary of the Wild and Scenic Rivers Act.	Senator Stennett
S 1268	Drainage districts	Paul Arrington, IWUA
H 369	Roadless rule commission	Sam Eaton, Ofc of Gov

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 Siddoway	Sen Johnson
Sen Brackett	Sen Stennett
Sen Heider	Sen Jordan

COMMITTEE SECRETARY

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

Sen Vick

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, February 12, 2018

TIME: 1:30 P.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: Senator 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 meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m.

MINUTES APPROVAL: **Senator Bayer** moved to approve the Minutes of January 29, 2018. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Siddoway** moved to approve the Minutes of January 31, 2018. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

PRESENTATION: **Tom Schultz**, Vice President, Governmental Affairs, Idaho Forest Group (IFG), provided a slide presentation entitled "Increasing Harvest on Idaho's Federal Forest Lands: Improving Ecosystem Health and Idaho's Economy."

Mr. Schultz provided an overview of IFG, as to who they are and how they operate. IFG owns and operates six lumber mills, with five in Idaho and one in Montana. There are over 1,000 employees and IFG paid \$74 million in wages and benefits in 2017.

The bulk of timber purchases in 2017 came from industrial private, followed by small private, followed by the State, and followed by federal lands. The lumber output from the five Idaho mills in 2017 was 1.1 billion board feet. The capacity of those mills is 1.3 billion board feet. They are operating at 80 percent of capacity.

Mr. Schultz said the ownership of Idaho's forest is as follows: federal - 76 percent; private - 14 percent; State - 6 percent; and other - 4 percent. There are 53 million acres of forest in the State, and Idaho has 21 million acres of that. The industry as a whole contributes about \$2 billion to the gross state product and employs about 30,000 people.

There has been about an 80 percent decline in the harvest from national forest in Idaho and the annual tree mortality in Idaho is increasing. **Mr. Schultz** then suggested ways to focus on improving the forest, such as decreasing insect and disease infestations, decreasing the risk of catastrophic fire, and increasing jobs and economic benefits to rural Idaho. Every million board feet of timber harvested in Idaho supports 20 jobs, generates \$3.85 million in goods and services, and \$667,000 in wages.

Mr. Schultz spoke next about the health of the federal forests in Idaho. Out of the 12 million acres suitable for management, 8.8 million acres are at high risk of insect, disease, and fire mortality. However, he stated there is hope. Trends are changing. In 2017, the United States Forest Service (USFS) spent approximately \$24 million managing Idaho national forests. The tools used to accomplish work on the national forests are timber sales contracts, collaborative forest landscape restoration programs, stewardship contracts, and the Good Neighbor Authority (GNA).

In 2014, the farm bill was authorized. Governor C. L. "Butch" Otter designated 1.8 million acres and 50 project areas for treatment. Today, 4 million acres are designated for treatment. Collaborative groups design timber sale projects, the USFS makes the decision, and the State executes the timber sale.

Idaho is leading the way with GNA. There are 11 projects underway in four national forests in Idaho with over 10,000 acres planned to be treated in the next three years. Two projects already sold, adding \$3 million in program income. The goal is to roughly double outputs including timber harvest, habitat enhancement, stream restoration, fish passage, and road maintenance through the State assisting in implementing the various forest plans.

Mr. Schultz queried what would be the impact on Idaho's economy of adding an additional 200 million board feet harvested from federal lands. The benefits for Idaho's citizens would be 2,400 direct jobs in the forest products industry and 2,879 jobs in support industries and retail sales in local communities. The annual labor income would be \$215.14 million, which includes wages, salaries, and benefits.

DISCUSSION:

Senator Stennett inquired about the salvage of impacted areas and how the timber is used. **Mr. Schultz** said lumber is made if it has been harvested quick enough. If the timber has been burnt and is too far gone, it can still be made into wood chips.

Senator Siddoway asked if IFG is working with Congress to try to change some of the federal laws that are enabling some groups to shut the harvest off on some of the timber. **Mr. Schultz** said IFG is looking at some issues that are problematic for the GNA, as well as issues regarding fire fighting.

Senator Brackett said what Mr. Schultz has outlined is very progressive and optimistic; he inquired as to what would cause it to not become a reality. **Mr. Schultz** said leadership and resources are needed, as well as cooperation.

Chairman Bair thanked Mr. Schultz for his presentation and said the next order of business would be to consider the appointments of the four Oil and Gas Conservation Commission applicants.

GUBERNATORIAL APPOINTMENT:

Dr. Renee Breedlovestrout, Moscow, Idaho, was appointed to the Oil and Gas Conservation Commission to serve a term commencing July 1, 2017 and expiring July 1, 2019.

MOTION:

Senator Siddoway moved to send the gubernatorial appointment of Dr. Renee Breedlovestrout to the Oil and Gas Conservation Commission to the floor with recommendation that she be confirmed by the Senate. **Senator Bayer** seconded the motion. The motion carried by **voice vote**. Senator Bayer will be the floor sponsor.

GUBERNATORIAL APPOINTMENT:

James Classen, Boise, Idaho, was appointed to the Oil and Gas Conservation Commission to serve a term commencing July 1, 2017 and expiring July 1, 2021.

- MOTION:** **Senator Heider** moved to send the gubernatorial appointment of James Classen to the Oil and Gas Conservation Commission to the floor with recommendation that he be confirmed by the Senate. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**. Senator Brackett will be the floor sponsor.
- GUBERNATORIAL APPOINTMENT:** Kevin Dickey, Emmett, Idaho, was appointed to the Oil and Gas Conservation Commission to serve a term commencing July 1, 2017 and expiring July 1, 2020.
- MOTION:** **Senator Siddoway** moved to send the gubernatorial appointment of Kevin Dickey to the Oil and Gas Conservation 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 Siddoway will be the floor sponsor.
- GUBERNATORIAL APPOINTMENT:** Marc Shigeta, New Plymouth, Idaho, was appointed to the Oil and Gas Conservation Commission to serve a term commencing July 1, 2017 and expiring July 1, 2021.
- MOTION:** **Senator Vick** moved to send the gubernatorial appointment of Marc Shigeta to the Oil and Gas Conservation 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 Lee will be the floor sponsor.
- RS 26154** **Senator Siddoway** said **RS 26154** is a concurrent resolution rejecting Subsection 901.01 of Docket No. 13-0104-1701, Idaho Department of Fish and Game. This removes language that will limit the Idaho Division of Veterans Services to one big game tag for resident applicants.
- MOTION:** **Senator Siddoway** moved to print **RS 26154**. **Senator Heider** seconded the motion. The motion carried by **voice vote**. Senator Brackett will be the floor sponsor.
- RS 25924C1** **Senator Harris** stated that **RS 25924C1** relates to stockwater rights. This legislation provides for rights to use water for livestock purposes associated with grazing on federally-owned or managed land. It also provides that, when a federal grazing permit is transferred or conveyed to a new owner, the associated stockwater rights may also be conveyed and become appurtenant to the new owner's base property.
- MOTION:** **Senator Brackett** moved to print **RS 25924C1**. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.
- RS 26078** **Senator Anthon** said **RS 26078** refers to local land use planning. This legislation requires at least 15 days notice, prior to the public hearing date concerning the development proposal, that water delivery entities be notified. This will ensure that water delivery infrastructure, easements, and rights-of-way are not encroached upon as development occurs and the rights of water users are not injured.
- MOTION:** **Senator Stennett** moved to print **RS 26078**. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.
- RS 26121** **Senator Stennett** said **RS 26121** is a concurrent resolution recognizing the fiftieth anniversary of the Wild and Scenic Rivers Act and the contributions that Idahoans have made to the State and the nation. It also states that the federal land management agencies with responsibility over Idaho's wild and scenic rivers direct adequate financial resources and expertise to ensure the ongoing protection, management, utilization and enjoyment of designated wild and scenic rivers in Idaho.
- MOTION:** **Senator Heider** moved to print **RS 26121**. **Senator Bayer** seconded the motion. The motion carried by **voice vote**. **Senator Stennett** will be the floor sponsor.

S 1268 **Paul Arrington**, Executive Director, Idaho Water Users Association (IWUA) presented **S 1268**. This legislation proposes to update the existing drainage districts statutes to allow for the compensation of a drainage commission to be fixed by the board of the drainage district. It also clarifies a limitation on the use of assessments for the payment or retirement of bonds or warrants. Finally, it increases the amount necessary for the sale of property and certain bidding requirements.

MOTION: **Senator Siddoway** moved that **S 1268** be sent to the floor with a **do pass** recommendation. **Senator Brackett** seconded the motion. The motion carried by **voice vote**. **Chairman Bair** will be the floor sponsor.

H 369 **Sam Eaton**, Legal Counsel, Office of the Governor, presented **H 369**. This bill would codify the existing Idaho Roadless Rule Implementation Commission that has been operating for the last decade. Idaho's inventoried roadless areas consist of nearly 9.3 million acres of national forest lands. These roadless areas provide pristine habitat for native wildlife and also provide a significant benefit to Idaho's economy. Pursuant to a Memorandum of Understanding between the USFS and the State, the national forests in Idaho are required to consult with the Commission prior to implementing a project within a roadless area. Because of the breadth of knowledge and expertise on the Commission, the USFS follows the Commission's guidance.

MOTION: **Senator Stennett** moved that **H 369** be sent to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**. **Senator Stennett** will be the floor sponsor.

ADJOURNED: There being no further business at this time, **Chairman Bair** adjourned the meeting at 2:45 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, February 14, 2018

SUBJECT	DESCRIPTION	PRESENTER
Gubernatorial Appointment Hearing	R. Doug Eastwood, Post Falls, Idaho was appointed to the Parks and Recreation Board to serve a term commencing July 24, 2017 and expiring July 1, 2022.	
Presentation	Rangelands Commission Update Gretchen Hyde, Executive Director U of I Rangeland Research Center Update Dr. Karen Launchbaugh, Director	
S 1275	Wolf collaring	Senator Lee
H 370	Water districts, meetings, voting	Tim Luke, IDWR
H 371	Critical ground water areas	Mathew Weaver, IDWR
H 372	Water rights, application fee	Shelley Keen, IDWR

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 Siddoway
Sen Brackett
Sen Heider
Sen Vick

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, February 14, 2018

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Siddoway, Senators Brackett, Heider, Vick, 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.

PAGE RECOGNITION: **Chairman Bair** stated that the Pages that serve in the Legislature will be leaving Friday and a new group will be arriving. He asked Jack Sherlock, the Page for the Committee, to come forward to be honored. **Chairman Bair** presented Jack with an Idaho flag that has flown over the Capitol, a mallet carved by former Representative Max Black, a letter of appreciation signed by the Committee members, and a gift card to Barnes & Noble.

He wished Jack good luck in his future plans. Jack thanked the Chairman and said he enjoyed his time spent at the Capitol during the legislative session. He acknowledged that he learned much regarding how laws are made and the procedure they must go through. As to his future plans, Jack said he plans to become a medical doctor; he has been accepted to Idaho State University (ISU) as a premed student. After graduating from ISU, he plans to attend Vanderbilt University for further medical studies.

GUBERNATORIAL APPOINTMENT: **Chairman Bair** welcomed Doug Eastwood, Post Falls, Idaho, who was appointed to the Parks and Recreation Board to serve a term commencing July 24, 2017 and expiring July 1, 2022.

Mr. Eastwood stated he has a passion for outdoor public recreation, including public access. He feels the Parks and Recreation Board (Parks and Rec Board) have done great things for Idaho citizenry and visitors, but there is still plenty to accomplish. He would like to bring his skills and background to the Board to assist with the Board's short-term and long-term goals. Mr. Eastwood also sought and secured numerous grants, was overseer of land development, and managed multiple contractor agreements.

Mr. Eastwood noted he has over 35 years in parks and outdoor recreation planning that involved the acquisition and development of park land. He has written and implemented ordinances, amendments, and policies for parks, open space, and long-range planning. He also created three foundations for financial assistance and preservation of public park land. Other accomplishments include managing a multi-million dollar department budget with five divisions - parks, trails, urban forestry, buildings, and cemeteries. **Mr. Eastwood** noted he grew the Coeur d'Alene park system from five parks to 32 parks, sought and secured numerous grants, was overseer of land development, and managed multiple contracts.

Mr. Eastwood's experience includes six years with the Los Angeles County Department of Parks and Recreation as supervisor of a 2,000 acre park which included a swim park; events pavilion; 60 acre man-made lake with beaches, a boat launch, and docks; horse trails; a golf course; trails; and open space.

While Mr. Eastwood was with the City of Coeur d'Alene, he accomplished the following:

- developed 27 parks;
- managed 32 parks;
- managed two cemeteries;
- constructed 40 miles of pedestrian/bicycle trails;
- three miles of waterfront property;
- 14 municipal buildings, including city hall, fire, police, parks, streets, water, and library;
- hands-on planning and development for all municipal properties;
- created and implemented master plans for parks (2008), trails (2010), and natural open space (2013);
- wrote management handbooks for cemeteries and trails;
- negotiated land acquisitions for parks and special uses;
- secured grants with matching funds ranging from 50/50 match to 90/10 match;
- acquired and developed park land without tax dollars or General Fund assistance;
- excellent long-range planning with emphasis on a wider, more encompassing and long-term impact on areas including accessibility by vehicle, bicycle, and pedestrians.

Senator Stennett inquired of Mr. Eastwood as to what his first impression was of the Parks and Rec Board. **Mr. Eastwood** replied that he wondered as to where he would be able to help. After touring the southern part of Idaho, he stated that he was overwhelmed by all the tourist attractions, such as the Bruneau Sand Dunes. They are pursuing an international dark sky status. They also have a credible telescope that rotates 360 degrees to watch the stellar system, as well as skis and sleds to traverse the sand dunes.

Senator Brackett asked about the accomplishments achieved in Coeur d'Alene without tax dollars; he wondered how that was possible. **Mr. Eastwood** said with the help of a financial advisor, they created a capital improvement fund. Revenue generated through the parks was held in that fund and the money was used for acquisition and development only. He also was able to put into the fund their portion of impact fees and annexation fees. By the time he left, \$250,000 to \$300,000 a year was generated from that account. **Mr. Eastwood** said he leveraged that amount against park land development. **Senator Brackett** inquired if this procedure without tax dollars would be a viable model for the State's system. **Mr. Eastwood** said the Parks and Rec Board is doing a good job of getting things back in shape since the downturn of the economy. They are looking at methods to accelerate the cost-sharing and to have some alternative financial plans.

Senator Vick said Parks and Rec has been given some latitude in how they raise funds to support the parks. He asked if Mr. Eastwood has ideas as to how more revenue might be generated. **Mr. Eastwood** said partnerships and sponsorships are good and the Board is exploring that idea.

Chairman Bair thanked Mr. Eastwood for addressing the Committee and stated that consideration of his appointment would be at the next meeting. **Chairman Bair** recognized former State Senator and Committee member, David Langhorst, Director of the Parks and Recreation Board. **Mr. Langhorst** stated they were here in support of Mr. Eastwood. He then introduced some of the Parks and Rec staff - Tammy Kolsky, David White, Betty Mills, and Anna Canning.

Chairman Bair welcomed **Gretchen Hyde** and **Dr. Karen Launchbaugh** who presented information about Idaho's rangelands.

PRESENTATION:

Ms. Hyde, Executive Director, Idaho Rangeland Resource Commission (IRRC), provided copies of the Commission's annual report, the 2018 projected profit and loss budget overview, and the 2017 audited financial statements. The IRRC has a volunteer board of five voting members, appointed by the Governor, who each serve a five-year term. There are ten advisory members named to IRRC.

Ms. Hyde said a new website was launched which combines the content from the IRRC into the "Life on the Range" website. This means that all educational materials for K-12 schools in Idaho will be on the same site. The latest stories showcase an education event at Sagehen Reservoir for about 100 Emmett 5th graders from Emmett Middle School; the Davis family who raise Akaushi cattle in Cascade; and a collaborative partnership at Rock Creek Ranch near Hailey.

Ms. Hyde stated that the big successes of IRRC are the partnerships assisting with the different projects. Without the support of the livestock producers, these programs would not exist. The assessment rates for State, federal, and private land are the same as in 1997. The total assessment for 2017 was \$177,845, with requests for refund of less than one percent. The expenses vary year-to-year, but are focused on education, public relations, and research opportunities. The board strives to get the most out of every dollar received.

Ms. Hyde gave credit to Chairman Bair and Senator Brackett for helping IRRC to obtain a rangeland license plate. The plates have generated approximately \$35,000 this year. A grant from the Bureau of Land Management (BLM) will create a traveling educational exhibit that addresses grazing, livestock, and sage-grouse.

Ms. Hyde said IRRC received grants from both the BLM and the United States Forest Service (USFS) in 2017 to continue the Care/Share initiative. Under this program, IRRC produces educational signage for key trailheads to alert recreation users that livestock may be in the area. They also provide tips on what to do if they encounter sheep or cattle on the trail. This year, a record was set for outreach and sign production. Trailhead signs were posted at the Ketchum Ranger District, Sawtooth National Forest; Lost River Ranger District, Salmon-Challis National Forest; Challis area BLM, Salmon-Challis National Forest; Payette National Forest; Palisades Ranger District, Caribou-Targhee National Forest; and Idaho City District, Boise National Forest.

In closing, **Ms. Hyde** showed a five-minute video of the Rock Creek Ranch. The ranch is a partnership between the Nature Conservancy, the Wood River Land Trust, and the University of Idaho. It is a 10,400 acre ranch near Bellevue, Idaho, and collaborative research and management focuses on the intersection of ranching, wildlife conservation, and recreation. After just two years, there are nearly ten research projects taking place. The ranch also hosts field tours and workshops for those who want to learn more about rangelands.

Dr. Launchbaugh said the mission of the Rangeland Center empowers researchers and educators at the University of Idaho who strive to create insight and foster understanding for the stewardship and management of rangelands. Their innovative design promotes active partnerships with individuals, organizations, and communities who work and live on rangelands. As for the Rangeland Center's vision, they serve current and future generations by fostering understanding and stewardship of rangelands. Rangelands are vital to the ecological and economic health of the State and region. There are 35 faculty members at the University of Idaho who have broad backgrounds and who understand and address the topics regarding rangelands. About half are faculty of the College of Natural Resources and the other half are faculty of the College of Agricultural and Life Sciences. Others are from the Extension Offices of the University.

Rangelands cover nearly half of Idaho (26 million acres) and provide many goods and services, including livestock forage, wildlife habitat, water, and outdoor recreation. These iconic western landscapes influence the lives and livelihoods of nearly all Idahoans because 90 percent of Idaho citizens live amidst rangelands or in areas that were rangeland prior to cultivation and development.

Dr. Launchbaugh said the economy of Idaho depends heavily on rangelands. Sixty-five percent of the total land area of Idaho is grazed by domestic cattle and sheep that support rural communities and agricultural enterprises.

Rangelands generate significant hunting revenue and are home to countless birds, mammals, fish, and insect species, including species threatened by habitat loss, such as the Greater sage-grouse.

Over 300,000 Idahoans recreate outdoors, often within the wild, open spaces of rangelands. Idaho's outdoor economy creates 37,000 jobs, \$154,000 in State tax revenue, and \$2.2 billion in retail sales and services annually. The vast rangelands generate sustainable energy including wind, solar, and geothermal. These energy resources are valued in the billions of dollars.

Livestock production yields over one billion dollars annually. This represents 20 percent of commodities production, making it the second-largest source of revenue in Idaho. Grazing, which occurs on nearly all rangelands, fuels local economies. Beef, lamb, and wool are Idaho's second-largest agricultural commodity.

Senator Siddoway thanked Dr. Launchbaugh for all the work she has done regarding the rangelands. As a user of the rangelands, he stated appreciation for her and Gretchen for what they do and for attending the meeting.

Chairman Bair said the rangelands in Idaho are critical. There are some who would remove livestock from the land and he said he is very grateful for the work she and Gretchen do by providing sound science.

S 1275

Senator Lee said this proposal codifies the practice of collaring wolves as part of the Wolf Conservation and Management Plan. The intent is to reduce livestock depredation in Idaho. **Senator Lee** said this proposal aligns with the Department of Fish and Game's Wolf Management Plan of 2002.

MOTION:

Senator Siddoway moved to send **S 1275** to the floor with a **do pass** recommendation. **Senator Brackett** seconded the motion. The motion carried by **voice vote**. Senator Lee will be the floor sponsor.

H 370

Tim Luke, Water Compliance Bureau Chief, Idaho Department of Water Resources (IDWR), stated the purpose of this legislative amendment is: 1.) to lengthen the period of time in which State water districts can hold annual meetings, and 2.) to add language clarifying that absentee voting and proxy voting are prohibited.

Mr. Luke explained that current law specifies that water districts may adopt a resolution at any annual meeting to hold the annual meeting in subsequent years to any weekday between the second Monday of January and the third Monday of March. Several water districts hold meetings after the third Monday of March and as late as the fourth Tuesday of May. This amendment will align the law with current practice and remove any conflict that water districts may have with the current statutory requirement.

Mr. Luke said the second change is needed as IDWR frequently receives questions regarding absentee and proxy voting. This amendment will help clarify that such voting is prohibited. He also noted the Idaho Water Users Association (IWUA) supports this legislation.

MOTION:

Senator Brackett moved to send **H 370** 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.

H 371

Mathew Weaver, Deputy Director, IDWR, stated the proposed legislation will make curtailment in a Critical Ground Water Area the same as curtailment in a Ground Water Management Area. This amendment would give more clarity and certainty to water users during times of administration. This legislation would ensure that administration standards in a Critical Ground Water Area are the same as the standards for a Ground Water Management Area, which was amended by the Legislature in 2016.

MOTION:

Senator Heider moved to send **H 371** 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.

H 372

Shelley Keen, Water Rights Section Manager, IDWR, presented **H 372** which proposes to change the fee schedule for some water right transfer applications. Depending on the amount of water, transfer application filing fees range from \$200 to more than \$13,000. The significant fee deters some water right owners from filing the needed transfer application. With no change in the physical world, a transfer to change only the point of diversion or place of use description on paper, the filing fee would be a flat fee of \$50 per water right. This would encourage water right owners to update their water right records.

MOTION:

Senator Vick moved to send **H 372** to the floor with a **do pass** recommendation. **Senator Bayer** seconded the motion. The motion carried by **voice vote**. Senator Vick will be the floor sponsor.

ADJOURNED:

There being no further business at this time, **Chairman Bair** adjourned the meeting at 2:45 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

AMENDED AGENDA #1
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, February 19, 2018

SUBJECT	DESCRIPTION	PRESENTER
Minutes Approval	Approval of Minutes - February 5, 2018	Senator Jordan
Gubernatorial Appointee Consideration	R. Doug Eastwood, Post Falls, Idaho was appointed to the Parks and Recreation Board to serve a term commencing July 24, 2017 and expiring July 1, 2022.	
Presentation	"Report About Outcomes of H 230"	Virgil Moore, Director, IDFG
H 476	Fish and game, licenses, liability	Sharon Kiefer, IDFG
S 1305	Stockwater, livestock	Senator Harris
S 1306	Planning, development application	Senator Anthon
HCR 33	Fish and game rule rejection	Rep. Gestrin
HJM 10	Stibnite mining project	Rep. Gestrin

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 Siddoway	Sen Johnson
Sen Brackett	Sen Stennett
Sen Heider	Sen Jordan
Sen Vick	

COMMITTEE SECRETARY

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

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, February 19, 2018

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Siddoway, Senators Heider, Vick, 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 meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m.

MINUTES APPROVAL: **Senator Jordan** moved to approve the Minutes of February 5, 2018. **Vice Chairman Siddoway** seconded the motion. The motion carried by **voice vote**.

PAGE INTRODUCTION: **Chairman Bair** announced that the Committee has a new page for the last half of this Legislative Session, Jessie Page. Jessie is a senior at Meridian High School and is in her fourth year of debate. She aspires to become an elementary teacher and plans to attend the College of Western Idaho (CWI) for two years, then transfer to a four-year college to obtain her degree. Jessie is excited to be a page, as it will enable her to learn first-hand about the inner-workings of the Legislature.

GUBERNATORIAL APPOINTMENT: **Chairman Bair** said the next order of business was to consider the gubernatorial appointment of R. Doug Eastwood to the Parks and Recreation Board to serve a term commencing July 24, 2017 and expiring July 1, 2022.

MOTION: **Senator Vick** moved to send the gubernatorial appointment of R. Doug Eastwood to the Parks and Recreation Board to the floor with recommendation that he be confirmed by the Senate. **Senator Johnson** seconded the motion. The motion carried by **voice vote**. Senator Vick will be the floor sponsor.

PRESENTATION: **Virgil Moore**, Director of the Idaho Department of Fish and Game (IDFG), provided the Committee copies of the *Idaho Fish and Game Director's Annual Report to the Commission for FY2017* and the *"Report About Outcomes of H 230."*

Mr. Moore said he would not only talk about H 230 - (2017), but also S 1118 - (2017), which regard the implementation of "price lock." It maintains the lower license, tag, and permit prices for residents who buy an annual license every year. **Mr. Moore** stated that he would also review the funding elements identified in H 230; changes in hunt structure to address depredation; the depredation compensation program; and the depredation prevention program.

Mr. Moore provided background information about H 230, S 1118, and "price lock." He said these bills have provided IDFG with the ability for robust responses to depredations. The resources that were allowed by that were large and it was started by an outreach to the public. Approximately 400,000 resident hunters and anglers held a 2017 annual license, which locked them into 2017 prices for their 2018 license, tags, and permits. If a person is not "locked in," they will pay higher fees in 2018. Residents who did not buy a 2017 annual license can get the lower prices by purchasing a three-year license in 2018.

Over 52,000 Idahoans purchased 2018 licenses through January 31. More than 94 percent of these licenses were issued to Idahoans who are 'locked in' and paid the lower 2017 resident prices. So far, 4,600 individuals participated by purchasing a three-year license, which are also sold at 2017 prices and 'lock in' the holder for the next three years.

Mr. Moore said last year's legislation called for a \$2 million annual set-aside account, based on the 400,000 licenses sold. It would go into the deprecation fund and \$500,000 of that would go into a fund to pay claims. The cap on that fund has been increased to \$2.5 million. The next \$500,000 goes toward prevention. The remaining money goes into the Fishing and Hunting Access dedicated account. **Mr. Moore** stated, as licenses continue to sell, IDFG will have adequate funds to meet their obligations. He asserted the "price lock" plan is working well.

The IDFG Commission increased hunting opportunities to address wildlife conflict. Many hunts were specifically designed to reduce numbers of depredated wildlife or to change wildlife behavior. Landowner Permission Hunts (LPH) were designed to provide more landowner oversight and control of hunters; the early distribution of LPH hunter permission slips allowed landowners to initiate hunting on private land to prevent damage.

During the 2017-2018 season setting process:

- IDFG offered 230 additional controlled, bull elk tags;
- IDFG offered 3,420 additional controlled, cow elk tags; and
- an additional 1,500 extra controlled, cow elk tags were also made available.

This is in addition to the increase made in 2015:

- 1,700 extra antlerless deer tags;
- 150 controlled bull elk tags; and
- 2,550 controlled cow elk tags.

Mr. Moore said some new things include a new kill permit rule which authorizes landowners to keep animals harvested, if they desire. At least 19 landowners, plus their designees, retained 28 elk, 3 deer, 2 pronghorn, and 1 bear. Landowners expressed appreciation for being able to take a more active role in damage prevention, beyond non-lethal hazing.

Mr. Moore stated other new programs include a large-scale Panhandle antlerless deprecation hunt for elk and deer; over 800 landowners were designated to harvest hundreds of elk and white-tailed deer. In Weiser, elk collaring documents movement patterns of depredated elk, so IDFG can focus on increased hunting pressure during the regular hunting season.

Mr. Moore said IDFG has hired additional staff. It includes seven technicians - one per region; a seasonal hunt coordinator - Salmon region; seasonal/volunteer hazing staff - all regions; and the consolidation of landowner programs in one point of contact.

In 2017, 79 claims were paid, amounting to over \$1,037,149. All eligible claims were paid in full. So far in 2018, six continuing use agreements payments have been paid, amounting to \$53,109. This is renting private forage for wildlife use. Four claims have been denied.

Mr. Moore said IDFG is streamlining the process to make less work for the landowner. In order to streamline the process: 1.) A new landowner guide was created. It now has only 12 pages, compared to 80 pages in the old guide; 2.) A new webpage includes downloadable forms and additional resources; 3.) Removal of a notary requirement of forms; 4.) Fencing materials agreement that allow for quick reimbursement of materials; and 5.) Guidance on "reasonable access."

Other innovative areas that IDFG is considering include the use of drones for short-term and long-term purposes. IDFG is hoping to integrate some new information that will allow the reduction in time and labor for the landowner. Regarding the depredation prevention program, increased resources have enhanced IDFG's ability to proactively address the landowner's concerns. Those resources were approximately \$180,000 last year and \$383,000 this year. In the last three years, over 295 stack yards were built. Several dozen more are planned to be constructed this spring. Materials are provided to landowners who have feed stored onsite.

Mr. Moore said in the Big Lost Valley, IDFG paid landowners to leave their third cutting of alfalfa in the field. This was to provide a lure crop to reduce more wide-spread elk depredations during the fall and winter months. There are plans to explore additional lure crops in high-depredation areas to alleviate haystack/crop damage. In the Magic Valley, cameras provide real-time information on depredating animal movements and counts. **Mr. Moore** stated research brings science to the depredation program. IDFG is working with graduate students from the University of Idaho to evaluate the effectiveness of new techniques, such as various hazing methods, lure crops, and other ways to improve depredation prevention effectiveness.

Chairman Bair thanked Director Moore for his presentation, then welcomed Sharon Kiefer.

H 476

Sharon Kiefer, Deputy Director, IDFG, presented **H 476**. **Ms. Kiefer** said this legislation proposes to make a technical correction and amendments Idaho Code § 36-406(m) to a license class reference found on line 41, page 3 of the bill. It refers to a three-year fishing license for disabled persons. It changes the license from ninth class to first class.

Ms. Kiefer stated the important substance of **H 476**, affecting Idaho Code § 36-1604, encourages private and public landowners to make land, airstrips, and water areas available to the public for recreational purposes without direct charge to the recreationist. In doing so, a landowner's liability exposure is limited. The limitation on a landowner's liability is limited to premises liability.

Idaho's population continues to grow and outdoor recreation contributes to a high quality of life. Leveraging resources through partnerships is efficient and effective; this bill helps support interest and opportunity for recreational investment. **Ms. Kiefer** said the Fish and Game Commission supports this bill and she requested a do pass recommendation.

TESTIMONY:

Neil Colwell, representing Avista Corporation, said the company has about 140,000 customers in northern Idaho who use their services. He said he has been authorized by Idaho Power and Rocky Mountain Power to state that they stand in support of **H 476** as hydro-electric utilities. **Mr. Colwell** stated they take their project properties and provide improvements and also provide litigation. He said they feel this proposal provides reasonable protection for non-owners who are providing the funding to improve lands that people may recreate on.

MOTION:

Senator Heider moved to send **H 476** to the floor with a **do pass** recommendation. **Vice Chairman Siddoway** seconded the motion. The motion carried by **voice vote**. Senator Stennett will be the floor sponsor.

- S 1305** **Senator Harris** stated this legislation relates to stock water on federally-administered lands which are appurtenant to the privately-owned base property; it is based on a court decision in 2007. This legislation proposes to codify this ruling and current practice into law. It provides that when a federal grazing permit is transferred or conveyed to a new owner, the associated stockwater rights may also be conveyed.
- TESTIMONY:** **Braden Jensen**, Idaho Farm Bureau Federation (Farm Bureau), said on behalf of their membership, he stands in support of **S 1305**. He said their policy supports this legislation and asked for a do pass recommendation. **Mr. Jensen** submitted a letter from the Idaho Farm Bureau Federation's President, Bryan Searle, which supported **S 1305**.
- TESTIMONY:** **Paul Arrington**, Executive Director, Idaho Water Users Association (IWUA), stated IWUA are in support of **S 1305** and thanked the Farm Bureau for working with IWUA on this bill.
- MOTION:** **Vice Chairman Siddoway** moved to send **S 1305** 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.
- S 1306** **Senator Anthon** said this legislation would require planning and zoning authorities to notify water delivery entities of any site-specific land development proposals. This will help to assure that water delivery infrastructure, easements, and rights-of-way are not encroached upon as development occurs. It will also help ensure the rights of water users are not injured.
- TESTIMONY:** **Jess Harrison**, Executive Director, Association of Idaho Cities (AIC), testified in support of **S 1306**. She said AIC collaborated with IWUA and the Farm Bureau regarding this legislation. She asked for a do pass recommendation for this bill.
- TESTIMONY:** **Shelley Davis**, an attorney with Barker, Rosholt & Simpson, LLP said she worked with irrigation districts to craft language that better informs municipalities to be able to provide the necessary notice to the irrigation districts. In Title 67, there is an existing requirement of a 15 day notice. **Ms. Davis** supports **S 1306**.
- TESTIMONY:** **Braden Jensen**, Idaho Farm Bureau Federation, said on behalf of their membership, he stands in support of **S 1306**. He said their policy supports this legislation and asked for a do pass recommendation. **Mr. Jensen** submitted a letter from the Idaho Farm Bureau Federation's President, Bryan Searle, supporting **S 1306**.
- TESTIMONY:** **Paul Arrington**, Executive Director, Idaho Water Users Association (IWUA), stated they are in support of **S 1306**. He said they represent irrigation companies, canal companies, and others throughout the State to work with the ever expanding urban development in the agricultural communities. Many issues arise and one is easements that are not recorded; they are a function of statute. **Mr. Arrington** thanked Senator Anthon for carrying this bill and said it is a unified bill with a great amount of collaboration.
- WRITTEN TESTIMONY:** Written testimony was submitted by John F. Stevenson, Chairman, Board of Control for District 45 and the Triangle Irrigation District, in support of **S 1306**.
- WRITTEN TESTIMONY:** Written testimony was submitted by Brian K. Billingsley, Legislative Liaison, American Planning Association (APA), Idaho Chapter, in support of **S 1306**. He is writing to register more than 200 members support this bill.
- MOTION:** **Senator Heider** moved to send **S 1306** to the floor with a **do pass** recommendation. **Senator Vick** seconded the motion. The motion carried by **voice vote**. Senator Anthon will be the floor sponsor.

HCR 33 **Representative Gestrin** said this is a Concurrent Resolution rejecting a Fish and Game rule regarding the taking of big game animals, Docket No. 13-0108-1706, Subsection 421.02.

MOTION: **Vice Chairman Siddoway** moved to send **HCR 33** to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **voice vote**. Vice Chairman Siddoway will be the floor sponsor.

HJM 10 **Representative Gestrin** said this Joint Memorial encourages the President of the United States, the United States Secretary of Agriculture, the United States Secretary of the Interior, the Administrator of the Environmental Protection Agency, and Idaho's Congressional delegation to direct resources and personnel necessary to move forward with permitting the Stibnite Gold Project in a timely and cost-effective manner.

TESTIMONY: **Jon Kittell**, who is from Riggins and represents the Downstream Clean Water Coalition, said they are a group of concerned citizens who live down river from the proposed Stibnite mine. They depend on the Salmon River for their livelihood way of life. **Mr. Kittell** said he understands that Midas Gold has developed a plan that has a lot of supporters here in the Statehouse and are aware of the long list of co-sponsors for **HJM 10**. They also recognize that language in the Memorial expresses the need for responsible mining.

Mr. Kittell stated they would feel more comfortable if there was language in the Memorial that would specifically ensure that Midas Gold would do everything in the company's power to prevent any downstream pollution or worse. **Mr. Kittell** said the Downstream Clean Water Coalition is requesting additional language reflecting the need to protect the livelihoods of families and communities that are put most at risk by this mining project.

Senator Stennett inquired if Mr. Kittell and the Coalition had the opportunity to speak with Midas Gold about their concerns. **Mr. Kittell** said they had not, but are planning to invite Midas Gold to Riggins for an informational meeting. **Senator Stennett** said she would highly recommend it.

Chairman Bair stated that he is sympathetic to Mr. Kittell's concerns; however, the rules preclude amendments to Joint Memorials.

Senator Vick asked Mr. Kittell if he thought the EPA regulations were insufficient to protect the river. **Mr. Kittell** replied that he is not a geology expert, but he is concerned about the project and lives directly downstream of it.

Senator Jordan stated that, on page 2, lines 8 and 9 of the bill, language addresses the concerns that Mr. Kittell discussed.

TESTIMONY: **Jonathan Oppenheimer**, Governmental Director for the Idaho Conservation League, said they have been working with Midas Gold with regards to the Stibnite project and appreciate the involvement and opportunity on this proposal. He said they have concerns, because it is such a significant project with many unanswered questions. **Mr. Oppenheimer** stated that this Memorial is "putting the cart before the horse" and he requested that the Committee reject the Joint Memorial.

MOTION: **Vice Chairman Siddoway** moved to send **HJM 10** to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **voice vote**. Senator Thayne will be the floor sponsor.

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

Senator Bair
Chair

Juanita Budell
Secretary

JOINT
SENATE RESOURCES & ENVIRONMENT COMMITTEE
AND
HOUSE RESOURCES & CONSERVATION COMMITTEE
1:30 P.M.
Wednesday, February 21, 2018
LINCOLN AUDITORIUM

SUBJECT	DESCRIPTION	PRESENTER
Presentation	General Overview of Idaho Department of Lands	David Groeschl, Director, IDL
	Good Neighbor Authority IDL Update	Craig Foss, Division Administrator, Forestry & Fire, IDL
	USFS	Cheryl Probert, Forest Supervisor, Nez Perce-Clearwater National Forest, USFS
	Oil and Gas Update	Mick Thomas, Division Administrator, Oil & Gas, IDL
Presentation	Idaho CuMo Mining Corporation	Lisa Anderson, Vice President of Government Relations, CuMo Mining Corporation

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 Siddoway	Sen Johnson
Sen Brackett	Sen Stennett
Sen Heider	Sen Jordan
Sen Vick	

COMMITTEE SECRETARY

Juanita Budell
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email: sres@senate.idaho.gov

MINUTES
JOINT MEETING

**SENATE RESOURCES & ENVIRONMENT COMMITTEE
HOUSE RESOURCES & CONSERVATION COMMITTEE**

- DATE:** Wednesday, February 21, 2018
- TIME:** 1:30 P.M.
- PLACE:** Lincoln Auditorium
- MEMBERS PRESENT:** Chairman Bair, Vice Chairman Siddoway, Senators Brackett, Heider, Vick, Bayer, Johnson, Stennett, and Jordan
- Chairman Gibbs, Vice Chairman Walton(Gestrin), Representatives Raybould, Shepherd, Wood, Boyle, Miller, Burtenshaw, Mendive, Kauffman, Giddings, Erpelding, and Rubel
- ABSENT/ EXCUSED:** Representatives Moyle, Vander Woude, Youngblood, and Blanksma
- 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 joint meeting of the Senate Resources and Environment Committee (Committee) and the House Resources and Conservation Committee (Committee) to order at 1:30 p.m. He welcomed the audience and said, as this meeting will be informational only, there will be no public testimony. He then asked Chairman Gibbs to speak. **Chairman Gibbs** also welcomed the members of the audience. **Chairman Bair** invited David Groeschl, Acting Director, Idaho Department of Lands (IDL), to provide an overview of IDL.
- PRESENTATION:** **Mr. Groeschl** stated that IDL has a two-fold mission. The first part of their mission is the Endowment Trust Land mission, which was granted to the State upon statehood. The express purpose of those lands, sections 16 and 36, is to maximize long-term revenue to the endowment beneficiaries. The largest beneficiary of the fund is K through 12 public education. The second part of the mission is regulatory assistance and protection.
- The vision of IDL is to be the premier organization for trust management and resource protection in the western United States. **Mr. Groeschl** said they want to be trusted stewards of Idaho's resources from Main Street to mountaintop. He stated there are four core values that guide every decision and action they make as an agency. First is stewardship; not only of the natural resources, but also the financial resources. Second is service; focused both inward and outward. Third is accountability; including training of the staff. Fourth is cohesiveness; acting as a unified team in their mission.
- The Land Board is comprised of five members that provide direction to IDL. The five members are: The Governor; the Attorney General, the State Controller, the Secretary of State, and the Superintendent of Public Instruction. They provide direction on 2.4 million acres of endowment land and what occurs there. The Board also directs many of the regulatory and assistance programs.
- In the chain of command, following the Land Board, are the director, deputy director, and five divisions of forestry and fire, which is located in Coeur d'Alene. There are ten area offices scattered around the State and they implement the programs. In Boise, there are 23 offices that oversee the leasing and regulatory programs.

Last year, the Oil and Gas Division was formed. That Division operates differently from IDL, as it is overseen by the Oil and Gas Conservation Commission. Those commissioners are appointed by the Governor and confirmed by the Senate.

About 40 percent of the endowment lands or one million acres is timberland. The other 1.5 million acres is rangeland. Those lands are leased for grazing, oil and gas, mining, and communication sites. IDL also has 3.3 million acres of subsurface mineral rights underneath those lands that were sold over time.

University of Idaho beneficiaries are: Public School Endowment Fund; Agricultural College Fund (at U of I); Charitable Institution Fund (benefiting Idaho State University, State Juvenile Corrections Center, State Hospital North, Idaho State Veterans Homes, and Idaho School for the Deaf and Blind); Penitentiary Fund; School of Science Fund (at U of I); State Hospital South Fund; University Fund (at U of I); Normal School Fund (benefiting the Idaho State University Department of Education and Lewis-Clark State College); and Capitol Permanent Fund.

The mission of the endowments is to provide a perpetual stream of income. Beneficiaries have said they prefer distributions be based on conservative income expectations. The distributions are used for ongoing spending, not one-time needs. In fiscal year 2017, the gross land revenues were as follows:

- \$64,549,022 - Timberland
- \$458,670 - Farmland
- \$2,976,094 - Rangeland
- \$4,188,155 - Residential Real Estate
- \$2,407,130 - Commercial Real Estate
- \$28,022 - Oil & Gas Rentals & Bonuses
- \$74,930 - Minerals Rentals & Bonuses
- \$74,682,023 - Total

Mr. Groeschl said proceeds from the sale of cottage sites would be used to acquire additional timberland and farmland. The acquisition would increase those asset types over time.

Mr. Groeschl then discussed the regulatory and assistance functions. In the fire management program, there are 10 forest protective districts comprised of 6.3 million acres. Within those acres are two timber protective associations that the land is predominately private with some State forest land. The Lake Protection Act, which include the bed and banks of navigable waterways, lies within the 6.3 million acres.

With regard to mining, there is the Surface Mining Act, the Dredge and Placer Mining Act, and the Abandoned Mine Reclamation Act. IDL administers the Forestry Practices Act which set certain "best management practices" to protect water quality. IDL also establishes regeneration requirements.

A question was asked of Mr. Groeschl as to how many abandoned mines per year IDL actually reclaims or works on. **Mr. Groeschl** said he is aware of over 6,000 abandoned mines in Idaho. They are prioritized by safety issues, water quality issues, and health issues. Currently, there are 50 to 60 projects on the prioritized list.

Mr. Groeschl then addressed the Good Neighbor Authority (GNA). The GNA program was authorized in the 2014 Farm Bill. Prior to that, it was a pilot program in Colorado and Utah. With the passage of the Farm Bill, it was expanded to all of the states that have National Forest System lands within their borders. In 2015, SCR 126 was passed in Idaho directing IDL to look at how they could use GNA. IDL looked at how they could increase the pace and scale of restoration on federal lands. It is a joint agreement that allows the State to enter into an agreement with a federal agency, whether it is the United States Forest Service (USFS) or the Bureau of Land Management (BLM). The agreements permit IDL to look at how the State can work across boundaries more effectively and efficiently.

The Idaho GNA goals are: 1.) increase pace and scale of forest and watershed restoration; 2.) provide additive fiber to markets to maintain infrastructure and support rural economies; and 3.) develop a self-sustaining program in 3-5 years using the power of the markets.

Mr. Groeschl said they are working on ten projects at the present time. They are: Hannah Flats - Idaho Panhandle National Forest(IPNF); Jasper II - IPNF; Woodrat Salvage - Nez Perce Clearwater National Forest (NPCW); Wapiti - NPCW; Windy Shingle N - NPCW; Windy Shingle S - NPCW; Brundage - Payette National Forest (PNF); Sloan's Point - PNF; High Valley - Boise National Forest (BNF); Bogus Basin - BNF. These projects include 6,023 acres with a volume of 61,340 million board feet. The estimated revenues are \$10,628,076. There are an additional 11 projects that include 10,700 acres, with the volume and estimated revenues to be determined.

Harvest levels on federal lands in Idaho prior to 1980 were around 800 million to almost one billion board feet. As harvest levels have declined, today about 100 million board feet are harvested from federal land. Growth is relatively flat or declining because mortality has increased significantly. Mortality now exceeds over 50 percent of gross growth. An analysis was done on federal lands in Idaho which included 20.4 million acres of National Forest System lands. Using the criteria in the Farm Bill, the insect and disease mortality levels of 25 percent were either occurring or likely to occur over the next 10 years.

Mr. Groeschl said that what they found in the 20.4 million acres did not include wilderness areas. Most of the roadless designations were not suitable for some level of management. That left 8.8 million acres at high risk, either currently or within the next 10 years. A package was submitted by Governor Otter to the Idaho Department of Agriculture that identified 50 proposed treatment areas covering 1.8 million acres, all within the 8.8 million acres that are at high risk. All of those treatment areas were proposed by the forest supervisors and the collaborators working in those areas. **Mr. Groeschl** said the reason that is important is because that gives them additional tools under the Farm Bill to address and focus on those high-risk areas. That left 12.6 million acres as suitable for some level of management.

The proposed 11 projects cover over 10,000 acres and the current volume is an estimated 65 to 70 million board feet. **Mr. Groeschl** said there is a lot of work on these projects, in addition to harvesting. The estimated revenue is approximately \$14.5 to \$15 million, with much of that reinvested into restoration work.

Federal and General Fund contributions are needed to build a self-sustaining program. These projects take one to two years to complete because they must prepare the field work, conduct the National Environmental Policy Act (NEPA) analysis, collect data, and provide that level of support to get those projects through the process so that they are ready to sell. Once they sell, it is a year or so before there is harvesting activity. People are seeing the benefit of GNA in Idaho, even though there are small wins right now.

Mr. Groeschl spoke about the future needs of the GNA program. He anticipates growth to be about 10 to 20 million board feet a year and within seven to 10 years, he hopes to supply an additional 100 million board feet to the market. The economic impact is 1,700 direct and 300 indirect jobs will be supported through that additional 100 million board feet a year and \$118 million will be added to the State gross domestic product.

Mr. Groeschl then addressed the subject as to why it matters:

- the scale and magnitude of the issue;
- the forest health;
- fuels and fuel buildup;
- fire situations;
- suppression costs; and
- threats to local communities.

Mr. Groeschl said they could either do nothing or they could try to do something with the GNA. Many programs look for a continuous infusion of money to keep the program going, but that is not his goal. The goal is to create healthy forests, to strengthen the markets, create jobs for the local economies, and to be self-sustaining.

PRESENTATION: **Cheryl Probert**, Forest Supervisor, Nez Perce-Clearwater National Forest, said she will provide information as to how the Nez Perce-Clearwater National Forest and the GNA are getting work done in the forests and revenue into the communities. They were the first national forest in Idaho to sign a supplemental project agreement with IDL. It allowed them to tailor that agreement to the work that they have to do.

Ms. Probert said they have a robust collaborative forest landscape restoration program across a multitude of agencies with many stakeholders. That provided them an opportunity to capitalize on those relationships and move forward with the GNA. In the last five years, GNA has tripled the amount of forest management and tripled their timber sale volume.

Ms. Probert stated they defined success in two ways: they wanted to do some work quickly on the ground and also put some money in the pot immediately. They worked with the local IDL and Mr. Groeschl. **Ms. Probert** said they went through an epic fire season and a lot of challenges. It solidified their relationships. To develop a sustainable program, they put money into the program immediately; provided capacity to develop and sustain the program (staffing); and improved capacity to increase pace and scale of restoration projects. They leveraged both the USFS and IDL's expertise.

Ms. Probert said their first GNA project was the Wapiti project. The objectives were fuel reduction and forest health. The estimated volume was about 4.5 million board feet, with an estimated revenue of \$1.5 million. It covered 200 acres.

The next project was the Woodrat GNA timber. It was a fire salvage. The Woodrat fire started on IDL lands and moved onto the National Forest System lands.

Ms. Probert said they went through the NEPA analysis and now the State is administering the salvage contract on the National Forest System land. This sale is about 350 acres and 7.5 million board feet. They are almost done with the harvest and have over \$1 million of revenue today. **Ms. Probert** said they put together a program of work for fiscal years 2018 and 2019. They are working with IDL counterparts to see what projects are going to fit this mold. One real efficiency is the use of State contracting methods versus national.

Ms. Probert explained how the program income is being used. The current programming is 45 percent implementation; 35 percent planning; and 20 percent monitoring. The long-term vision for sustainability is 1/3 project planning and NEPA; 1/3 implementation; and 1/3 monitoring.

In closing, **Ms. Probert** said the strongest conclusion is that they have reached success. They have conducted forest management activities on almost 600 acres and have \$2 million that they are putting right back into the activities on the Nez Perce-Clearwater Forest.

Chairman Bair thanked Ms. Probert for her presentation. He welcomed Mick Thomas.

PRESENTATION: **Mick Thomas**, Division Administrator, Oil and Gas Division, and secretary to the Oil and Gas Conservation Commission, provided an update on oil and gas. **Mr. Thomas** stated that he is a geologist, but enjoys being the division administrator. He said he would address four main topics concerning oil and gas in Idaho: 1.) H 301 (2017); 2.) status of the underground injection control program; 3.) current production and trends; and 4.) recent actions of the Commission.

Mr. Thomas said that H 301 (2017) summarizes the intent of the Legislature regarding reporting of data and also the rights to fully produce the field. It provides additional resources for royalty owners and enables mechanisms for concerns to be heard. One of the big changes was the restructuring of the Commission to include three technical experts, a member of the oil producing county, and a director. **Mr. Thomas** said the Commission members are highly-engaged and well-trained. H 301 (2017) provided clarity to existing rules and regulations. Finally, it updated the reporting requirements to the department.

Regarding the status of the underground injection control program, **Mr. Thomas** said Idaho is the only state that does not have an active class injection well program and that has put the State at a significant economic disadvantage relative to other states who are able to use that as a way to dispose of excess water or production water that comes out of the wells. Currently, the water is trucked to a hazardous waste facility in Kuna for processing. The cost per barrel is between \$6 and \$9 and has impacted the economic viability of several wells in the area.

There are other benefits if we are able to put the water that comes out back into the formation. This formation water also serves to maintain the pressure of the reservoir, which helps the long-term viability of the reservoir. **Mr. Thomas** said the Environmental Protection Agency (EPA) was invited to assume primacy of the class injection program and that quickly solved a few problems. EPA has a mechanism that operators nationwide are familiar with. The operators could come in and be able to get an injection well permitted sooner and bring some of the other wells online that are currently shut down. EPA accepted public comment on the transition and they are currently reviewing those comments. Depending on the outcome, primacy could be finalized in the fall of 2018.

Mr. Thomas stated there are two wells in the Fruitland area where testing has been completed. **Mr. Thomas** acknowledged there is a contested case before the Commission between an operator and royalty owners. The Commission has moved to hire a hearing officer to address those concerns.

They have also requested the examination of five years of production quantities from the operator to verify accuracy of the department's records. The Commission has updated the reporting forms given to the operator; the new forms will be implemented soon.

In summary, **Mr. Thomas** said they are working together with the Commission to resolve some royalty owners and operators concerns. H 301 (2017) achieved a lot of goodwill and shows a high potential over the long term. It should provide a means to replace the formation water coming out and hopefully improve the viability of the fields.

Chairman Bair thanked Mr. Thomas and said there was one more presentation. He then welcomed Lisa Anderson from the CuMo Mining Corporation.

PRESENTATION: Ms. Anderson, Vice President of Government Relations for the CuMo Mining Corporation, said she is joined today by Phil Bandy, Executive Vice President of Operations. The slide presentation introduced the Board of Directors and the management of the Idaho CuMo Mining Corporation.

Ms. Anderson said the Idaho CuMo project is the world's largest, lowest-cost primary molybdenum (moly) deposit and is located 35 miles from Boise, north of Idaho City, in the Boise Basin. The property consists of 184 contiguous mining land claims covering an area of approximately 3,220 acres. Thirty eight patented claims cover a total of 740 acres. CuMo acquired project claims in 2004 and has since continued to explore the geological and environmental factors that will determine a potential future development plan.

Ms. Anderson stated that moly is a strategic mineral that significantly increases strength heat resistance and durability of stainless steel products. The CuMo project also contains very significant credits of silver, copper, and rhenium which is a mineral identified by the Trump Administration as critical to the United States. The CuMo project silver deposit places it among the top 25 silver deposits on the planet depended upon yearly production. The project is slated to have an economic lifespan of more than 100 years and is perfectly situated to provide the increased "NATO" needs of our nation. The demand for moly is steadily increasing as the world's needs continue to grow. It is estimated that the world will need as much as 200 million more pounds of moly over the next decade. Today's moly mines barely meet the current demand. The current demand is 550 million pounds annual consumption.

The CuMo project is currently working towards a definitive feasibility study that will continue to show the robust economics and potential. The project is promising not only for the company, but for the local community and for the State as a whole. Company members believe that the project has the potential to produce 60 million pounds of moly per year for decades and could create 1,000 well-paying direct jobs, plus thousands of ancillary and supporting jobs. In addition, the CuMo project would contribute millions of needed taxes, fees, and other payments to local, State, and federal governments.

The United States controls 18 percent of the world's moly compared with China at 56 percent. President Trump's Executive Order on a federal strategy to ensure a secure and reliable supply of critical minerals mandated the Secretary of the Interior, Secretary of Defense, and other relevant agencies, to publish an updated list of critical minerals. Moly was not on this list. Public agencies and elected officials can comment on the list; the comment period closes March 19, 2018. **Ms. Anderson** said their team continues to work with the appropriate agencies and elected officials to streamline the permitting process for mining projects. Currently, the CuMo project is entering its eleventh year for a simple explorative drilling project.

Ms. Anderson said the most recently acquired project is the Calida Gold Project, located in eastern Idaho's historic mining region and hosts significant gold, silver, and copper mineralization. It is approximately 24 miles south of Salmon, Idaho, and in the Mormon Canyon area. The property has been extensively explored for the past 30 years. Exploration has included drilling 29 holes in 1983, as well as thorough trenching and sampling a total of 10 minerals. Veins have been identified on the property to date. Additional drilling was conducted on the property last year where 24 holes were drilled. The United States Army Corps of Engineers was sent to assay.

Ms. Anderson said this mine would be an underground mine, not an open pit mine. Ms. Anderson deferred to Phil Bandy to explain the mine's operations. **Mr. Bandy** said there would be a drift that would be tunneled into the two drafts and all of those workings would be conducted in an underground block. The size of the rooms depends on the technical nature of the subsurface rocks and that is one of the reasons why they are doing exploration drilling.

Chairman Bair thanked Ms. Anderson for her presentation.

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

Senator Bair
Chair

Juanita Budell
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, February 26, 2018

SUBJECT	DESCRIPTION	PRESENTER
Minutes Approval	Approval of Minutes - February 7, 2018	Senator Heider
Minutes Approval	Approval of Minutes - February 12, 2018	Senator Brackett
Minutes Approval	Approval of Minutes - February 14, 2018	Senator Johnson
H 374	Mining, exploration	Eric Wilson, Idaho Dept. of Lands
H 549	Fish and Game, roadway salvage	Representative Moyle

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 Siddoway
Sen Brackett
Sen Heider
Sen Vick

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, February 26, 2018

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Siddoway, Senators Brackett, Heider, Vick, 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.

MINUTES APPROVAL: **Senator Heider** moved to approve the Minutes of February 7, 2018. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Brackett** moved to approve the Minutes of February 12, 2018. **Senator Vick** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Johnson** moved to approve the Minutes of February 14, 2018. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

Chairman Bair announced, if any of the Committee members had a particular subject they would like addressed or a specific presentation made, to let him know so arrangements could be made.

Chairman Bair welcomed Eric Wilson to present **H 374**.

H 374 **Mr. Wilson**, Resource Protection and Assistance Bureau Chief, Idaho Department of Lands (IDL), presented **H 374** regarding written mining exploration notifications. IDL administers both the Idaho Dredge and Placer Mining Protection Act, Idaho Code, Chapter 13, Title 47, and the Idaho Surface Mining Act, Idaho Code, Chapter 15, Title 47.

Mr. Wilson said this bill proposes minor changes to both chapters of Idaho Code. The purpose of the changes is to modify the requirement for mining exploration notifications, which currently allow for submission of notifications to IDL by certified mail only. The proposed requirement allows for any type of written notification, meaning submissions could be delivered in person, by regular or certified mail, email, or through a web-based interface.

IDL is actively working with contractors to develop and implement a new online system for all leases and permits in the Lands and Waterways Division. The new online system will include a secure, public interface for use by IDL's customers. Final implementation is scheduled for late 2019, if all necessary steps are completed in time.

Mr. Wilson said the first step for IDL is to make the proposed statutory changes to establish proper legal authority for written notifications. The next step is for IDL to conduct negotiated rulemaking this year to make similar changes and allow for written notifications in rule. If these statutory changes are approved, IDL anticipates pending rules will come before this Committee next year for review. Once these steps are finalized, IDL can implement the full functionality of the new system in late 2019. Mining operators would then have the ability to submit mining exploration and application information through a secure, web-based interface or through any other form of written submission.

Another minor change included in **H 374** is the renumbering of paragraphs in Idaho Code § 47-1506. These modifications were suggested by the Legislative Services office for clarification; the changes do not alter any requirements under the Act.

IDL consulted with the Idaho Mining Association on these changes and no concerns were identified.

The proposed changes will enhance IDL's customer service by allowing for full implementation of more efficient permitting processes, and in turn, simplifying the processes for mining operators.

Chairman Bair thanked Mr. Wilson for his explanation of **H 374**.

Senator Johnson asked for clarification regarding receipts now that certified mail will be eliminated. He inquired if all formats will be used or only electronic responses. **Mr. Wilson** stated there will be automatic electronic replies when the new system is implemented in late 2019.

MOTION: **Senator Siddoway** moved to send **H 374** to the floor with a **do pass** recommendation. **Senator Bayer** seconded the motion. The motion carried by **voice vote**. Senator Siddoway will be the floor sponsor.

H 549 **Representative Moyle** presented **H 549** and said this bill proposes to allow an individual to dispatch and salvage unprotected wildlife unintentionally killed on roadways by a vehicle. If the animal is severely injured, a person may immediately, in a safe and humane manner, dispatch and salvage the animal.

TESTIMONY: **Sharon Kiefer**, Deputy Director, Idaho Department of Fish and Game, said the bill provides for salvage of any animal struck on a roadway by a vehicle. It also allows any person to dispatch the animal in a safe and humane manner when the collision severely injures the animal. A person is not mandated to conduct dispatch; this bill is permissive. **Ms. Kiefer** stated the Fish and Game Commission has reviewed this bill and they support it.

TESTIMONY: **Burk Mantel**, a citizen of Eagle, Idaho, testified this bill solves a problem that sometimes arises when one is faced with a decision whether to dispatch severely injured wildlife. Usually, in the road or in the right-of-way, is a difficult decision and afterward the only consolation is knowing that one did the right thing. **Mr. Mantel** said he is glad Representative Moyle is attempting to solve the problem with this bill and urged the Committee to pass it.

TESTIMONY: **Brian Brooks**, representing the Idaho Wildlife Federation, asked for support for **H 549**. Sportsmen who spend enough time outdoors may come across an opportunity to do what is right and take care of an animal that is struggling to pass on. The Idaho Wildlife Federation hopes individuals would not be criminals for doing the right thing. He urged the Committee to pass this bill.

MOTION: **Senator Heider** moved to send **H 549** to the floor with a **do pass** recommendation. **Senator Jordan** seconded the motion. Senator Heider will be the floor sponsor.

ADJOURNED: There being no further business at this time, **Chairman Bair** adjourned the meeting at 1:50 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

AMENDED AGENDA #2
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, February 28, 2018

SUBJECT	DESCRIPTION	PRESENTER
Presentation	Idaho Soil and Water Conservation Commission Update	Teri Murrison, Administrator, ISWCC
Gubernatorial Appointment Hearing	David Groeschl, Coeur d'Alene, Idaho, was appointed to the Oil and Gas Conservation Commission to serve a term commencing January 16, 2018 and will serve by virtue of his position.	

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 Siddoway
Sen Brackett
Sen Heider
Sen Vick

Sen Bayer
Sen Johnson
Sen Stennett
Sen Jordan

COMMITTEE SECRETARY

Juanita Budell
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MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, February 28, 2018

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Siddoway, Senators Brackett, Heider, Vick, 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.

GUBERNATORIAL APPOINTMENT HEARING: David Groeschl, Coeur d'Alene, Idaho, was appointed to the Oil and Gas Conservation Commission to serve a term commencing January 16, 2018 and will serve by virtue of his position. **Mr. Groeschl** stated he has been with the Idaho Department of Lands (IDL) since July 2008. At that time, he was a State Forester and was the Division Administrator of Forestry and Fire. From June 2016 to the present time, he has served as State Forester and a Deputy Director.

Prior to joining IDL, **Mr. Groeschl** was employed by the Montana Department of Natural Resources from July 2004 to July 2008 as the Forest Management Bureau Chief. Other professional work experience includes the American Pulpwood Association as Lake States Regional Forester; Rayonier, Inc. as Regeneration Manager and Silviculture Research Forester.

Mr. Groeschl received a Bachelor of Science degree in Forest Management from the University of Wisconsin, Stevens Point, Wisconsin. He received a Master of Science degree in Forestry at Virginia Tech, Blacksburg, Virginia.

Chairman Bair inquired of Mr. Groeschl as to his experience in the oil and gas industry. **Mr. Groeschl** replied he has very little experience in the oil and gas sector; however, he did take an oil and gas law course in Denver, Colorado for a week; in that course, he learned some of the terminology, basic land law, and subsurface mineral estates. **Mr. Groeschl** said the goal was to obtain a basic understanding of oil and gas.

Senator Stennett asked Mr. Groeschl what he thinks he has acquired that will be helpful to the Commission. **Mr. Groeschl** replied that working in the private sector has given him a certainty of operation in making business decisions. Further, he said he understands the regulatory framework and that helps to strike a balance for those business decisions.

Senator Heider stated conflict resolution is one of the necessary skills and inquired if Mr. Groeschl had any prior experience; if he did, he wondered how did Mr. Groeschl handle the conflicts. **Mr. Groeschl** said, in his work experience, there is always conflict to a certain extent. He said listening is very important, as is striking the right balance and being open to the input of others. **Mr. Groeschl** said a willingness to be open, weigh the various alternatives and options, and figure out what the path will be to move forward is essential.

Vice Chairman Siddoway said part of Mr. Groeschl's job would be to recruit oil and gas industries to come to Idaho and to not regulate the business out of the State - much like what happened to the wind energy business. **Vice Chairman Siddoway** asked how Mr. Groeschl sees his role in this new position. **Mr. Groeschl** stated in the regulatory framework, certainty is needed; the goal is to implement certainty. Another important advancement that will help are the Class II injection wells to dispose of the water.

Vice Chairman Siddoway inquired regarding forms. **Mr. Groeschl** said one form they are working on is the oil and gas lease template for endowment lands to ensure that it incorporates all the changes that came along. Another form is the monthly reporting of production, which is being finalized. When asked if he asked for and received industry input, **Mr. Groeschl** said Mick Thomas has been working with both the operator and the commissioners getting input into those forms.

Chairman Bair said consideration of Mr. Groeschl's appointment would occur at the Committee's next meeting. He then welcomed Teri Murrison, Administrator, Idaho Soil and Water Conservation Commission (ISWCC).

PRESENTATION: **Ms. Murrison** provided a slide presentation of ISWCC's activities for 2017. Included in the presentation was a five-minute video of the repair of the Weiser River Levees. ISWCC focuses on several core functions: serving conservation districts by providing financial and technical assistance; providing incentive based and other conservation programs; and educating about voluntary conservation. **Ms. Murrison** said the way the conservation partnership works is the State supports ISWCC operations programs; ISWCC helps the districts plan and implement local projects; and districts recruit partners to build upon State support.

Ms. Murrison said there are some issues that she would like to bring to the attention of the Committee. The first issue is that of district support. Districts are provided with financial and technical assistance. Districts receive about 50 percent of the field staff hours, which is less than what they request, because of other project funding sources and their scarcity. Districts also have limited access to funding for project implementation. The most feasible solution to this issue is for districts to write technical assistance into their grant applications and take on new partners.

The second issue is the Conservation Reserve Enhancement Program (CREP). The intent is to retire irrigated cropland in order to reduce consumptive groundwater use in the Eastern Snake Plain Aquifer. CREP provides an annual rental payment for every acre enrolled, but the payment rates provided by the Farm Service Administration did not keep pace with the increasing cropland rental rates that were spurred on by high commodity prices. The current CREP goal is to enroll up to 50,000 acres; however, there is no imminent threat of water curtailment. One solution would be for participating groundwater districts to offer additional incentives.

Ms. Murrison said the third issue is regarding the Resource Conservation and Rangeland Development Program (RCRDP). Interest in the program continues to falter and inquiries are down, as are new applications and loan funds actually disbursed. **Ms. Murrison** said personnel and operating costs exceed the interest generated. A solution would be to increase loan volume and to work collaboratively with partners to identify feasibility and other options. Since 1985, over 535 projects and \$28 million in loans have funded about \$40 million worth of conservation. The present cash and loan balance is \$9.7 million. At issue is that, since the Great Recession, loan volume and interest generation has dropped, likely due to lower agriculture commodity prices and lack of consumer confidence in the economy.

Ms. Murrison stated last August, they initiated a review of statutes and rules to determine what changes need to occur to make the program more attractive to potential borrowers. They met with and sought input from partners, legislators, and different individuals around the State. **Ms. Murrison** said they identified and implemented some internal policy changes. Also, they plan to propose various rule changes for next year that will enable them to loan more money in a publicly and fiscally responsible manner.

Chairman Bair thanked Ms. Murrison for her presentation.

ADJOURNED: There being no further business at this time, **Chairman Bair** adjourned the meeting at 2:20 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

AMENDED AGENDA #1
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:00 P.M.
Room WW55
Friday, March 02, 2018

SUBJECT	DESCRIPTION	PRESENTER
<u>H 603</u>	Relating to Stockwater Rights	Senator Mark Harris

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 Siddoway
Sen Brackett
Sen Heider
Sen Vick

Sen Bayer
Sen Johnson
Sen Stennett
Sen Jordan

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
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MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Friday, March 02, 2018

TIME: 1:00 P.M. (or upon adjournment)

PLACE: Room WW55

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

ABSENT/ EXCUSED: Senators Vick, 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 meeting of the Senate Resources and Environment Committee (Committee) meeting to order at 12:15 p.m.

Chairman Bair welcomed Senator Harris to the meeting and invited him to present **H 603**.

H 603 **Senator Harris** said the current statute codifies the landmark stockwater rights case of *Joyce Livestock Co. v. United States* which held that an agency of the federal government cannot obtain stockwater rights under Idaho law unless it actually owns livestock and puts the water to beneficial use. Prior to the Idaho Supreme Court's 2007 decision in *Joyce Livestock*, thousands of stockwater rights were decreed to, or permitted in the name of, federal agencies. This legislation will require the Idaho Department of Water Resources to issue a "show cause" letter to the federal agencies. Due process is provided to the agencies to prove they have put their stockwater rights to beneficial use in the last five years.

Senator Harris asked that **H 603** be referred to the 14th Order of Business for amendment. The amendment is as follows: On page 2 of the printed bill, in line 19, delete "a federal" and insert: "any federal"; and delete lines 20 through 24 and insert: "(b) Submit the list of stockwater rights to the federal agency; and (c) Submit an order to the federal agency identifying the stockwater right or rights held by that federal agency and requiring the federal agency to show cause before the director why the stockwater right or rights should not be lost or forfeited pursuant to section 42-222(2), Idaho Code.". On page 3, delete lines 4 and 5, and insert: "(7) This section applies only to stockwater rights decreed to the United States that were based on a claim of beneficial use. It does not apply to stockwater water rights decreed to the United States based on federal law or acquired pursuant to chapter 2, title 42, Idaho Code.".

TESTIMONY: **Russ Hendricks**, Idaho Farm Bureau, testified in support of **H 603**.

WRITTEN TESTIMONY: Written testimony was submitted by Bryan Searle, President, Idaho Farm Bureau Federation, in support of **H 603**.

WRITTEN TESTIMONY: Written testimony was submitted by Tucker Shaw, President, Idaho Cattle Association, in support of **H 603**.

MOTION: **Vice Chairman Siddoway** moved that **H 603** be referred to the 14th Order for amendment. **Senator Heider** seconded the motion. The motion carried by **voice vote**. **Senator Harris** will be the floor sponsor.

ADJOURNED: There being no further business at this time, **Chairman Bair** adjourned the meeting at 12:23 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, March 05, 2018

SUBJECT	DESCRIPTION	PRESENTER
Minutes Approval	Approval of Minutes - February 19, 2018	Senator Vick
Gubernatorial Appointment Consideration	David Groeschl, Coeur d'Alene, Idaho, was appointed to the Oil and Gas Conservation Commission to serve a term commencing January 16, 2018 and will serve by virtue of his position.	
Gubernatorial Reappointment Hearing	Brent Baker, Athol, Idaho, was reappointed to the Lake Pend Oreille Basin Commission to serve a term commencing July 24, 2017 and expiring July 24, 2020.	
Gubernatorial Reappointment Hearing	Marc Brinkmeyer, Coeur d'Alene, Idaho, was reappointed to the Lake Pend Oreille Basin Commission to serve a term commencing July 24, 2017 and expiring July 24, 2020.	
Presentation	Non-Municipal Solid Waste Landfills in Idaho	Michael McCurdy P.E., CHMM, Waste Management and Remediation Division Administrator, DEQ

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 Siddoway	Sen Johnson
Sen Brackett	Sen Stennett
Sen Heider	Sen Jordan
Sen Vick	

COMMITTEE SECRETARY

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

DATE: Monday, March 05, 2018

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Siddoway, Senators Brackett, Heider, Vick, 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 to order at 1:30 p.m.

MINUTES APPROVAL: **Senator Vick** moved to approve the Minutes of February 19, 2018. **Vice Chairman Siddoway** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT CONSIDERATION: **Senator Johnson** moved to send the gubernatorial appointment of David Groeschl to the Oil and Gas Conservation Commission 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.

GUBERNATORIAL REAPPOINTMENT HEARING: **Chairman Bair** welcomed Brent Baker, Athol, Idaho, and said he was reappointed to the Lake Pend Oreille Basin Commission (Lakes Commission) to serve a term commencing July 24, 2017 and expiring July 24, 2020. He then asked Mr. Baker to tell the Committee about the activities and accomplishments of the Lakes Commission the past four years.

Mr. Baker stated he has been with the Lakes Commission since it was founded and is pleased with what the Lakes Commission has been able to do. He gave credit to the Lakes Commission's Chairman, Ford Elsaesser, for his leadership. **Mr. Baker** said they serve multiple functions. One is to be a bit of a watchdog because, as the nature of the economy has changed over the decades, the recreation values of the waterways have become the core of the economy.

Mr. Baker said the Lakes Commission is also a fact-finding body. They bring in different agencies, have open hearings under the public meeting laws, and discuss the various issues so the public can have all the facts. **Mr. Baker** indicated that the meetings are well-attended. Most important is the advisory capacity of the Lakes Commission. After all questions have been asked and answered, recommendations are made after deliberation.

DISCUSSION: **Senator Stennett** inquired of the business that Mr. Baker is now engaged in. **Mr. Baker** said he works with remodelers and home builders to refine their processes and help them become more profitable. Prior to that, he was a building contractor, developer, investor, and consultant with over 40 years experience in construction and 30 years in investment and development. Projects have included light commercial and industrial, residential, recreational, and agricultural. Investment activities have included a mixed portfolio of active business interests, real estate, and securities.

Senator Siddoway asked about the disciplines of the lake that the Lakes Commission has to manage and, if there is a conflict, which takes precedence. **Mr. Baker** said there are several things to consider to achieve a balance. They are: upstream interests; downstream interests; power production interests; fish and game interests; and the interests of the Kalispell Tribe. However, endangered species have precedence. The water level issue must also be considered. **Mr. Baker** said that everybody realizes that sacrifices have to be made and they seem to have found that middle ground, as things seem to be fairly stable.

Mr. Baker said there is some concern with the current renegotiations of the Columbia River treaty with Canada. He said the Lakes Commission appreciates the support that they have gotten from the Legislature and the Governor to help strengthen the process to protect the interests in the upcoming negotiation.

Chairman Bair thanked Mr. Baker for appearing before the Committee. **Chairman Bair** then welcomed Marc Brinkmeyer of Coeur d'Alene, Idaho.

**GUBERNATORIAL
REAPPOINTMENT
HEARING:**

Mr. Brinkmeyer stated he wanted to echo what Mr. Baker said regarding the Lakes Commission. They are a group with no authority, but have managed to listen and be involved in the community to have some respect from the people in the area. One of the leading benefits of the group was action on milfoil, as well as leadership in the invasive species issue, with the inspections of watercraft.

Mr. Brinkmeyer said tribal issues are matters of interest and are something that they can learn from. The lake level is a hot topic, especially during the recreational time of the year. The winter pool is another issue that has to be dealt with, with respect to spawning gravels. **Mr. Brinkmeyer** said it is gratifying to be personally involved with the commission.

Mr. Brinkmeyer's resume indicates he was raised on a family farm in Hardin County, Iowa. When he was five years of age, he worked with his father unloading lumber from box cars, stacking by grade and length. Later, he put himself through college by working at various jobs. After working for several companies, and learning all aspects of the lumber industry, Mr. Brinkmeyer acquired a sawmill in Laclede, Idaho. He eventually built the business into one of the top mills in the region. Later, he merged that business with another mill and it became the largest lumber producer in the Intermountain West.

Chairman Bair thanked Mr. Baker and Mr. Brinkmeyer for their service on the Lakes Commission and said consideration of their reappointment would take place at the next Committee meeting.

Chairman Bair called on Michael McCurdy to report on "Non-Municipal Solid Waste Landfills in Idaho."

PRESENTATION:

Mr. McCurdy, P.E., CHMM, Waste Management and Remediation Division Administrator, Department of Environmental Quality (DEQ), introduced two staff members. They were Dean Ehlert, Assessment and Compliance Unit Manager, DEQ, and Molly Mangerich, Solid Waste Program Manager, DEQ, to assist with the presentation, if needed.

Mr. McCurdy said he would provide background regarding federal regulations; address the State regulatory framework; and explain about the tier classifications for non-municipal solid waste landfills that are under the Solid Waste Management Rules.

Federal regulations for solid waste disposal facilities are contained in Title 40 of the Code of Federal Regulations, Part 257, which includes the criteria for classifying solid waste disposal facilities and practices. Part 258 contains the criteria for classifying municipal solid waste landfills. There are two classifications of solid waste facilities. One of them is the municipal solid waste landfill, which accepts household waste. The other is a non-municipal solid waste landfill that accepts non-municipal waste such as inert waste, construction and demolition waste, and some non-hazardous industrial waste.

Mr. McCurdy provided the federal definitions for defining waste. Household waste is any solid waste- including garbage and sanitary waste in septic tanks - derived from households. "Municipal solid waste landfill unit" means a discrete area of land or an excavation that receives household waste, with one exception. The one exception is a construction and demolition landfill that receives residential lead-based paint waste.

Federal interpretations of municipal solid waste includes everyday items, such as packaging, grass clippings, furniture, clothing, bottles and cans, food scraps, newspapers, appliances, consumer electronics, and batteries. These items come from homes, institutions such as schools and hospitals, and commercial sources such as restaurants and small businesses. This does not include industrial, hazardous, or construction waste.

Mr. McCurdy stated waste from a mattress, carpet, or furniture manufacturing would be categorized as industrial waste and could be disposed of in a non-municipal solid waste landfill. However, mattresses, carpets, and furniture discarded from residences, schools, and businesses would be categorized as municipal solid waste, or household waste, which is disposed of in municipal solid waste landfills.

Mr. McCurdy said based on requests from health districts, the *Guidance for Siting, Design, and Operations of Non-Municipal Solid Waste Landfills* was created to help explain the Solid Waste Management Rules. The guidance was initiated in 2003 after the Solid Waste Management Rules became effective and were finalized in January 2017. The guidance is not a rule and does not have the force and effect of law. Rather, it is designed to serve as a primary reference tool to assist those impacted by agency actions in order to comply with laws and rules.

For primacy, the authority to implement the program in lieu of EPA, the State requirements must be no less stringent, but at least equivalent to the federal regulations. The Solid Waste Facilities Act (SWFA) directs the State to avoid duplicative or conflicting regulations.

Mr. McCurdy said in Idaho, we also have a division of solid waste regulatory responsibilities between DEQ and the seven public health districts. The Idaho SWFA gives specific regulatory authority to both DEQ and the health districts. Provisions in a 2013 Memorandum of Understanding (MOU) provide a similar regulatory oversight structure.

DEQ responsibilities include:

- Reviewing and approving or denying siting and design applications; providing copies to districts;
- Providing courtesy reviews/comments to health districts on operation plans, closure plans, and postclosure plans; and
- Enforcing all aspects of site, design, groundwater monitoring, and financial assurance.

Health district responsibilities include:

- Approving or denying applications for operation, closure and postclosure plans, and providing copies to DEQ;
- Providing regulatory oversight of operations, including unannounced annual inspections;
- Providing inspection reports and enforcement correspondence to DEQ;
- Providing courtesy reviews/comments to DEQ on siting and design applications;
- Working with counties and cities on issues; and
- Enforcing all aspects of operations, closure, and postclosure.

Under the Solid Waste Management Rules, there are three tiers for Non-Municipal Solid Waste Land Fills (NMSWLFs). The three tier classifications consider the volume and type of waste disposed, as well as the potential for harm to human health and the environment from the waste managed in these facilities.

Tier I facilities have a total disposal capacity less than or equal to 2,000 cubic yards. Owners and operators are required to submit notice to DEQ and the local health district of their intent to operate. They can accept materials for disposal that are not likely to produce leachate. There are two Tier I NMSWLFs in Idaho and they are located in Elmore County and Blaine County.

Tier II facilities have a total disposal capacity greater than 2,000 cubic yards, are required to obtain site and design approval from DEQ, and are required to obtain operating and closure/postclosure plan approval from the local health district. There are 34 Tier II NMSWLFs in Idaho. They do not dispose of conditionally-exempt, small quantity generators (CESQG), now called very small quantity generators (VSQG), hazardous waste. Further, they do not dispose of materials with a high human pathogenic potential. They also do not manage solid waste in a manner or volume that will form toxic leachate or gas or manage solid waste in a manner or volume that is likely to pose a substantial risk to human health or the environment.

Tier III landfills: dispose of CESQG/VSQG hazardous waste; dispose of materials with a high human pathogenic potential; manage solid waste in a manner or volume that will form toxic leachate or gas and manage solid waste in a manner or volume that is likely to pose a substantial risk to human health or the environment. Tier III facilities must comply with groundwater monitoring requirements and liner, leachate collection, and air emission control requirements. There are no Tier III NMSWLFs in Idaho, but there are 23 Municipal Solid Waste Land Fills (MSWLFs).

Mr. McCurdy discussed monitoring and measurement requirements. For Tier I landfills, the owner and operator shall maintain on-site documentation, such as a daily log of the quantity and type of waste received. For Tier II and III facilities, general operating requirements include waste monitoring and measurement which includes a daily written log listing the types and quantities of wastes received; a plan for monitoring and handling receipt of unauthorized wastes; routine characterization of the wastes received; and other measures included in an approved operating plan. Operators should conduct visual inspections to screen each load entering their facility.

Mr. McCurdy said federal regulations require household waste (municipal waste) to be disposed of in a MSWLF. Therefore, DEQ does not have authority to designate certain household waste as a NMSW to allow those household wastes to be disposed of at a NMSWLF. Idaho requirements would become less stringent than federal regulations. Household waste can generate leachate and/or gas that could impact human health and the environment. Tier II landfills do not have environmental monitoring or controls to determine and limit potential impacts to human health and the environment. Tier III landfills have groundwater monitoring environmental control requirements.

In closing, **Mr. McCurdy** said NMSWLFs are responsible for ensuring only acceptable non-municipal solid waste is disposed of in their facility and prohibiting unauthorized waste disposal. Disposal is based on the type of waste approved for a specific facility. If a NMSWLF accepts household generated waste, it becomes subject to the stricter MSWLF requirements.

TESTIMONY: **Don Ebert**, Chairman, Clearwater County Commission, said he has been a commissioner for 16 years, and in that time, he feels that the interpretation of the rules has changed. Because they can not take things to the landfill that they took in the past, it costs the County a lot of money. **Mr. Ebert** stated there is a problem.

TESTIMONY: **Denis Duman**, Idaho County Commissioner, said they do not have a MSWLF in his area and they have to pay to have it hauled away. The two places that it is taken, north on Highway 12 to Missoula or south on Highway 95 to Payette, the highways follow rivers and the transportation can be dangerous, as well as expensive.

TESTIMONY: **Skip Brandt**, Idaho County Commissioner and former Idaho Senator, said this issue might seem simple, but is not. He noted a shared interest in protecting the environment, but the reality of the situation asks how do entities separate trash out in a common sense way. **Mr. Brandt** said they truck their garbage 150 miles one way to dump in a municipal landfill that is highly costly. They either transport waste to Highway 12 to Missoula or go down Highway 95 to Payette; that puts a lot of trucks and garbage on the river roads. If you are dumping tons of material in each day, as in Ada County, it could become an issue because it is a matter of volume. But when we are addressing small non-municipal landfills that are scattered around the State, it is a matter of common sense. **Mr. Brandt** said they would like to sit down, and with the guidance of the Legislature, address those issues that the counties are facing regarding landfills.

DISCUSSION: **Chairman Bair** asked Mr. McCurdy if he had the opportunity to meet with a group of county commissioners and discuss these issues over the last ten years or so. **Mr. McCurdy** replied that within the last two years, they have talked with the north central Idaho commissioners and there were disagreements in some of the terminology definitions and interpretations. Mr. McCurdy stated they looked at it from the standpoint of protecting human health and the environment.

Chairman Bair then asked Mr. McCurdy if DEQ ever considered or tried using waivers from part of the EPA requirements in order to better fit these smaller low-volume type facilities. Mr. McCurdy deferred to Dean Ehlert, Assessment and Compliance Unit Manager for DEQ. **Mr. Ehlert** said they have to look at a specific waiver, but there is language, in either 40 CFR Part 258 or the statute, that gives waiver authority. **Senator Brackett** inquired if there is an Idaho solution or is it derived from federal sources. **Mr. Ehlert** said it is probably a combination of both. He thinks it can be worked out with the specific north central non-municipal solid waste facilities and the counties in that region to try and resolve this specific issue. However, **Mr. Ehlert** cautioned, to a certain

degree, Idaho entities are also under the expansive purview of the federal regulations, as well.

TESTIMONY: **Josh Bartholomew**, Vice President, Southern Idaho Solid Waste Association (SISWA), and Executive Director, Southern Idaho Solid Waste, which is a seven-county Solid Waste District. **Mr. Bartholomew** said the SISWA needs to look at the intent of the law and feels the guidance is more stringent than the federal law. He suggested they fine tune some of the guidance and all confer together.

TESTIMONY: **Nate Francisco**, Environmental Manager, Southern Idaho Solid Waste, and Secretary for the Idaho Solid Waste Association, reported the issue in southern Idaho is not as challenging as the one in central Idaho. **Mr. Francisco** stated they had made some operational changes in the past based on their views of the future. He suggested drafting ways to interpret the EPA's regulations and the history, and to make something official when they sit down to look at the guidance.

DISCUSSION: **Chairman Bair** asked Jess Byrne, Deputy Director, DEQ, if he would accept the assignment and the responsibility on behalf of his boss, John Tippetts, Director, DEQ, to meet with the county commissioners and the Association of Counties to work something out this next year so that legislation will not have to be proposed. **Mr. Byrne** said he would be happy to do so.

Chairman Bair had one last question for Mr. McCurdy regarding Tier II and referring to human health and the environment. **Chairman Bair** said he wanted confirmation that DEQ has conducted due diligence and there are no long-term effects. **Mr. McCurdy** said the requirements for Tier II do not include those environmental controls and it is based on the volume and the manner in which the waste is managed for those facilities. As part of the site application and site design, DEQ would review that and ensure that whatever waste was proposed to be disposed of at that facility would meet those specific requirements.

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

Senator Bair
Chair

Juanita Budell
Secretary

AMENDED AGENDA #1
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, March 07, 2018

SUBJECT	DESCRIPTION	PRESENTER
Minutes Approval	Approval of Minutes - 2/21/18	Senator Bayer
Gubernatorial Reappointment Consideration	Brent Baker, Athol, Idaho, was reappointed to the Lake Pend Oreille Basin Commission to serve a term commencing July 24, 2017 and expiring July 24, 2020.	
Gubernatorial Reappointment Consideration	Marc Brinkmeyer, Coeur d'Alene, Idaho, was reappointed to the Lake Pend Oreille Basin Commission to serve a term commencing July 24, 2017 and expiring July 24, 2020.	
H 550a	Flood districts, commissioners	Norm Semanko, Attorney, Parsons Behle & Latimer Paul Arrington, IWUA
HJM 11	Columbia River Treaty	Paul Arrington, IWUA
HJM 14	National monument designation	Senator Siddoway Rep. Burtenshaw

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 Siddoway	Sen Johnson
Sen Brackett	Sen Stennett
Sen Heider	Sen Jordan
Sen Vick	

COMMITTEE SECRETARY

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

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, March 07, 2018

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Siddoway, Senators Brackett, Heider, Vick, 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.

MINUTES APPROVAL: **Senator Bayer** moved to approve the Minutes of February 21, 2018. **Vice Chairman Siddoway** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL REAPPOINTMENT: **Vice Chairman Siddoway** moved to send the gubernatorial reappointment of Brent Baker to the Lake Pend Oreille Basin Commission to the floor with recommendation that he be confirmed by the Senate. **Senator Heider** seconded the motion. The motion carried by **voice vote**. Senator Keough will be the floor sponsor.

GUBERNATORIAL REAPPOINTMENT: **Senator Brackett** moved to send the gubernatorial reappointment of Marc Brinkmeyer to the Lake Pend Oreille Basin Commission to the floor with recommendation that he be confirmed by the Senate. **Senator Vick** seconded the motion. The motion carried by **voice vote**. Senator Keough will be the floor sponsor.

H 550aa **Paul Arrington**, Executive Director, Idaho Water Users Association (IWUA), presented **H 550aa** on behalf of Norm Semanko who was unable to attend. This bill, sponsored by Mr. Semanko on behalf of clients, is a straightforward bill. The legislation proposes to amend Idaho Code § 42-3109, which provides authority to the Director of the Idaho Department of Water Resources (IDWR) to remove a flood control district commissioner from office under certain circumstances. The Director of IDWR has sole authority to appoint the commissioners; however, under the current code, the Director has no authority to remove a commissioner, even if circumstances warrant removal. **Mr. Arrington** stated this legislation would address that oversight.

Senator Jordan said she does not have a problem with the bill, but would like clarification regarding the term "neglect of duty," found on line 41. **Mr. Arrington** said he would consult with Mr. Semanko and provide an answer to her.

MOTION: **Vice Chairman Siddoway** moved to send **H 550aa** 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 11

Paul Arrington, IWUA, said this joint memorial urges the United States Department of State to support certain positions in negotiations with Canada regarding future implementation of the Columbia River Treaty. This treaty was originally implemented in 1964 to provide for the coordinated management of the Columbia River. The original term of the treaty expires in 2024. In southern Idaho, the Snake River is the largest tributary of the Columbia River. Prior to the treaty, the Columbia River often overwhelmed and flooded the communities along its path. Under the terms of the treaty, dams were built and are managed to control the flow of the river.

Mr. Arrington stated there are two purposes of the treaty: to manage and maximize flood control protection and to increase power generation throughout the Columbia River Basin. Presently, the treaty provides for nearly nine million acre feet of guaranteed flood control space in Canadian reservoirs. In 2024, this guaranteed flood control management process shifts to what the treaty terms "called upon" flood control provisions.

The United States entity asserts that "called upon" operations apply only to dams in the Columbia River Basin specifically authorized for "system-wide flood control." The Canadian entity takes the position that all United States storage projects in the Columbia River Basin must be utilized for system-wide flood control before Canadian reservoirs are called upon to provide any flood control space. **Mr. Arrington** said, in Idaho, they are concerned with Brownlee, Dworshak, and Albeni Falls. Idaho economy relies heavily on its river systems each year. Idaho's rivers and reservoir systems contribute billions of dollars to Idaho's economy in the form of agriculture, hydropower, recreation, flood prevention, fisheries, navigation, transportation, and other uses.

Mr. Arrington said altered management of these systems could significantly affect Idaho's economy. This joint memorial calls upon the United States to recognize and protect the authorized uses of Idaho's facilities in negotiating a modernized Columbia River Treaty. The joint memorial speaks to other issues as well, in particular, a hydropower issue referred to as the Canadian entitlement.

DISCUSSION:

Senator Stennett stated she has followed the Columbia River Treaty for several years and inquired as to the last time the treaty was reviewed, as indicated on line 15. **Mr. Arrington** said the United States and Canadian reports were issued about the same time, in late 2013, recognizing that there were opportunities to improve or modernize the treaty. **Mr. Arrington** stated as far as he understands, neither country has provided any further conclusions.

TESTIMONY:

Marie Calloway Kellner, Water Associate, Idaho Conservation League, testified in opposition to **HJM 11**. She asked that **HJM 11** be held in Committee so that she could have time to work with Mr. Arrington to amend it. **Ms. Kellner** stated it sends a strong message in a negative direction, and by placing Idaho at odds with the majority of the negotiation parties, it undercuts Idaho's ability to be taken seriously and professionally at the Columbia River Treaty renegotiation table.

Ms. Kellner said, contrary to the memorial's statement on page 2, paragraph 5, "ecosystem restoration" is not an intentionally vague term. It is an umbrella term that encompasses multiple possibilities. **Ms. Kellner** said in this instance, it generally might be paraphrased as "prioritizing the health of the Columbia and its tributaries." In short, ecosystem restoration would allow the treaty to attempt to incorporate: higher and more stable headwater reservoir levels; higher river flows in dry years; lower water temperatures later in the summer, which would benefit cold water fish; reconnected floodplains throughout the basin; and an adaptive suite of river operations that could respond to the great variety of changing climactic conditions experienced in Idaho and around the world.

Ms. Kellner said while the memorial states concern that the treaty could undermine Idaho and federal environmental laws, those laws are not threatened by the inclusion of ecosystem restoration. Instead, ecosystem restoration would mean that more entities have a responsibility to help Idaho's Endangered Species Act (ESA) listed fish species. By taking the firm stance against ecosystem restoration as articulated in this memorial, the State would be giving Canada the proverbial "get out of jail free card" when it comes to doing their part to restore these species.

Ms. Kellner said another compelling reason to acknowledge the importance of ecosystem restoration is economics. The most recent economic study conducted on this matter found that including ecosystem restoration in a renegotiated Columbia River Treaty would contribute no less than \$1.3 billion to the Northwest's economy: more than half a billion of which is attributed to Idaho's recreational economy in the coming decades.

TESTIMONY:

Will Hart, Executive Director, Idaho Consumer-Owned Utilities Association, testified in support of the joint memorial. He represents 11 rural electric cooperatives and 11 municipal power companies that provide power to over 130,000 Idahoans across the State. **Mr. Hart** said they have been working closely with the Idaho Water Users Association on **HJM 11**. For decades, the Columbia River Treaty between the United States and Canada worked to enhance both the flood control and power needs of the two nations. But today, that power provision of the treaty is grossly imbalanced, with official government estimates showing Canada receiving almost ten times the benefit the Northwest interests receive from coordinated system operations. The latest report showed that imbalance to be between \$100 to \$300 million a year. That imbalance has caused a great inequity to public power consumers in Idaho and the Northwest.

Mr. Hart said, without renegotiation of the hydropower provisions of the treaty, the region faces a loss of approximately \$1 million every two to three days, as well as the associated carbon-free energy use. **HJM 11** accurately and definitively expresses the United States' position on renegotiation of the Columbia River Treaty and **Mr. Hart** stated the Association he represents stands with the Idaho Water Users Association and over 18 other stakeholder groups throughout the State in asking for the Committee's do pass recommendation.

Mr. Hart said that a lot of things have changed since 1964. Environmental laws that govern the United States were not in place when the treaty was negotiated. Currently, environmental laws include the Clean Water Act, and the federal biological opinion which costs constituents tens of millions of dollars for improvements on that system. **Mr. Hart** stated that if you have public power in your district, 30 cents on every dollar of the power bill pays for mitigations costs. The United States paid Canada approximately \$60 million for flood control, so when the treaty is renegotiated, Canada will be asking the United States to pay for flood control again through taxpayer dollars.

DISCUSSION:

Senator Stennett inquired as to who owns the dams - Canada or the United States - as both nations have paid for flood control for many years. **Mr. Hart** said under the agreement made in the treaty, those dams belong to Canada. The Bonneville Power Administration (BPA), one of the entities to negotiate with Canada, believes that the imbalance needs to align with current funds and value. **Senator Stennett** asked if for some reason parties are not able to negotiate a deal with Canada to take care of flood control, would Mr. Hart's utilities be prepared for floods if they are not mitigated in the current fashion. **Mr. Hart** replied that is why renegotiation is so important, because of the flood control portion.

Mr. Arrington said he wished to clarify a comment regarding the ecosystem function. He said when that issue is discussed, it is in regard to fish issues. Canada has addressed that issue and said they are domestic issues. The United States deals with its issues separately.

MOTION: **Senator Vick** moved to send **HJM 11** to the floor with a **do pass** recommendation. **Vice Chairman Siddoway** seconded the motion. The motion carried by **voice vote**. **Senators Stennett** and **Jordan** asked to be recorded as voting **nay**. Vice Chairman Siddoway will be the floor sponsor.

HJM 14 **Vice Chairman Siddoway** presented **HJM 14**. This joint memorial urges Congress to introduce legislation to oppose any federal land designations that restrict land use, unless approved by the United States Congress and the Idaho Legislature. It also urges Congress to ensure federal agencies follow the coordination process as directed by law.

Earlier, **SJM 103** was introduced and the timber industry expressed concerns by the time it got to the House.

HJM 14 recognizes the Antiquities Act which was passed by Congress in 1906 to protect significant natural, cultural, or scientific features. It has been used more than one hundred times. The Wilderness Act, passed in 1964, has designated nearly 110 million acres of federal wildlands as official wilderness. The members of the Second Regular Session of the 64th Idaho Legislature oppose any new federal national monument designations or further designations of wilderness without the approval of the United States Congress and the Idaho Legislature.

TESTIMONY: **Braden Jensen**, Idaho Farm Bureau, testified in support of **HJM 14** and asked for a do pass recommendation from the Committee.

MOTION: **Senator Johnson** moved to send **HJM 14** to the floor with a **do pass** recommendation. **Senator Bayer** seconded the motion. The motion carried by **voice vote**. **Senators Stennett** and **Jordan** asked to be recorded as voting **nay**. Vice Chairman Siddoway will be the floor sponsor.

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

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:00 P.M.
Room WW55
Monday, March 12, 2018

SUBJECT	DESCRIPTION	PRESENTER
Minutes Approval	Approval of Minutes - February 26, 2018	Senator Jordan
Minutes Approval	Approval of Minutes - February 28, 2018	Senator Heider
Minutes Approval	Approval of Minutes - March 2, 2018	Senator Brackett
H 538	Wolf control board, sunset date	Rep. 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 Siddoway	Sen Johnson
Sen Brackett	Sen Stennett
Sen Heider	Sen Jordan
Sen Vick	

COMMITTEE SECRETARY

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

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, March 12, 2018

TIME: 1:00 P.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: Senator 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 meeting of the Senate Resources and Environment Committee (Committee) to order at 1:00 p.m.

MINUTES APPROVAL: **Senator Jordan** moved to approve the Minutes of February 26, 2018. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Heider** moved to approve the Minutes of February 28, 2018. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Brackett** moved to approve the Minutes of March 2, 2018. **Senator Jordan** seconded the motion. The motion carried by **voice vote**.

H 538 **Representative Boyle** presented **H 538**. She stated this bill proposes to revise a sunset provision to become effective June 30, 2020, rather than June 30, 2019.

Senator Stennett inquired as to the amount in the fund for wolf control. **Representative Boyle** replied that she was uncertain of the final amount.

Senator Jordan asked why the extension was only for one year. **Representative Boyle** said it was needed because of the cycle of the budget.

DISCUSSION: **Senator Brackett** said oftentimes the livestock industry and the sportsmen are not in agreement on issues. However, this is a case where the sportsmen have been very supportive of the program, as well as the livestock industry. **Senator Brackett** asked why the Legislature should not simply eliminate the sunset clause. **Representative Boyle** said a five-year commitment was made by all three parties, including the Governor. **Senator Brackett** inquired if the sunset clause would be eliminated after this one-year extension. **Representative Boyle** said all three parties would have to make that decision.

TESTIMONY: **Dennis Tanikuni**, Assistant Director of Governmental Affairs for the Idaho Farm Bureau Federation (IFBF) said IFBF is in support of **H 538**. He said the IFBF supported the formation of the Wolf Depredation Control Board and their policy speaks extensively to wolf management.

TESTIMONY: **Wyatt Prescott**, a registered lobbyist for the Idaho Cattle Association (ICA), said ICA supports **H 538** and the Governor's Wolf Depredation Control Board. **Mr. Prescott** said the Wolf Depredation Control Board serves a vital function for cattle producers. ICA feels the Wolf Depredation Control Board is well-represented by the three parties.

WRITTEN TESTIMONY: **Tucker Shaw**, President, Idaho Cattle Association (ICA), submitted written testimony supporting **H 538**. The letter stated wolf depredation is a constant threat to cattle producers in wolf populated regions of Idaho. The Wolf Depredation Control Board has served a vital function in addressing problem wolves in response to depredation and ICA supports the Wolf Depredation Control Board.

TESTIMONY: **Brandy Kay**, Executive Director, Idaho Wool Growers Association (IWGA), said IWGA is in support of **H 538** and asked for a do pass recommendation.

MOTION: **Vice Chairman Siddoway** moved to send **H 538** to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **voice vote**. **Senators Stennett** and **Jordan** asked to be recorded as voting **nay**. Senator Heider will be the floor sponsor.

ADJOURNED: There being no further business at this time, **Chairman Bair** adjourned the meeting at 1:20 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

AMENDED AGENDA #1
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:00 P.M.
LINCOLN AUDITORIUM WW02
Wednesday, March 14, 2018

SUBJECT	DESCRIPTION	PRESENTER
Minutes Approval	Approval of Minutes - March 5, 2018	Vice Chairman Siddoway
H 658	Property, trespassing	Rep. Boyle Senator Harris
H 621	Surveyors, private land	Rep. Gestrin

NOTE: CHANGE OF LOCATION

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 Siddoway
Sen Brackett
Sen Heider
Sen Vick

Sen Bayer
Sen Johnson
Sen Stennett
Sen Jordan

COMMITTEE SECRETARY

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

DATE: Wednesday, March 14, 2018

TIME: 1:00 P.M.

PLACE: Lincoln Auditorium WW02

MEMBERS PRESENT: Chairman Bair, Vice Chairman Siddoway, Senators Brackett, Heider, Vick, 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 1:00 p.m.

MINUTES APPROVAL: **Vice Chairman Siddoway** moved to approve the Minutes of March 5, 2018. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

Chairman Bair welcomed the audience to the meeting and stated he was grateful for the participation in the legislative process. He indicated, due to time restraints, testimony may be limited to three minutes in order for everyone to be heard.

Chairman Bair welcomed Senator Harris who presented **H 658**.

H 658 **Senator Harris** said this bill addresses private property rights. Growing up, his dad instilled in the family that private property was sacred and they were to treat property of others like they treated their own; they expected others to do the same.

Senator Harris stated the statutes do very little to discourage trespassing. The State has increasingly had problems with trespassing, and, in some cases, terrible damage occurred. The purpose of **H 658**, which replaces **H 536**, is to create a better statute and clarify language. Current code states the landowner can either post "No Trespassing" signs or post with orange paint every 660 feet, or place a conspicuous sign where a public road enters the property that says "No Trespassing" for the next three miles, then post another similar sign informing an individual they are leaving private property. The signs must have a map attached.

Idaho Code § 36-1602 says all one needs is a fence of any description sufficient to show the boundaries; in such instances, no posting is required. **H 658** seeks to clarify this confusion by setting clear requirements. Under the proposed bill, landowners would be required to post corner boundaries where the property intersects navigable streams, roads, gates, and right-of-ways. Under this bill, a person must know or have reason to know they are entering private property without permission. The current code has no such requirement.

The bill also raises the fines associated with civil and criminal trespass as a deterrent to trespass. The bill also makes a change in the way fines are apportioned. Ten percent would go to the court; 65 percent would be disbursed to the county sheriff's office where the trespass occurred; and 25 percent would be provided to the Idaho Rangeland Resource Commission to expand educational programs regarding private property rights.

Senator Harris said he would yield to Gary Allen, who helped draft the bill, so Mr. Allen could provide a more technical explanation of the different provisions.

Mr. Allen, Givens Pursley, stated he represents the Idaho Property Rights Coalition. The Coalition has 33 organizations that support this bill. **Mr. Allen** said he is also a property rights lawyer and practices in the area of land use and environmental law. **H 658** has been reviewed by many lawyers and has been reviewed by the Attorney General's Office and the Idaho Prosecuting Attorneys Association.

Mr. Allen said the heart of the issue is trespassing unknowingly. Under current law, it is problematic on many levels, with confusing and inconsistent definitions, matters of law, and penalties. **H 658** resolves constitutional questions; cultivated lands unchanged; "conspicuous" posting; "fishing streams" replaced by "navigable streams"; posting to distinguish public from private fenced lands; and added lands reasonably associated with residence or business to protect urban and rural residences and businesses.

Mr. Allen stated the remedies are more closely tailored to the seriousness of trespass. Trespass has been separated into simple trespass and trespass with damage. Simple civil trespass mirrors common law, with actual damages including a \$500 minimum, plus attorney's fees. Civil trespass with damage permits treble damages.

The simple criminal trespass:

- First conviction is a misdemeanor with a minimum fine of \$500.
- Second conviction is a misdemeanor with a fine of \$1,500.
- Third conviction is a misdemeanor with a fine of \$5,000.

The criminal trespass with damages:

- First conviction is a misdemeanor with a minimum fine of \$1,500.
- Second conviction is a misdemeanor with a minimum fine of \$5,000.
- Third conviction is a felony with a minimum fine of \$15,000.

Mr. Allen explained exclusions to trespassing. Door-to-door salesmen, Girl Scouts, or missionaries may enter properties without considered trespassing, unless the property is posted. Others have a license, such as the person who mows your lawn, a tenant who is renting, and those entering pursuant to an easements for utilities. There are authorities, under the law, to retrieve or to enter someone's property. Law enforcement, for example, executing a warrant; a bail bondsman; and paramedics, firefighters, and other emergency personnel. **Mr. Allen** said he wanted to make it very clear about fire personnel. That term includes municipal firefighters, wildland fire firefighters, and fire protective associations. Under the law, they are exempt from damage claims when making reasonable fire suppression efforts.

Mr. Allen said funding is provided to sheriff departments, through fees and fines, to help with the additional burden of enforcing the law. Permission slips to have access to property are written by the owner and can be revoked by the owner. This places a burden on the Idaho Department of Fish and Game (Fish and Game); however, it is already done by Fish and Game as they have the distribution and access network. **Mr. Allen** said Fish and Game has asked that those permission slips also be put into the sheriffs' offices so they may share the burden.

DISCUSSION: **Senator Jordan** inquired if aircraft flying over property would be guilty of trespass. Mr. Allen stated such actions would not constitute trespass. **Senator Jordan** said she is concerned about areas that are owned by either cities or counties that are timbered and theft may occur as a result of trespassing. **Mr. Allen** replied public property is regulated by that public entity.

Senator Johnson asked about the significance of the phrase "enters or remains" on page 3, line 14. **Mr. Allen** said a person can go into a store, with permission, if it is open, and that is not trespass. But if they are asked to leave the store, then they can be trespassing by remaining on the property.

Senator Stennett said this bill is a massive rewrite of criminal and civil law and law relating to Fish and Game. She inquired as to Mr. Allen's expertise. **Mr. Allen** said he is not a criminal law attorney. He had two occasional property rights cases in criminal law, including a significant one in the last year. He stated he practices property rights litigation on behalf of landowners and citizens.

Senator Brackett inquired about companies fixing power lines. **Mr. Allen** said the privilege for a power company to fix downed power lines is limited. There must be a public emergency.

Senator Harris said, as the bill has been reviewed and discussed, he would respectfully request the Committee send **H 658** to the 14th Order for possible amendment. **Chairman Bair** said the Committee would take that into consideration, after people could testify on **H 658**.

TESTIMONY: **Mike Kane**, Idaho Sheriffs' Association, said it is a privilege to represent law enforcement. **Mr. Kane** said they are in agreement with the sponsors of the bill that it be sent to the amending order and he would like to point out the two most significant issues for law enforcement. **Mr. Kane** stated the police chiefs and sheriffs are together on this and they are the ones that have to enforce this law.

Mr. Kane provided copies of Idaho Code § § 18-7008, 18-7011, and 36-1602. He said these are the current criminal laws on trespass and in every case, there are two ways to commit trespass. One is to cross a no trespass line or cross some barrier indicating trespass or entering land and doing something. **Mr. Kane** said this bill creates a crime for simply entering and remaining without doing damage. **Mr. Kane** said page 7, line 7, shows a person commits criminal trespass when he enters and remains on the property without permission, knowing or with reason to know that his presence is not permitted. **Mr. Kane** stated the "reason to know" phrase is very important in criminal law.

One of the tools law enforcement officers use with trespassers is forbidding them to return to the property within a year. This provision would be repealed. **Mr. Kane** said this bill would take away one of the most important tools for law enforcement.

TESTIMONY: **Fred Birnbaum**, Idaho Freedom Foundation, testified in support of **H 658**. He stated only 30 percent of Idaho is private land and it is vitally important that property rights of those who own private land be protected. **Mr. Birnbaum** said the point of this bill is to establish reasonable and consistent criteria to secure the rights of property owners in the face of dwindling private property.

TESTIMONY: **Brian Brooks**, Idaho Wildlife Federation, said his organization is Idaho's oldest and largest sportsmen organization and represents over 30,000 affiliated members that include hunters, houndsmen, and fly fishermen. **Mr. Brooks** asked that the Committee to not recommend passage of **H 658** because of unintended consequences.

- TESTIMONY:** **Trent Clark**, Director of Public and Government Affairs, Monsanto Company, testified in support of **H 658**. He stated the Monsanto Company employs nearly 1,000 Idahoans in various aspects of agriculture manufacturing and mining. **Mr. Clark** gave four examples of trespass.
1. A daycare operator escorts a few prospective parents into the backyard to show off a safe and enclosed play area only to find a stranger in with the kids.
 2. A horticulturist who markets with a specific holistic natural label finds an intrusive neighbor applying a non-natural product to kill some mutually unwanted vegetation and, in the process, disqualifies the entire crop.
 3. An heir receives a vacant corner lot as part of an estate. As a responsible steward, they fence and post the property until an environmental audit can be completed. Many trespassers then jump the fence to cut the corner. Later, environmental audits find that this site was the site of a former gas station and the hundreds of trespassers have been exposed.
 4. A plant breeder seeking to breed a new purple striped corn variety conducts a test plot to prove that the resulting seeds will carry the desired color trait. A trespasser walks through the plot damaging a dozen plants, just enough to destroy the statistical accuracy of the test plot, and destroying the ability to market that crop that year and doing away with an entire year of that researcher's time.
- Mr. Clark** said the reason he gave the four examples was to show in every case where the intrusion was not malicious. Also, in example 4, the damage was done the first time that person was there, so the second opportunity does not mean anything. **Mr. Clark** concluded his remarks by stating this is civil rights legislation and asked the Committee vote in favor of **H 658**.
- TESTIMONY:** **Rachelle Klein**, resident of Boise and a wife and mom, asked the Committee to not recommend passage of **H 658**. She expressed concern about the penalties for crossing private property and unmarked hunting boundaries
- TESTIMONY:** **Brady Lindley**, a farmer in Gem County, told of the problems he had with trespassers - fences cut, gates left open or broken, and fields torn up by vehicles. He emphasized the importance of a strong private property protection and trespass law and asked for a do pass recommendation.
- TESTIMONY:** **Michael Gibson**, Trout Unlimited, said his organization opposes **H 658**. **Mr. Gibson** said sportsmen have not been involved in this process and they tried to reach out to those writing this bill with suggestions regarding their concerns, but did not hear back. He stated their offer still stands. **Mr. Gibson** said he realizes this is a private property rights issue and the sportsmen have no right to designate what happens on private property. However, most of the members are landowners, so this is something they are concerned with. The bill, as written, would drive a wedge between landowners, hunters, anglers, and recreationists.
- TESTIMONY:** **Dan Walton**, farmer and rancher from Gem County, testified in support of **H 658**. He said his story is very similar to that of Mr. Lindley, who testified earlier. **Mr. Walton** had pheasant hunters who do not ask for permission, but when questioned, said they received permission. He recommended the bill be passed.
- TESTIMONY:** **Jeff Lavey**, Idaho Chiefs of Police Association, said his organization is in opposition to **H 658** as currently written. **Mr. Lavey** said they had several attorneys analyze the bill and they see problems. **Mr. Lavey** asked that the bill not pass or have that it be amended.

TESTIMONY: **Viki Purdy**, a resident of New Meadows, said she would like to make comments on behalf of the Idaho Republican Party and their platform. She stated the Republican Party believes in the Fifth Amendment to the United States Constitution guarantee that no person be deprived of life, liberty, or property without due process of law, nor private property be taken for public use without just compensation. **Ms. Purdy** stated the Republican Party also opposes any federal, state, or local regulation that would diminish the property rights owner to develop his property.

This legislation would bring the fact to the forefront for public awareness. Respect has always been at the heart of any successful land use policy. Ownership and stewardship of land should get some sort of raised awareness by those that want to use the land but not own the land. She asked for the Committee's support of **H 658**.

TESTIMONY: **David Serdar**, Idaho citizen, said he is a chukkar and partridge hunter, carries a GPS with him, and also has maps in his vehicle. He stated there are times when it is not clear where property boundaries are and asked that the bill be amended to include language to help those who try to do the right thing.

TESTIMONY: **Sharon Kiefer**, Deputy Director, Idaho Department of Fish and Game (IDFG), said the Idaho Fish and Game Commission has no policy position on this particular bill. A copy of Ms. Kiefer's full testimony is attached. (Attachment 1).

TESTIMONY: **Kent Roberts** stated he is opposed to **H 658**. He said to unknowingly trespass and be subject to civil trespass is concerning to him.

TESTIMONY: **Richard Durrant**, Idaho citizen and landowner, expressed support for **H 658**. **Mr. Durrant** stated 95 percent of sportsmen obey the laws, but the other five percent are the ones that cause problems. He said he had well panels and pump panels destroyed and tires shot out. Landowners need some ability to have some enforcement to train that five percent that do not recognize the rights of the landowners.

TESTIMONY: **John Evans**, Mayor of Garden City, said most of the points he intended to make were made. He said he would simply ask the Committee to carefully consider the impact on urban areas. There are people living in very close proximity in high-density areas. **Mayor Evans** stated he is concerned that the urbanized areas would get caught up in the resolution of an issue that seems to be most predominantly a rural, large land parcel issue. He asked the Committee to not recommend passage.

TESTIMONY: **David Clairborne**, Idaho Dairymen's Association and the Idaho State ATV Association, President, said both organizations are in support of **H 658**. He stated, with respect to his dairy clients, this is an important piece of legislation. There is an overarching concern for respect of private property rights. The ATV Association is a motorized recreation group that advocates for responsible motorized recreation, which includes respect for private property. The most important concern for the members when they saw the bill was how will it ensure that they will know when they are moving between public and private land. It was important that the points of entry were marked by a sign or by orange paint.

TESTIMONY: **Keith Simila**, Executive Director, Idaho Board of Professional Engineers and Professional Land Surveyors, said neither organization has a position on **H 658**. **Mr. Simila** expressed appreciation for those who crafted the bill and offered a trailer bill, **H 621**, to reduce the land surveyors objections to the trespass bill. Land surveyors are the only individuals authorized by Idaho statute to help landowners determine and adjudicate property boundaries. The surveyors did not want to be in a position where they would be accused of civil or criminal trespass for doing their job and doing what the State requires them and authorizes them to do.

TESTIMONY: **Stacey Satterlee**, Executive Director, Idaho Grain Producers Association, representing Food Producers of Idaho. **H 658** brings a tremendous improvement to the current law which is often confusing and does not provide adequate deterrence in the form of penalties. She stated this bill is about private property rights and urged the Committee's support of **H 658**.

TESTIMONY: **Benn Brocksome**, Idaho Sportsmen Alliance, said the Alliance has some serious concerns with the bill. However, they do appreciate the sponsors' willingness to work on some of the changes and to send the bill to the amending order for amendment. **Mr. Brocksome** said they would prefer the Committee hold the bill.

TESTIMONY: **Cory Chappell** stated this bill is too much legislation and what is needed are people to enforce the laws already in place. He asked the Committee to not recommend the passage of **H 658**.

TESTIMONY: **Sandy Blodgett**, retired Captain of the Boise Fire Department and current board member of the Idaho Gem Club, expressed concern with **H 658**. He said he is not sure how it relates to backcountry situations and mining. **Mr. Blodgett** said he has had a firearm drawn on him when he walked on mining property; he was unaware he was trespassing, as there were no markers to identify the boundaries.

TESTIMONY: **Neil Colwell**, Avista Corporation, stated Avista is a gas and electric utility with about 140,000 electric and 100,000 gas customers in northern Idaho. He has also been authorized to speak on behalf of Idaho Power, the Idaho Cooperative Utilities Association, and Rocky Mountain Power to ease the burden on the Committee because they share their comments, which is why they support the legislation. **Mr. Colwell** said they did suggest some changes and the changes were accepted by the sponsors of the bill. If the bill goes to the amending order, **Mr. Colwell** expressed hope that helpful amendments are adopted.

TESTIMONY: **Rick Vissar** stated he comes before the Committee as a sportsman, an attorney, and a rancher. After four hours of debate in the House Agricultural Committee and two further hours of debate on the House floor, that signifies to him that the bill is still unknown. **Mr. Vissar** said he agrees with strengthening trespass laws, even increasing civil fines, to reduce any illegal activity that involves trespassing on private property. **Mr. Vissar** asked the Committee to either hold the bill or send it to the amending order.

WRITTEN TESTIMONY: Businesses that submitted letters of support for **H 658** were as follows:

- Idaho Grain Producers Association, Dwight Little, President;
- Idaho Mint Growers Association, Bob McKellip, President;
- Idaho-Easter Oregon Seed Association, Arron Phillips, President;
- Nezperce Prairie Grass Growers Association, Greg Branson, President;
- Food Producers of Idaho, Inc., Candi Fitch, President
- Idaho Alfalfa & Clover Seed Growers Association, Ryan Svaty, President'
- Idaho Hay and Forage Association, Inc., Will Ricks, President;
- Idaho Honey Industry Association, Brody Tomazin, President;
- Idaho Farm Bureau Federation, Bryan Searle, President;
- Idaho Dairymen's Association, Inc., Rick Naerebout, Chief Executive Officer; and
- Idaho State ATV Association, David P. Claiborne, President.

Individuals that submitted letters of support for **H 658** were as follows:

- Mark Ozburn, Wheat farmer, Soda Springs, Idaho;

- Lucas Spratling, Farmer, Raft River, Idaho; and
- Sid Freeman, Farmer, Canyon County, Idaho.

Written testimony opposing **H 658** were as follows:

- Idaho Sportsmen Alliance and
- Dirk Christison, Boise, Idaho.

Approximately 80 emails were received in opposition to **H 658**.

MOTION: **Senator Siddoway** moved that **H 658** be referred to the **14th Order** for amendment. **Senator Vick** seconded the motion.

DISCUSSION: **Senator Jordan** said this bill is almost like peeling an onion. Every time we identify an issue, we find an unintended consequence that may apply as well. She said the review offered an opportunity to get a group of people together to bring back something that would work better for everyone. She stated no disagreement about bad actors, but there is agreement about good legislation and as the Committee heard many times today, words matter. **Senator Jordan** then offered a substitute motion.

SUBSTITUTE MOTION: **Senator Jordan** moved that **H 658** be held in Committee. **Senator Stennett** seconded the motion.

DISCUSSION: **Senator Bayer** said he appreciates the dialogue and he stated he thinks there are a lot of very important merits in regard to private property rights and trespassing that need to be addressed. He stated he does not subscribe to, nor has he heard anything that suggests anything that would compromise the integrity of the intent of the language.

ROLL CALL VOTE: **Senator Jordan** asked for a roll call vote. **Senators Jordan** and **Stennett** voted **aye**. **Senators Johnson, Bayer, Vick, Heider, Brackett, Vice Chairman Siddoway** and **Chairman Bair** voted **nay**. The substitute motion failed.

Senators Jordan, Stennett, Johnson, Bayer, Vick, Heider, Brackett, Vice Chairman Siddoway and **Chairman Bair** voted **aye**. The original motion passed.

ADJOURNED: There being no further business, **Chairman Bair** adjourned the meeting at 3:20 p.m.

Senator Bair
Chair

Juanita Budell
Secretary



Attachment 1 3/14/18

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 14, 2018

To: The Senate Resources and Environment Committee
Testimony of Sharon W. Kiefer, Idaho Department of Fish and Game
House Bill 658

Chairman Bair and Committee:

I appreciate the opportunity to discuss our assessment about technical aspects of House Bill 658. The Fish and Game Commission has no policy position at this time beyond monitoring the bill. A copy of my testimony is in your folder.

Fish and Game recognizes the challenge of creating new trespass law that meets landowner expectations for improved outcomes in regard to their private property rights, an expectation that is warranted. Landowners have articulated that the current framework of trespass is not working. The key issue for consideration is whether this bill will advance effective outcomes that landowners expect.

I am not going to speak to the amendments to Civil Trespass (I.C. 6-202) found in Section 2 beginning on page 2, but will focus on the revisions to Title 36 and the interrelationship with revisions to Title 18.

Generally, law enforcement must prove the elements of a crime beyond a reasonable doubt. The bill changes the current prescriptive notice requirements for paint and signs to a framework that uses a less-defined standard where a landowner must post in a manner that puts a "reasonable person" on notice of private land. For some landowners, that burden will be lighter and for others, much heavier.

Under Section 9 (page 12) and Section 11 (page 15), Fish and Game Code Title 36 would no longer have a stand-alone definition of trespass in violation of warning notices or failing to depart the real property of another after notification. Instead, the definition of Title 36 trespass would say that no person shall enter the real property of another and shoot any weapon or enter for the purposes of hunting, retrieving wildlife fishing or trapping in violation of section 18-7008. As a result, the Title 36 definition of trespass would link back to criminal code.

So, let's hop over to section 18-7008 beginning on page 6 to understand what trespass in Title 36 now means. Title 18 is the Crimes and Punishments title of Idaho Code.

The "Acts" constituting criminal trespass are the backbone of Fish and Game's or other law enforcement ability to determine a crime has been committed. In this bill, a person commits trespass when he enters and remains on private property without permission (defined on page 7), knowing or reason to know his presence is not permitted. The bill provides four descriptions for which a person has reason to know his presence is not permitted, which I will speak to shortly.

While the bill defines enter on page 6, it does not define “remains.” To constitute the crime of trespass under the bill, a person must both “enter” and “remain” without permission. If people enter without permission but do not “remain,” their conduct does not appear to constitute trespass under the bill. Similarly, if people enter with permission, their actions do not appear to meet the bill’s elements of trespass, even if they “remain” if permission is revoked. Will landowners and law enforcement take a similar and consistent view of “enters and remains”? For example, Title 36-1603 in this bill says: No person shall enter the real property of another and shoot any weapon or enter such property for the purposes of hunting, retrieving wildlife, fishing or trapping in violation of section 18-7008, which then says a person commits criminal trespass when he enters and remains on the real property of another without permission. Does the crime of trespass under Title 36 to apply to a hunter who enters property without permission to take game and then leave the property? The desired outcome of determination and prosecution of an unlawful act may be uncertain.

The proposed descriptions of notice for which a person has reason to know their presence is not permitted would change the current prescribed criteria for providing notice in Title 36-1603; two of the five descriptions in current law are cultivated lands or land posted with No Trespassing signs. Further, the current descriptions are not applied under a reasonable person standard, it is a more straightforward threshold – no person shall enter without permission.

Per my previous reference Section 6 of the bill takes a different approach in 18-7008 for giving “notice that demonstrates to a person that property is private and one should not enter without permission.” These four descriptions of notice requirements are found on page 7, lines 12-30.

The reference to cultivated land as notice is consistent with current Titles 18 and 36 notice. Depending on the circumstance of the private property, which the landowner has to evaluate, there are several new options of notice that a person must recognize as a reason to know their presence is not permitted:

- Property reasonably associated with a residence or place of business.
- Property that is fenced or enclosed such that a reasonable person would know it is private property.

In recognition of the intermix of private and public property, both fenced and unfenced that is ubiquitous in Idaho, lines 15-24 provide additional posting requirements for private property that adjoins or is enclosed within public lands that improve the likelihood that a reasonable person would recognize the delineation of a private property boundary. If the property adjoins or is enclosed within public lands, the fence line adjacent to the public land must be posted with conspicuous no trespassing signs or bright orange or fluorescent paint at the corners of the fencing adjoining public land and at all navigable streams, roads, gates and right of way entering the private land, and is posted in a manner that a reasonable person would be put on notice that it is private land. I underscore “and posted in a manner that a reasonable person would be put on notice.” We understand the landscape will be an important factor in the posting necessary to meet

the standard for a “reasonable person” to be put on notice it is private land – the posting to meet this standard for a parcel of grassland will be very different than the posting for a parcel of heavy timber. Landowners will need to analyze whether posting meets the ability for a reasonable person to see it.

- In a similar manner, unfenced and uncultivated property must be posted with conspicuous “no trespassing signs” at the same points as fenced land above, and again, posted in a manner that a reasonable person would know it is private land. The landowner will need to evaluate their posting to uphold the “reasonable person would know” standard to advance outcomes of prosecution for trespass that they desire.

With the bill’s reliance on notice to a reasonable person, landowner posting decisions will directly influence the ability of law enforcement officers, including our conservation officers, to credibly determine a violation has occurred and present solid cases to a prosecutor.

Permission has always been the hallmark of private property entry and continues to be so. “Ask First” is a key lesson to all of our new hunters through Hunter Education and we emphasize this message in media and our regulation brochures. However, we would change that message to “Get Written Permission First” to comply with H 658 because asking is not enough. Section 18-7008 provides a definition of permission that specifies that written authorization is the default construct of permission and must include the signature of the owner or agent, the name of the person getting permission, the dates, and a general description of the property (page 7, lines 1-5).

In Section 11, page 16, lines 3-13, Fish and Game is directed to provide permission forms that include space for this information and to make them available at our offices, on our website and at sheriff’s offices. We already provide permission slips that landowners can use as a matter of convenience, which will require slight modification particularly to include the general description of the property. However, we do not find this customer service requirement burdensome and it is certainly not unreasonable to work with our sheriffs to make the forms available.

More important is the standard - having written authorization is now the default to demonstrate that you aren’t trespassing on someone else’s property when you are outside an obvious business setting or not accompanied by a landowner. If a landowner doesn’t provide written permission with the elements defined in Section 18-7008, a person’s presence has to be within one of the categories listed in lines 25-44 on page 9 (examples include a license, lease, or other legal authority).

This construct of detailed, signed written authorization may erode neighborly practices of verbal permission because responsible private land users will want written authorization. Landowners busy with farming and ranch operations or other pursuits may not have time for putting permission in writing that they would have otherwise been willing to give.

While keeping neighborly ways, one still has to distinguish an “invitee” encountered on private ground without written permission and an unauthorized individual. Let’s say nephew Phil is on Uncle Joe’s property without a permission slip. Phil illegally kills an elk on Uncle Joe’s

property that a witness reports and a Conservation Officer investigates. Uncle Joe is out of town, and the officer is not able to reach him. Does the officer take Phil's word that Uncle Joe said "come any time," or cite Phil for criminal trespass in addition to the illegal possession of elk? There's potential for second guessing either decision even once the officer is able to contact Uncle Joe. This scenario illustrates why landowner involvement will remain crucial to law enforcement determination about who does and does not have authorized permission to enter.

The bill includes additional requirements for the department to publicize to our license buyers information about owner's rights and sportsmen's duties. We have performed that responsibility for a long time and believe we can meet the prescriptions of this bill. But, Fish and Game outreach probably won't impact persons who are not Fish and Game license buyers – such as motorized persons doing cookies in a cultivated field or campers leaving fire rings and trash behind on private woodlands. Our assumption is that the new remittance language for fines in violation of section 18-7008 found on page 12 (lines 4-9), which apportions 25% to the Idaho Rangeland Resources Commission for expanding education programs, creates an expectation for that state agency to be responsible for educating those who don't connect with Title 36.

And speaking of fines, I want to point out that lines 1 and 2 of 36-1603 in Section 11 on page 16 state that any violation of this section subjects the violators to penalties in section 36-1402(e), which as you can see in Section 9 on page 13, lines 15-28, is the license revocation penalty. License revocation is a longstanding penalty for trespass in the act of hunting, fishing, or trapping. The bill would also make this a penalty for posting public lands as privately owned.

Singling out the revocation penalty from the other Fish and Game code penalties may also create confusion that could be avoided by deleting the Remedies subsection lines 1-2 and page 16. However, if these lines remain, the Department would not interpret them to make license revocation the **exclusive** penalty for violating section 36-1603. Fish and Game would proceed with the understanding that other Title 36 provisions would still apply in combination with the license revocation, such as fines, seizure of animals taken in the act of trespass, and revocation in states that participate in the wildlife violator compact.

Contrary to assertions about juveniles being treated differently for criminal trespass pursuant to the Juvenile Correction Act (Title 20, Chapter 5), that act does not apply to juveniles who commit a crime under Title 36. However, note that lines 1-21 on page 14 of current law that describes the allowance for a magistrate to have discretion for license revocation for a first-time hunting violation offender under the age of 21.

I want to point out that this bill upholds navigable stream public access rights, found in 36-1601.

Thank you for the opportunity to offer our understanding of how the criminal act of trespass for hunters, anglers, and trappers would be defined, noticed, enforced and fined pursuant to House Bill 658 compared to existing statute, as well as how expectations of Fish and Game responsibilities would change.

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
9:00 A.M.
Room WW55
Thursday, March 22, 2018

SUBJECT	DESCRIPTION	PRESENTER
Minutes Approval	Approval of Minutes, March 7, 2018	Senator Vick
Minutes Approval	Approval of Minutes, March 12, 2018	Senator Johnson
Minutes Approval	Approval of Minutes, March 14, 2018	Vice Chairman Siddoway
H 718	Stockwater rights	Senator Harris

NOTE: CHANGE OF TIME

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 Siddoway
Sen Brackett
Sen Heider
Sen Vick

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: Thursday, March 22, 2018

TIME: 9:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Siddoway, Senators Brackett, Heider, Vick, 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 9 A.M.

MINUTES APPROVAL: **Senator Vick** moved to approve the Minutes of March 7, 2018. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Johnson** moved to approve the Minutes of March 12, 2018. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Vice Chairman Siddoway** moved to approve the Minutes of March 14, 2018. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

H 718 **Senator Harris** presented **H 718** which pertains to stockwater rights. **Senator Harris** stated the changes made from the previous bill, **H 603**, are found on page 2, lines 23 and 24. It states, "Following the ninety (90) day period as provided in subsection (1) of this section, the director shall, upon approval by the governor, ...". **Senator Harris** said this will give the State more time to work with the federal government to address possible forfeiture of stockwater rights.

MOTION: **Vice Chairman Siddoway** moved to send **H 718** to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion.

DISCUSSION: **Vice Chairman Siddoway** asked Gary Spackman, Director, Idaho Department of Water Resources (IDWR) what he thought the timeline might be for the federal government to respond. **Director Spackman** said there have been numerous discussions about this stockwater legislation. He stated he argued for more flexibility when **H 603** was heard by the House Resource and Conservation Committee. Without flexibility, **Director Spackman** said he could not craft the show cause order that would withstand the judicial challenge. Two of the flexible provisions are: 1.) the removal of the emergency clause and 2.) the granting to the governor the ability to determine when the show cause order is issued. **Director Spackman** stated these provisions will allow the State to move forward cooperatively with the federal agencies.

WRITTEN TESTIMONY: Written testimony was submitted by Bryan Searle, President, Idaho Farm Bureau Federation, in support of **H 718**. The letter states the intent of **H 718** is to ensure that no one is above Idaho law as it pertains to water, including the federal government. This will help clear the way for the legitimate users of the water to apply for and receive stockwater rights in their name on these federally-administered lands.

VOICE VOTE: **Chairman Bair** said a motion had been made and with no further discussion, he asked for a vote on the motion. The motion carried by **voice vote**. Senator Harris will be the floor sponsor.

PAGE RECOGNITION: **Chairman Bair** thanked the Committee's Page, Jessie Page, for her assistance to the Committee during this Legislative Session. He presented her with a letter of recommendation, signed by the Committee members, and a monetary gift to be applied to her future education. **Chairman Bair** also presented Jessie with a decorated cake that had a school-room theme, made by Committee secretary, Juanita.

Chairman Bair asked Jessie to briefly describe her thoughts about being a Page. **Jessie** replied the experience has broaden her horizons and given her a new outlook on how the legislative process works. She stated she aspires to become an elementary school teacher or, perhaps, go into public service.

Chairman Bair also recognized Juanita for her dedication to the Committee.

ADJOURNED: There being no further business, **Chairman Bair** adjourned the meeting at 9:20 a.m.

Senator Bair
Chair

Juanita Budell
Secretary