

AGENDA  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**  
**1:30 P.M.**  
**Room WW55**  
**Monday, January 14, 2019**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<b>Introductions</b>	Committee Member Introductions  Welcome new Page Drew Bingham of Nampa	Chairman Lee Heider
<a href="#"><u>RS26431</u></a>	<b>Proposed Legislative Amendment clarifying language in the statute</b>	Gary Spackman Idaho Department of Water Resources
<b>Docket No.</b> <a href="#"><u>58-0102-1703</u></a> Pending Rule	<b>Water Quality Standards</b> Designate domestic water supply as beneficial use	Barry Burnell Water Quality Division Administrator
<b>Docket No.</b> <a href="#"><u>58-0102-1802</u></a> Pending Rule	<b>Water Quality Standards</b> Revise recreational use criteria and aquatic life criteria for three toxics	Barry Burnell Water Quality Division Administrator
<b>Docket No.</b> <a href="#"><u>58-0102-1803</u></a> Pending Rule	<b>Water Quality Standards</b> Allow de minimis additions of heat in waters that exceed applicable temperature criteria	Barry Burnell Water Quality Division Administrator
<b>Docket No.</b> <a href="#"><u>58-0125-1801</u></a> Pending Rule	<b>Water Quality Division</b> Rules Regulating the Idaho Pollutant Discharge Elimination System Correct inconsistencies relating to administrative provisions and incorporated by reference of federal regulations	Barry Burnell Water Quality Division Administrator
<b>Docket No.</b> <a href="#"><u>58-0124-1801</u></a> Pending Rule	<b>Waste Management</b> Standards and Procedures for Application of Risk-Based Corrective Action at Petroleum Release Sites <i>Updated toxicity criteria</i> <b>Negotiated Rulemaking</b>	Michael McCurdy Waste Management and Remediation 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 Heider

Vice Chairman Brackett

Sen Bair

Sen Johnson

Sen Mortimer

Sen Patrick

Sen Guthrie

Sen Stennett

Sen Jordan

COMMITTEE SECRETARY

Jamie Skrypkun

Room: WW37

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MINUTES  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**

**DATE:** Monday, January 14, 2019

**TIME:** 1:30 P.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer, Patrick, Guthrie, 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 Heider** convened the Senate Resources and Environment Committee (Committee) at 1:32 p.m.

**INTRODUCTION OF PAGE:** **Chairman Heider** introduced Committee Page Drew Bingham, of Nampa, Idaho. **Mr. Bingham** spoke briefly about his interests and future goals.

**RS 26431** **Proposed Legislative Amendment clarifying language in the statute.** **Gary Spackman**, Director, Idaho Department of Water Resources (IDWR), presented background for this proposed amendment. He stated that the proposed amendment eliminates language that created an expectation of a cost-share from the State of Idaho for owners of artesian wells which have been ordered repaired or plugged. **Director Spackman** indicated that the IDWR has the authority and was directed to inventory the artesian wells in the state. They work with owners of those wells to control any free flow in an effort to protect the artesian pressure.

**Director Spackman** advised that there was never any money appropriated for a cost-share and the time period that was specified in the statute has long since expired. IDWR is again in the process of inventorying artesian wells in the state and feels that this cost-sharing language confuses the owners.

**DISCUSSION:** **Senator Bair** asked why an artesian well would be closed. **Director Spackman** discussed a variety of reasons why these wells may be free flowing.

**Senator Brackett** and **Director Spackman** discussed the number of wells that IDWR is inventorying and the level of problems found. **Senator Brackett** then stated he would like to hear the bill, but does have some concerns.

**MOTION:** **Senator Brackett** moved to send **RS 26431** to print. **Senator Stennett** seconded the motion.

**DISCUSSION:** **Senator Guthrie** commented that at a further hearing, he would be interested in knowing what the cost-sharing model was on the work that has already been done on wells.

**VOICE VOTE:** The motion to send **RS 26431** to print passed by **voice vote**.

**DOCKET NO. 58-0102-1703** **Water Quality Standards. Barry Burnell** Water Quality Division Administrator, Department of Environmental Quality (DEQ), indicated this rulemaking was initiated to designate domestic water supply as a beneficial use in 27 water bodies where the Safe Drinking Water Information system indicates an active surface water intake or ground water is under direct influence of surface water and where domestic water supply is not currently designated. **Mr. Burnell** discussed details of this rulemaking (see attachment 1) and requested the Committee approve **Docket No. 58-0102-1703**.

**DISCUSSION:** **Senator Stennett** inquired if anything of concern came out of the public review. **Mr. Burnell** advised it was recommended that some text in the rule be put into table format and that recommendation was adopted.

**MOTION:** **Senator Bair** moved to approve **Docket No. 58-0102-1703**. **Senator Brackett** seconded the motion. The motion passed by **voice vote**.

**DOCKET NO. 58-0102-1802** **Water Quality Standards. Mr. Burnell** advised the purpose of this rulemaking is to adopt criteria to protect aquatic life in surface waters from three toxic substances: acrolein, carbaryl, and diazinon; and to adopt an alternate fecal indicator bacteria criteria. He discussed details of this rulemaking (see attachment 2), advised there are no controversial issues with this rule, and requested the Committee approve **Docket No. 58-0102-1802**.

**DISCUSSION:** **Senator Bair** commented that he was not comfortable with the changes involving classification of primary and secondary contact for recreation, noting that a secondary contact (wading) has been included with waters that are designated for primary contact recreation (swimming), making the rule more stringent. He asked that **Mr. Burnell** explain the rationale for doing this. **Mr. Burnell** indicated that in order for a person to get into the water to swim, they might actually have to wade in first.

In response to further questions from Senator Bair regarding the differences in the 576, 126, and 35 counts that are listed in the rule, **Mr. Burnell** explained that at this time the E. coli standard is 126 counts per 100 mL and that does not change between primary contact and secondary contact. The 576 reference is not a criteria, but rather a trigger value for secondary contact recreation to do additional monitoring. The E. coli standard of 126 is equivalent to the enterococci standard of 35 counts per 100 mL. The enterococci number is lower because it has a direct relationship to gastrointestinal illness, whereas E. coli has an indirect relationship.

In response to a question from Senator Guthrie, **Mr. Burnell** also explained that just as the 576 reference is a trigger value for secondary contact recreation to do additional monitoring, the 406 reference is a threshold value to trigger further testing for the primary contact recreation.

**TESTIMONY:** **Lynn Tominaga**, Executive Director of Idaho Groundwater Appropriators, spoke in opposition to **Docket No. 58-0102-1802** as it is presently written (See attachment 3). He speculated this rule change will increase the number of violations for recreational use and if one part of a water body is in violation for the designated use, the entire water segment is then designated as impaired. This can create a problem for permit holders even though they are in compliance with their discharges.

**DISCUSSION:** **Senator Stennett** expressed concern that testing in high-use recreational areas should be done more often and if there is noncompliance, the recreational component should be advised to stay away until it clears. **Mr. Tominaga** stated that he would like to see the DEQ work with the health departments to find a better way of issuing a health warning instead of a recreational use designation of noncompliance.

**Senator Stennett** indicated testing earlier, at 30 days as opposed to 90 days, and working with the health departments might ward off a potential health hazard for recreational users. She noted she did not see how that might affect other users. **Mr. Tominaga** responded that he did not get the feeling through the negotiated rulemaking that the DEQ was working with the health districts to set up a standard. He felt the health districts are relying upon the State to do that. He voiced concern that when you have a violation and it is not the cities discharging into the river system who are in violation, but other activities which include wildlife, etc., the DEQ may try to make the cities do something to overcome that noncompliance standard in those areas.

**Chairman Heider** requested that Mr. Brunell address the issues raised by committee members.

**Mr. Burnell** indicated that there seems to be a misconception about the time period to evaluate bacteria and he wanted to correct that. He stated that DEQ has never had a 90-day period to evaluate bacteria and surface water, it has always been 30 days. He further advised that DEQ does not rely on a single sample to determine noncompliance. If they have a test value that is greater than the threshold value then they do more monitoring. They would then take five samples within a 30-day period, make a calculation on that, and if it is over the standard 126 counts per 100 mL they go through a public notice process for that water body. DEQ works with the health districts on postings at access points to water bodies that are in noncompliance. The role that the health districts play is communicating to the public the epidemiological information about getting ill at a particular water body.

**Mr. Burnell** responded to Mr. Tominaga's question regarding how bacteria limits are set in permits; he advised this is at the discharge point. **Mr. Burnell** stated that the municipal discharger does not need to worry about whatever else is going on in the water body. They need to treat their discharge to the point where it is less than 126 counts per 100 mL.

**Senator Mortimer** thanked Mr. Brunell for these clarifications and asked him to confirm his understanding that this rule applies not necessarily to a large body of water, but to the discharge of waters going into the large body of water. **Mr. Burnell** confirmed that this is correct when looking at a permitted discharge. He advised this rule does cover larger water bodies for bacteria standard. If DEQ is monitoring a water body, has done the five tests over 30 days, and that water body is exceeding the 126 counts per 100 mL, that would be a criteria violation. **Senator Mortimer** then asked what the DEQ does if the body of water is noncompliant but all of the permit holders are in compliance. **Mr. Burnell** advised that the process is to go forward and develop a Total Maximum Daily Load plan which is based on additional monitoring of the water body. If the cities are in compliance with their discharge permits, then the excess bacteria in the water body would most likely be coming from an agricultural source and there is no requirement in the total maximum daily loads for agricultural sources to reduce. It is a voluntary program.

**Senator Johnson** commented that it appears the proposed rule is less restrictive than the current rule for swimming beaches. **Mr. Burnell** confirmed that overall that is correct since the rule changes the threshold for single sample monitoring from 235 to 410.

**TESTIMONY:** **Jess Harrison**, Executive Director of the Association of Idaho Cities (AIC), spoke in opposition to **Docket No. 58-0102-1802**. She indicated that Idaho cities have a significant interest in the development of programs and regulations related to the protection of human and aquatic life. AIC is concerned with the proposed elimination of the paragraph that currently does not allow single sample values as a standard for water quality violation for both primary and secondary contact recreation and permit violation for any wastewater facility discharging surface water (see attachment 4).

**Senator Guthrie** commented that it appears there has been good collaboration on this rule by the concerned parties, but it looks like we are not quite there yet. He wondered if there is some consistent language that would be acceptable to all. **Ms. Harrison** advised that DEQ has been responsive to AIC's comments, but they believe the rule still needs some work.

**Senator Jordan** asked if the concern being expressed by the cities harkens back to an old phosphorous debate. **Ms Harrison** noted that she was not with AIC during the previous phosphorous issue and could not comment on that.

**Chairman Heider** asked Mr. Burnell to respond to the comments of Miss Harrison. **Mr. Burnell** advised that, contrary to Miss Harrison's comments, one sample would not cause a water body to be put out of compliance, and 90 days for surface water to be considered noncompliant would be a change from the rule. He stated with respect to the total phosphorous and E. coli, the dischargers are going to have an end-of-pipe limit; that is not going to change.

**Senator Bair** expressed concerns regarding how this rule might affect future years. He asked what DEQ would do if a water body becomes impaired, continues to get worse, and there are no permit holders to blame because they are in compliance at the end of their pipe. **Mr. Burnell** indicated in that scenario, DEQ would work with the management agency that has oversight of that source to implement best management practices by working with the landowners to voluntarily reduce the bacteria load.

**Senator Bair** asked if DEQ could identify a contributor along an 80-mile canal that is causing a water body to become impaired as the canal enters into that water body. **Mr. Brunell** advised that DEQ would have to ask either Idaho Water Resources or Idaho Department of Agriculture to work with the canal company to identify the problem. **Senator Bair** also asked if DEQ currently has in any of their regulations anything to do with controlling discharge from agriculture. **Mr. Burnell** indicated they do not.

**Senator Stennett** stated it is her understanding that the E.coli standard has not changed; nothing is punitive, it is voluntary, and that she would prefer to see more sampling than less to help make sure that we can monitor a source for public health.

**MOTION:** **Senator Stennett** moved to approve **Docket No. 58-0102-1802**. **Senator Jordan** seconded the motion. The motion failed.

**DOCKET NO. 58-0102-1803** **Water Quality Standards.** **Mr. Burnell** stated that this rulemaking point source discharges to add small amounts (de minimus) of heat (0.3°C) to surface waters when the surface water exceeds the applicable temperature criteria (see attachment 5).

**MOTION:** **Senator Guthrie** moved to approve **Docket No. 58-0102-1803**. **Senator Patrick** seconded the motion. The motion passed by **voice vote**.

**DOCKET NO. 58-0125-1801** **Water Quality Division.** **Mr. Burnell** advised that this rulemaking has been initiated to correct inconsistencies relating to administrative provisions and incorporation by reference of federal regulations (see attachment 6).

**TESTIMONY:** **Jonathan Oppenheimer**, Government Relations Director with the Idaho Conservation League (ICL) stated that he simply wanted to clarify for the Committee that ICL supports Idaho having primacy over the National Pollutant Discharge Elimination System (NPDES) program being transferred to the State of Idaho. However, ICL did file a legal challenge relative to that because of some concerns over the lack of consistency with some of the requirements under the Clean Water Act (see attachment 7).

**DISCUSSION:** **Senator Stennett** asked Mr. Oppenheimer why he felt this is falling short on the Clean Water Act. **Mr. Oppenheimer** listed several issues. **Senator Jordan** stated that she appreciated the clarification of the purpose for filing the challenge and then asked if Mr. Oppenheimer was expressing a particular problem with this rule. **Mr. Oppenheimer** stated he wanted to clarify the reason for filing the challenge.

**MOTION:** **Senator Bair** moved to approve **Docket No. 58-0125-1801**. **Senator Guthrie** seconded the motion. The motion passed by **voice vote**.

**ADJOURNED:** **Chairman Heider** announced that due to time constraints, the final item on the agenda, **Docket No. 58-0124-1801**, will be rescheduled for the next Committee meeting, and adjourned the meeting at 2:58 p.m.

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Senator Heider  
Chair

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Tyler Brock  
Secretary

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Lois Bencken  
Assistant Secretary

**Idaho Water Quality Standard Rule**  
**Designates Domestic Water Supply as a Beneficial Use for 27 Waterbodies**  
**Docket No. 58-0102-1703**  
**<< Senate Tab 1 Page 142>>**

**1. Why was this rulemaking necessary?**

- This rule making was initiated to designate domestic water supply as a beneficial use in 27 water bodies where the Safe Drinking Water Information System indicates an active surface water intake or ground water is under direct influence of surface water and where domestic water supply is not currently designated.
- Subsection 100.03.a. is revised to clarify that the domestic water supply use is appropriate for use as untreated raw water for public drinking water supplies. (pg 145)
- In Sections 110 through 160, Domestic Water Supply (DWS) designations have been added to the “Other” column for 27 water body units where Domestic Water Supply is an existing use. (pg 146-202)
- Subsection 252.01 is revised by deleting and replacing Subsections 252.01.a and b.
  - 01.a is unnecessary as it is redundant with the Idaho Rules for Public Drinking Water Systems, IDAPA 58.01.08. and
  - 01.b includes the outdated table that is replaced by the designations in sections 110-160 (pg 205-206)
- Subsection 252.01.a. is replaced with a note that the Fish + Water human health criteria apply to Domestic Water Supply designated waters as a clarification. (pg 208)
- Subsection 252.01.b is replaced with an amended turbidity table to protect drinking water intakes. (pg 208)

**2. What opportunities did we provide for public involvement?**

- The draft Rule was published in the December 2017 Administrative Bulletin and was negotiated on December 19, 2017, and April 24, 2018.
- DEQ provided a 30 day public comment period after publication of the proposed rule in the administrative bulletin August 1, 2018.
- DEQ’s Board approved the rule at the November Board meeting.

**3. What is going to be the estimated cost to the regulated community, etc?**

- No additional costs to the regulated community.

**4. What are the controversial issues or contentious elements of the rule?**

- There are no controversial issues with this rule.

**5. Stringency issue?**

- This pending rule regulates an activity currently regulated by the federal government; the pending rule is not broader in scope nor more stringent than federal regulations.

DEQ requests the Committee recommend approval of the rule docket 58-0102-1703. This concludes my presentation. I’ll stand for questions.

**Idaho Water Quality Standard Rule  
Adopts Aquatic Life Criteria for 3 Toxics and  
Adopts an Alternate Fecal Indicator Bacteria Criteria  
Docket No. 58-0102-1802  
<< Senate Tab 2 Page 209>>**

**1. Why was this rulemaking necessary?**

- The purpose of this rulemaking is to adopt criteria to protect aquatic life in surface waters from three toxic substances and to adopt an alternate fecal indicator bacteria criteria.
- 3 Toxics are:
  - acrolein (aquatic herbicide - EPA 304a recommended criteria in 2009 = 3 ug/L)
  - carbaryl (pesticide- EPA 304a recommended criteria in 2012 = 2.1 ug/L)
  - diazinon (pesticide- EPA 304a recommended criteria in 2005 = 0.17 ug/L) (pg 215)
- The alternate fecal indicator bacteria proposed is enterococci. (pg 229)
  - E. coli is the current bacteria standard (126 counts per 100 mL)
  - Enterococci criteria is proposed to be 35 counts per 100 mL
    - The relationship of enterococci concentration to human illnesses is direct, whereas E. coli criteria is derived based on its relationship to enterococci.
    - Additionally, enterococci is proposed to be an alternate fecal indicator bacteria because it is anticipated to have longer holding times for analysis than E. coli. This provides for remote sampling locations to get the bacteria samples into the lab in time to run the analysis within standard laboratory methods.
- One additional change is to include secondary contact recreation (wading) in with waters that are designated for primary contact recreation (swimming). (pg 212)
- This rule should benefit point source dischargers to surface waters by the selection of the bacteria criteria in there IPDES application that suits there needs.

**2. What opportunities did we provide for public involvement?**

- The draft Rule was published in the May 2018 Administrative Bulletin and was negotiated on May 31, and June 28, 2018.
- DEQ provided a 30 day public comment period after publication of the proposed rule in the administrative bulletin September 5, 2018.
- DEQ's Board approved the rule at the November Board meeting.

**3. What is going to be the estimated cost to the regulated community, etc?**

- No additional costs to the regulated community.

**4. What are the controversial issues or contentious elements of the rule?**

- There are no controversial issues with this rule.

**5. Stringency issue?**

- This pending rule regulates an activity currently regulated by the federal government; the pending rule is not broader in scope nor more stringent than federal regulations.

DEQ requests the Committee recommend approval of the rule docket 58-0102-1802. This concludes my presentation. I'll stand for questions.

Comments for House and Senate Committees  
58-0102-1802 Recreational Use Designation  
Idaho Department of Environmental Quality Board  
January 14, 2019

My name is Lynn Tominaga, I am here representing Idaho Groundwater Appropriators, (IGWA) we are an association of Groundwater Districts, Irrigation Districts, cities, industrial users who use groundwater for their lively hood.

IGWA opposes document number 58-0102-1802 as it is presently written and hopes the committee will hold this rule in abeyance until Idaho Department Environment Quality can develop reliable data which will resolve the for which the rule is being developed.

**History.** This rule was originally developed in the 1990's to comply with the Federal Clean Water Act by designating beneficial uses of water bodies in Idaho as swimmable, drinkable, or fishable. At that time Idaho Department of Environmental Quality (IDEQ) did not always have sufficient data to defend its designations. When there was insufficient data available, IDEQ's default was to designate a water body as drinkable, swimmable, or fishable (i.e. recreational designation). As a result there are water bodies in Idaho that should never have carried that designation. When a water body carries a recreational designation, that designation includes both primary and secondary contact monitoring requirements. Primary contact is defined as water that could enter the eyes, ears, or nose if an individual is fully immersed in that water. Secondary contact applies to water where an individual could wade without becoming ill (not full immersion). There was legislative concern back then the state of Idaho thru IDEQ was overstepping its boundaries in designating water and water bodies with little or no data to defend those designated uses. Thus, IDEQ created defaults-based assumptions and narrative criteria. This was in response EPA's concerns about the state's designation of water bodies with little or no data and only using assumptions and narrative criteria. To address EPA's concern, IDEQ began a program call "beneficial use reconnaissance program" (BURP). IDEQ developed teams of technical staff who spent six weeks per site and did protocols on water bodies which was a snapshot of what the basic fauna and flora was within a water basin which helped identify the beneficial uses. BURP's development seemed to satisfy EPA's concern that this method did provide some necessary data to meet the intent of the Clean Water Act. IDEQ then every few years had these technical teams go back to the same locations and timeframe and repeat the same protocols to monitor trends to see if those beneficial uses had changed.

Thus, the primary and secondary contact criteria which outlines the number of bacteria colonies in a liter of water. This number of bacteria colonies (543) are triggered when high bacteria colonies are encountered, and more testing was necessary for both primary (421 colonies) and secondary contact of water. Primary is defined as water that could enter the eyes, ears, or nose of individual who was fully emerged in the water while secondary contact was water you could wade in and not become sick. In 2006, the end result was that since the public didn't understand those differences and there are always bacteria in everything, IDEQ decided that the use of e-coli would become the standard for both, but the *triggers and additional monitoring would be based on the number of bacteria colonies.*

Since that time, the technology has gotten better and more accurate but the standards for people getting sick have not changed. There are three issues this rule is trying to resolve in this negotiated rule: 1) When public swimming or beaches located in open water should be closed and pose a threat to human health, i.e. Lucky Peak beach or Eagle Island State Park; 2) When there might be mechanical

failures of sewer treatment facilities which could pose a threat to the public health; and 3) Designating beneficial uses for Idaho water bodies where there is little or no recreational use and data available.

The real concern is what will IDEQ require them to come into compliance with little or no data being developed by IDEQ and relying upon a small sample size in putting that segment of the river as in noncompliance of water quality standards for multiply years. What will IDEQ do if Region X Environmental Protection Agency (ESA) asks what the state will do to comply with Water Quality Standards if there are multiply years of noncompliance? The answer is to make the NPDES permit holders reduce their discharges to meet change noncompliance standards for bacteria.

The largest concern smaller cities have is that migratory ducks and geese are breeding and raising young ducklings and goslings in many of these water body tributaries as well as domestic livestock are causing increased e-coli counts in conjunction with high ambient temperatures promoting e-coli growth. It is only during the later summer months where this occurs, but will these smaller waste water systems be required to do change their discharge permits when they come up for renewal every five years, and since they have no control over wildlife, livestock, or other factors outside their control who will reduce e-coli?

The real issue change for those concerned about recreational use designation is that if one part of the of a water body is in violation for the designed use the entire water segment is then designed as impaired. This can create a problem for those permit holders. It was thought that when Idaho gained primacy over (NPDES) that the state would have more flexibility when a violation of a beneficial use occurred. It is now being speculated that this will increase the number of violations for recreational use and thus the segment water body will be in violation of the recreational use designation.

It is my hope that the committee will hold this rule or as an alternative is to delete the single sample as the trigger for additional testing, but have multiply testing to trigger the additional testing of five samples for a 30 day period. The existing rules allows for 90 days of testing. Thanks, you for this opportunity to express our concerns.



**Association of Idaho Cities**  
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October 5, 2018

Ms. Paula Wilson, Administrative Rules Coordinator  
Idaho Department of Environmental Quality  
1410 N Hilton  
Boise, ID 83706

Re: Docket No. 58-0102-1802 Revision of Recreational Use and Criteria - Comments on  
September Bulletin Published Rules

Dear Ms. Wilson/Paula,

The Association of Idaho Cities (AIC) serves to advance the interests of the cities of Idaho through legislative advocacy, technical assistance, training, and research. Idaho cities play important roles as primary implementers of the Clean Water Act, representing over 70% of all Idaho residents. These stakeholders have a significant interest in the development of water quality standards, rules, and guidance related to the protection of human and aquatic life. AIC is actively engaged in water quality issues through the work of our Environment Committee, chaired by Boise City Council President Pro Tem Elaine Clegg and our Municipal Water Users Group, chaired by Jerome City Council President Bob Culver.

The Idaho Department of Environmental Quality (DEQ) is proposing to revise recreational uses and criteria. Our cities take the protection of public health seriously. Our cities recognize the value of valid data to protect our citizens and supports the use of the proposed single "statistical threshold value" to trigger swimming beach closures - only. AIC also recognizes the value of valid, and adequate, data when Idaho develops beneficial use impairment designations. With this in mind, AIC urges the DEQ to:

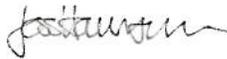
- Work with the Idaho Health Districts to provide and maintain high-quality, rapid bacteria testing equipment so that technical staff can quickly respond to perceived or real public health risks within our communities;
- Use the recommended excursion rate of 10% based on 90<sup>th</sup> percentile "statistical threshold value" (STV) for freshwater swimming beach notifications, as recommended in EPA's 2012 Recreational Water Quality Criteria (RWQC) update;
- Revise the rule language to not allow the department to make beneficial use impairment determinations based on a single sample STV as proposed;
- Clarify that a 30-day geomean may apply to effluent limits, but that a 90-day geomean would apply to receiving water beneficial use determinations, as the States of Oregon and Washington have;

- Apply a 25% exceedance of a STV over a 90-day geometric mean of 126 C/100 ml for e. coli and a 25% exceedance of a STV over a 90-day geometric mean of 30 enterococci in determining beneficial use support determinations;<sup>1</sup> and,
- Retain the rule language that provides for the opportunity to collect additional bacteria data in order to assure our Idaho communities that effluent limit violations and receiving water impaired beneficial use determinations are valid.

AIC asserts that the application of a 90-day geomean vs. a 30-day geomean for water body assessments is the most common sense path forward because (1) Idaho does not contain any coastal, marine swimming beaches, and (2) the use of a 90-day geometric mean is fully consistent with the October 30, 2015 communication from EPA's Standards and Health Protection Division to the Water Quality Standards Coordinators: Narrative Justification for Longer Duration Period for Recreational Water Quality Criteria (attached).

AIC urges DEQ and the Idaho Water Quality Board to revise the published rule language to be consistent with these comments. AIC appreciates the opportunity to comment on the revision of recreational use designations and criteria and looks forward to working with our State and other partners in these efforts. Should you have questions concerning our attached comments, please feel free to contact me.

Sincerely,



Jess Harrison, Executive Director

cc: Elaine Clegg, AIC Environment Committee Chair  
Bob Culver, AIC Municipal Water Users Group Chair  
Johanna Bell, AIC Policy Analyst  
Tom Dupuis, AIC Environmental Consultant  
Idaho Water Quality Board Members

## Attachment

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<sup>1</sup> In the development of the 2012 Guidance EPA proposed the 25% STV exceedance and the 90-day averaging period in light of the case studies and data collection results. It was only during the final month of the 2012 Guidance development that the EPA adopted an unsupported policy position of a 10% STV exceedance frequency over any 30-day period. Personal communication by Adrienne Nemura, Senior Principal, Geosyntec Consultants.

## Narrative Justification for Longer Duration Period for Recreational Water Quality Criteria

It is important for states to adopt magnitude, duration, and frequency components of criteria to protect designated uses. Therefore, in EPA's *Recreational Water Quality Criteria* document (820-F-12-058) EPA recommended a duration of 30 days for fecal indicator bacteria, which "allows for the detection of transient fluctuations in water quality in a timely manner." The Agency also recommended that, for any 30 day duration period, the geometric mean (GM) criterion magnitude should not be exceeded at all nor should the "statistical threshold value" (or "STV") be exceeded more than ten percent of the time.

The duration component of the criterion represents a critical exposure period during which the distribution of fecal indicator bacteria values should provide adequate protection for a population of recreational water users. During this critical exposure period, there should not be numerous events or lengthy periods of time where very high levels of fecal indicator bacteria occur, as this could lead to unacceptably high risk of illnesses. The Agency is concerned that a very long critical exposure period could allow an excessive number of high exposure events over a shorter term to be "averaged out" over the long-term. As expressed in the criteria document, EPA considers 30 days to be an optimal duration period to capture both short-term and long-term variability of exposure conditions to protect recreational uses. Based on factors described below, the Agency also considers a duration of up to 90 days acceptable.

EPA considers a duration of up to 90 days to represent an acceptable critical exposure period to protect recreational uses for the following reasons. The epidemiological studies used to develop the 2012 criteria recommendations were conducted over exposure periods of up to 90 days, thus making durations up to 90 days scientifically defensible. In addition, analysis of data from waters that experience short-term variability, or "transient fluctuations," from periodic high concentration releases exhibit very similar criteria attainment assessment outcomes using a 30 day or 90 day assessment period, when both the GM and STV criteria components are evaluated. As an example, EPA analyzed monitoring data from locations in New Jersey impacted by CSO discharges (an example of a "transient fluctuation"). EPA reviewed 17,538 records from 703 monitoring stations collected from 1996-2011. EPA combined the data into 2,890 monitoring station and year sets and assessed those combinations for attainment of the GM and STV over fixed 30 day periods and fixed 90 day periods. The STV criterion component appears to be a significant factor in preventing significant levels of FIB to be "averaged out" over a 90 day assessment period. Although using the GM alone resulted in an additional 106 station-years in non-attainment, when the STV was factored in, the number of station-years in non-attainment decreased to 62. Looking at station-year combinations (representing assessment in a "timely manner"), there is an overall 98% rate of agreement between results using 30 day and 90 day assessment periods, and most cases of disagreement are the result of a single measurement exceeding a 30-day GM but not exceeding a 30-day STV. The small percentage of outcomes where only a 30 day assessment period indicate non-attainment are predominantly a result of a single monthly measurement that lie between the GM and STV over the period of record, and may thus have a low probability of reflecting excessive risk of illness. On a station level (considering multiple years of data), 75% are in non-attainment using a

Standards & Health Protection Division, October 2015

90-day assessment period and 76% are in non-attainment using a 30-day assessment period, representing a 99% rate of agreement.

It is this combination of field study duration and subsequent data analysis that makes up to 90 days an acceptable duration period. EPA does not have a basis to support adoption of a duration period that exceeds 90 days.

Adoption of EPA's recommended criteria with a 30 day duration period, combined with frequent monitoring (e.g., more than once a month), provides the best means of providing protection and ensuring that assessment results accurately reflect attainment status.

**Idaho Water Quality Standard Rule**  
**Allows Point Sources to Add Small Amounts (de minimus) of Heat to Surface Waters**  
**Docket No. 58-0102-1803**  
**<< Senate Tab 3 Page 231>>**

**1. Why was this rulemaking necessary?**

- The purpose of this rulemaking is to allow point source discharges to add small amounts (de minimus) of heat (0.3°C) to surface waters, when the surface water exceeds the applicable temperature criteria. This rule recognizes a permitting practice employed by EPA that Idaho IPDES program would like to implement. This rule should benefit point source dischargers to surface waters. (Page 234)
- The 0.3°C allowance is a recommendation from EPA. “A State might choose to include a de minimus increase allowance as a way for accounting for monitoring measurement error and tolerating negligible human impacts.” (EPA 2003 R10 guidance for PNW states Temperature Water Quality Standards). Additionally, 0.3°C is within the acceptable National Institute of Standards and Technology (NIST) uncertainty range for thermometers in water.

**2. What opportunities did we provide for public involvement?**

- The draft Rule was published in the July 2018 Administrative Bulletin and was negotiated on July 20, 2018.
- DEQ provided a 30 day public comment period after publication of the proposed rule in the administrative bulletin September 5, 2018.
- DEQ’s Board approved the rule at the November Board meeting.

**3. What is going to be the estimated cost to the regulated community, etc?**

- No additional costs to the regulated community.

**4. What are the controversial issues or contentious elements of the rule?**

- There are no controversial issues with this rule.

**5. Stringency issue?**

- This pending rule regulates an activity currently regulated by the federal government; the pending rule is not broader in scope nor more stringent than federal regulations.

DEQ requests the Committee recommend approval of the rule docket 58-0102-1803. This concludes my presentation. I’ll stand for questions.

**Idaho Pollutant Discharge Elimination System (IPDES) Program Rule  
Corrects 2 Errors in the Existing Rule  
Conflicting Appeal Language and Incorporation by Reference Error  
Docket No. 58-0125-1801  
<< Senate Tab 4 Page 246>>**

**1. Why was this rulemaking necessary?**

- The purpose of this rulemaking is to ensure that the Rules Regulating the Idaho Pollutant Discharge Elimination System Program (IPDES), IDAPA 58.01.25, remain consistent with federal regulations. This was a temporary rule – such that EPA could approve delegating the National program to the state under the IPDES rules. Delegation occurred on June 5, 2018 and DEQ took over the municipal portion of the IPDES program July 1, 2018.

**Incorporation By Reference Error**

- The federal regulations that were incorporated by reference for the legislatively approved 2018 rule included a transcription error. That error omitted a federal rule (40CFR403.10) that addresses state pretreatment programs. This rule corrects the transcription error in section 003.02.y (page 250).

**Appeal Language Error**

- DEQ revised Section 004 Administrative Provisions because the 2016 negotiated rule developed Appeal Language in Section 204 and it defines the IPDES appeal process. (page 251)

**2. What opportunities did we provide for public involvement?**

- Temporary Rule approved by the DEQ Board at their May meeting so that the EPA could complete the Program Delegation to Idaho by July 1, 2018. Delegation occurred on June 5, 2018.
- Do to the nature of the rule no negotiated rulemaking meetings were held.
- DEQ provided a 30 day public comment period after publication of the proposed rule in the administrative bulletin June 6, 2018.
- No Public Comments were received.

**3. What is going to be the estimated cost to the regulated community, etc?**

- No additional costs to the regulated community.

**4. What are the controversial issues or contentious elements of the rule?**

- There are no controversial issues with this rule.

**5. Stringency issue?**

- This pending rule regulates an activity currently regulated by the federal government; the pending rule is not broader in scope nor more stringent than federal regulations.

DEQ requests the Committee recommend approval of the rule docket 58-0125-1801. This concludes my presentation. I'll stand for questions.



# IDAHO CONSERVATION LEAGUE

208.345.6933 • PO Box 844, Boise, ID 83702 • [www.idahoconservation.org](http://www.idahoconservation.org)

**You've got questions about ICL's position on Idaho's efforts to gain primacy of Clean Water Act permitting. . .**

**. . . We've got answers.**

## **Has the Idaho Conservation League filed a legal challenge to Idaho's operation of the permitting program related to pollution discharges from facilities?**

Yes. Pursuant to the Clean Water Act, we have filed a "Petition for Review" with the 9<sup>th</sup> Circuit Court of Appeals. We are asking the court to review the Environmental Protection Agency's (EPA) decision granting approval of the "Application by the State of Idaho to Administer the National Pollutant Discharge Elimination System and Electronic Reporting."

## **In the past, hasn't ICL generally supported Idaho having 'primacy' over the National Pollutant Discharge Elimination System (NPDES) program?**

Yes, and we still do. The Clean Water Act is crafted in such a way that states can be in charge of pollution discharge permitting program in their state. Most states run their own programs. In Idaho, since passage of the Clean Water Act in 1972, the EPA has administered the discharge permitting program. Idaho has been one of only a handful of states that did not have primacy, and it's timely that Idaho seek to administer the permitting program within our state.

## **Is there an advantage if Idaho administered this program?**

Yes. The EPA has not had the resources necessary to keep up with the permitting needs of Idaho and there is a significant backlog of permit applications awaiting action. As a result, many facilities in Idaho are operating under permits that have expired. These out-of-date permits do not reflect current environmental conditions and are not necessarily as protective as new, modern permits would be. Also, the EPA permitting backlog means that it can be very difficult for a new facility that wants to open in Idaho to receive a discharge permit. The wait can be many years.

If Idaho takes over the permitting program, it is likely that Idaho will be in a better position to address this backlog and expedite the processing of permit applications.

## **So, if there are advantages, why is ICL challenging Idaho's effort?**

We want the program to be done right. Most of the Idaho program appears to be consistent with Clean Water Act direction. Nevertheless, we have concerns about a few very specific parts

of Idaho's program and we want the EPA (and Idaho) to correct these few shortcomings before those parts of the program are transferred to Idaho's administration.

**Idaho has been working on getting primacy for a long time now, why are you raising these issues now?**

We have participated in Idaho's primacy effort ever since it started several years ago. We have testified at the Legislature, attended numerous public meetings and rulemakings, submitted numerous comments on the draft iterations of Idaho's program plan framework, rules and guidance and we have commented in various EPA processes related to their review of the Idaho proposal. We are not jumping in late to disrupt this effort. While Idaho addressed some of our comments — there several issues that were not adequately resolved. We don't take going to court lightly and our legal challenge comes only after many unsuccessful efforts to resolve our concerns via other means.

**What are the issues that you are asking the Court to review?**

The main issues we are seeking review of are: (1) EPA's failure to ensure minimum criminal *mens rea* requirements in the Idaho NPDES Program (the state standard doesn't meet minimum federal requirements); (2) EPA's failure to articulate a rational basis for its approval of a two year statute of limitations in the Idaho Program (the federal standard is five years); (3) EPA's improper reliance on a 1984 regulation that was superseded by a 1987 amendment to the Clean Water Act; and (4) EPA's approval of the Idaho concentrated animal feeding operation (CAFO) program administered by the State Department of Agriculture (ISDA) without formally approving ISDA to run the NPDES program (the Clean Water Act requires states to seek approval for different agencies to administer specific programs, such as CAFOs).

**Are you seeking to overturn Idaho primacy while these issues are addressed?**

No. We are asking the court to require Idaho to correct the problems set forth above. We are not challenging the bulk of the new Idaho program. It is possible that the court may remand the entire program to EPA to correct these errors, but the few problems we have identified can be fixed, and ICL remains committed to the goal of having Idaho administer a healthy NPDES program fully consistent with the direction of the Clean Water Act.

**What happens now?**

Now that ICL has filed our petition, the EPA is crafting its response. It is likely that this will take a while for this matter to be heard by the court and for the court to issue a final ruling. In the meantime, ICL is open to discussing how to resolve these matters outside of court.

**For more information:**

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AGENDA  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**  
**1:30 P.M.**  
**Room WW55**  
**Wednesday, January 16, 2019**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<b>Introduction</b>	Committee Members	Chairman Heider
<b>Docket No.</b> <a href="#"><u>58-0124-1801</u></a>	Waste Management Standards and Procedures for Application of Risk-Based Corrective Action at Petroleum Release Sites <i>Updated toxicity criteria</i> Negotiated Rulemaking	Michael McCurdy Waste Management and Remediation Division Administrator, Department of Environmental Quality
<b>Docket No.</b> <a href="#"><u>13-0102-1801</u></a>	Rules Governing Mandatory Education & Mentored Hunting	Sharon Kiefer Deputy Director, Programs and Policies, Idaho Department of Fish and Game
<b>Docket No.</b> <a href="#"><u>13-0108-1802</u></a>	Rules Governing the Taking of Big Game Animals in the State of Idaho	Sharon Kiefer, Idaho Department of Fish and Game
<b>Docket No.</b> <b>13-0108-1803</b>	Rules Governing the Taking of Big Game Animals in the State of Idaho	Sharon Kiefer, Idaho Department of Fish and Game
<b>Docket No.</b> <a href="#"><u>13-0108-1804</u></a>	Rules Governing the Taking of Big Game Animals in the State of Idaho	Sharon Kiefer, Idaho Department of Fish and Game
<b>Docket No.</b> <a href="#"><u>13-0108-1805</u></a>	Rules Governing the Taking of Big Game Animals in the State of Idaho	Sharon Kiefer, Idaho Department of Fish and Game
<b>Docket No.</b> <a href="#"><u>13-0109-1803</u></a>	Rules Governing the Taking of Big Game Birds in the State of Idaho	Sharon Kiefer, Idaho Department of Fish and Game
<b>Docket No.</b> <a href="#"><u>13-0109-1805</u></a>	Rules Governing the Taking of Big Game Birds in the State of Idaho	Sharon Kiefer, Idaho Department of Fish and Game

<b><u>Docket No.</u></b> <b><u>13-0110-1801</u></b>	Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife	Sharon Kiefer, Idaho Department of Fish and Game
<b><u>Docket No.</u></b> <b><u>13-0110-1802</u></b>	Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife	Sharon Kiefer, Idaho Department of Fish and Game
<b><u>Docket No.</u></b> <b><u>13-0116-1802</u></b>	The Trapping of Predatory and Unprotected Wildlife and the Taking of Fur-bearing Animals	Sharon Kiefer, Idaho Department of Fish and Game
<b><u>Docket No.</u></b> <b><u>13-0116-1803</u></b>	The Trapping of Predatory and Unprotected Wildlife and the Taking of Fur-bearing Animals	Sharon Kiefer, Idaho Department of Fish and Game
<b><u>Docket No.</u></b> <b><u>13-0117-1801</u></b>	Rules Governing the Use of Bait and Trapping for Taking Big Game Animals	Sharon Kiefer, Idaho Department of Fish and Game
<b><u>Docket No.</u></b> <b><u>13-0117-1802</u></b>	Rules Governing the Use of Bait and Trapping for Taking Big Game Animals	Sharon Keifer, Idaho Department of Fish and Game
<b><u>Docket No.</u></b> <b><u>13-0118-1801</u></b>	Rules Governing Emergency Feeding of Antelope, Elk, and Deer of the Idaho Fish and Game Commission	Sharon Kiefer, Idaho Department of Fish and Game
<b>Presentation2:15 - 2:45 PM</b>	Pacific Northwest Economic Region Foundation Updates on Columbia River Treaty Taskforce, Legislative Energy Horizon Institute, Roadmap to Ultra-low Energy and Resilient Buildings, Aquatic Invasive Species Prevention	Mr. Matt Morrison, Chief Executive Officer, PNWER

***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 Heider	Sen Patrick
Vice Chairman Brackett	Sen Guthrie
Sen Bair	Sen Stennett
Sen Johnson	Sen Jordan
Sen Mortimer	

COMMITTEE SECRETARY

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MINUTES  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**

**DATE:** Wednesday, January 16, 2019

**TIME:** 1:30 P.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer, Patrick, Guthrie, 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 Heider** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m.

**DOCKET NO. 58-0124-1801** **Waste Management Standards. Michael McCurdy**, Waste Management and Remediation Division Administrator, Department of Environmental Quality, stated this proposed rule updates the Standards and Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites, and the associated guidance manual, to reflect the updated toxicity criteria as established by the Environmental Protection Agency (EPA). It also revises screening levels for petroleum release sites. **Mr. McCurdy** indicated that since adoption of the rule and guidance manual in 2012, many of the petroleum chemicals of concern listed in the tables in the rule have updated toxicity information. Thus, the screening levels found in the rules are outdated with current toxicity criteria.

**MOTION:** **Senator Johnson** moved to approve **Docket No. 58-0124-1801**. **Senator Mortimer** seconded the motion. The motion passed by **voice vote**.

**PASSED THE GAVEL:** Chairman Heider passed the gavel to Vice Chairman Brackett to continue the rules review.

**DOCKET NO. 13-0102-1801** **Rules Governing Mandatory Education and Mentored Hunting. Sharon Kiefer**, Deputy Director, Programs and Policies, Idaho Department of Fish and Game (Department), stated this docket is an administrative clarification of a rule; it is not new in substance. The Hunting Passport Program allows youth as young as eight and up to ten years of age to hunt with a mentor. There has been some confusion related to a child's birthday and this program being based on a calendar year. This rule change allows a youth who is eight, but younger than ten, to possess consecutive annual hunting passports until reaching age ten.

**MOTION:** **Senator Mortimer** moved to approve **Docket No. 13-0102-1801**. **Senator Bair** seconded the motion. The motion passed by **voice vote**.

**DOCKET NO. 13-0108-1802** **Rules Governing the Taking of Big Game Animals in the State of Idaho. Ms. Kiefer** advised this docket deals with a program that allows a parent or grandparent who draws a controlled hunt tag to designate that tag to their child or grandchild if they are eligible to possess a big game tag. **Ms. Kiefer** indicated that comments from sportsmen showed concern that perhaps the allowance of the once-in-a-lifetime tags for moose, sheep, and goats was affecting draw odds. This proposed change revises the rule to exclude any moose, bighorn sheep, mountain goat, or grizzly bear controlled hunt tag drawn by a parent or grandparent from designation to their child or grandchild.

- DISCUSSION:** **Senator Guthrie** asked if the intent of the rule would be to include step-children and step-grandchildren. **Ms. Kiefer** responded that step-children and step-grandchildren are excluded because the legislation only mentions direct descendants.
- MOTION:** **Senator Guthrie** moved to approve **Docket No. 13-0108-1802**. **Senator Jordan** seconded the motion. The motion passed by **voice vote**.
- DOCKET NO. 13-0108-1803** **Rules Governing the Taking of Big Game Animals in the State of Idaho.** **Ms. Kiefer** stated when there are leftover youth control hunt tags from the first draw period they go into a second draw, and after the second draw any remaining tags can be purchased on a first-come first-serve basis. Seniors are currently eligible to pick up youth tags on a first-come first-serve basis after the first and second draw. They have requested consideration to participate in the second draw for tags that are not purchased in the first draw. **Ms. Kiefer** indicated this proposed rule change allows seniors to participate in any second application period for youth only controlled hunts.
- DISCUSSION:** **Senator Bair** asked if there were tags left over ever year. **Ms Kiefer** advised they do have some leftover tags every year. Some youth hunts are far more utilized than others but there are some, like doe hunts, that go into a second draw and even a first-come first-serve follow up. **Senator Bair** also asked why, if this is an ongoing thing, the Department doesn't reallocate those two-draw hunts into a different category of people and not have to go through that second draw. **Ms. Kiefer** indicated that they also have some adult doe hunts that go through a first draw, a second draw, and often there are tags left over for first-come first-serve.
- MOTION:** **Senator Mortimer** moved to approve **Docket No. 13-0108-1803**. **Chairman Heider** seconded the motion. The motion passed by **voice vote**.
- DOCKET NO. 13-0108-1804** **Rules Governing the Taking of Big Game Animals in the State of Idaho.** **Ms. Kiefer** advised this rule adds air guns with pre-charged pneumatic power as a method of take for big game. It sets forth what species can be taken with each caliber of air gun. The rule also allows the use of air guns during the short-range weapons season.
- DISCUSSION:** **Senator Bair** and **Ms. Kiefer** discussed the muzzle velocities of air guns compared to high powered rifles. **Ms. Kiefer** deferred a request to define what a pre-charged pneumatic is to **Toby Boudreau**. **Mr. Boudreau**, Acting Chief Wildlife Bureau, Idaho Department of Fish and Game, advised pre-charged pneumatics have a fairly large tank that holds quite a bit of compressed air. Regarding velocities, he indicated that a .45 caliber slug shoots somewhere around 1000 feet per second so they truly are a short range weapon of 75 to 100 yards; they are not an effective long-range firearm.
- In response to a question by Senator Johnson and Senator Stennett, **Ms. Kiefer** stated that if the caliber is less than .35 or .45 it is not a lawful method of take, but higher calibers can be used. **Mr. Boudreau** advised that .50 caliber is the upper end of size for pre-charged pneumatic air guns.
- Senator Guthrie** asked if there were higher instances of maimed animals with these guns. **Ms. Kiefer** stated air guns are used very successfully. It is a hunter's responsibility to make sure they are using enough foot pounds of pressure in the pre-charged pneumatic power to achieve a clean kill.
- MOTION:** **Senator Bair** moved to approve **Docket No. 13-0108-1804**. **Chairman Heider** seconded the motion. The motion passed by **voice vote**.

- DOCKET NO. 13-0108-1805**      **Rules Governing the Taking of Big Game Animals in the State of Idaho.** **Ms. Kiefer** stated this proposed rule will no longer allow mail as a means for submitting a controlled hunt application. In the past only about 3 percent of applications have come in via mail and those applications often had incorrect information, adding five to seven days to the time line for the Department to announce who has drawn tags. She stated that today's technology allows sportsmen to go through a vendor or file applications online.
- DISCUSSION:**      In response to a question from Senator Bair, **Ms. Kiefer** advised that the licensed vendor provides a 1-800 number for those sportsmen living in remote areas without online access.
- MOTION:**      **Senator Stennett** moved to approve **Docket No. 13-0108-1805**. **Senator Johnson** seconded the motion. The motion passed by **voice vote**.
- DOCKET NO. 13-0109-1803**      **Rules Governing the Taking of Big Game Birds in the State of Idaho.** **Ms. Kiefer** advised that sportsmen are allowed to purchase multiple turkey tags and this rule is proposed to clarify which turkey tag can be used when you draw a control hunt turkey permit.
- DISCUSSION:**      In response to a question from Senator Mortimer, **Ms. Kiefer** indicated this proposed rule also updates the controlled hunt application period to be consistent with previously adopted rules regarding the turkey hunt season.
- MOTION:**      **Senator Mortimer** moved to approve **Docket No. 13-0109-1803**. **Chairman Heider** seconded the motion. The motion passed by **voice vote**.
- DOCKET NO. 13-0109-1805**      **Rules Governing the Taking of Big Game Birds in the State of Idaho.** **Ms. Kiefer** stated this proposed rule establishes an administrative framework for the Idaho Fish and Game Commission to adopt Landowner Permission Hunt (LPH) seasons for turkeys in areas of the state where there are turkey depredation issues on private lands.
- DISCUSSION:**      In response to questions from the Committee, **Ms. Kiefer** reviewed the rule requirement for the landowner's acreage to be more than 79 acres and discussed the additional tools the department has to work with landowners of smaller acreages. She stated trespass laws are in effect and even under an LPH hunt you cannot step on that landowner's property without the permit that the landowner gives you specifically for that LPH hunt. For further response, Ms. Kiefer deferred to **Ed Scriver**, Director of the Idaho Department of Fish and Game, who advised that most turkey depredation issues occur on ownerships of greater than 80 acres, so the need to apply this tool on ownerships less than 80 acres is not feasible.
- MOTION:**      **Senator Bair** moved to hold **Docket No. 13-0109-1805** until the Committee's next meeting. **Senator Mortimer** seconded the motion. The motion passed by **voice vote**.
- PASSED THE GAVEL:**      Vice Chairman Bracket returned the gavel to Chairman Heider. **Chairman Heider** announced the remainder of the rules on today's agenda will be rescheduled at a future time.
- PRESENTATION:** **Chairman Heider** welcomed visitors from Pacific NorthWest Economic Region (PNWER). PNWER is a public/private non-profit created by statute in 1991 by the states of Alaska, Idaho, Oregon, Montana and Washington, and the Canadian provinces and territories of British Columbia, Alberta, Saskatchewan, Northwest Territories, and the Yukon.

**Matt Morrison**, Chief Executive Officer of PNWER, gave a 2018 and 2019 overview of the Columbia River Treaty (CRT) Taskforce. He stated that PNWER's role has been to facilitate dialogue and understanding between all the member jurisdictions, while showcasing the benefits of the treaty. He thanked the Idaho Legislature for their role in Idaho's input into the process as negotiations continue to take place, and noted that he felt Idaho is the most important state for the CRT.

**DISCUSSION:** **Vice Chairman Brackett** commented that the CRT must be ratified by the United States Congress, and Idaho's Senator Jim Risch now chairs the Senate Foreign Relations Committee. He indicated he shared Mr. Morrison's observation that Idaho is important to the CRT, and noted that this is an opportune time for Idaho and PNWER to have firsthand interest and input on the CRT. Mr. Morrison agreed with Vice Chairman Brackett's comments, and indicated this is a great opportunity. He advised that should Senator Risch give a report to the Idaho Legislature, it would be a great sidebar to sit down and talk with him about the CRT.

**PRESENTATION CONTINUED:** **Mr. Morrison** outlined the benefits of the Legislative Energy Horizon Institute (LEHI), an executive certificate program in energy policy designed specifically for state and provincial legislators to provide intensive exposure to the North American energy system. He reviewed the curriculum, course objectives, and LEHI's benefits to the State of Idaho. **Mr. Morrison** indicated he would like to see more Idaho Legislators take advantage of this great opportunity to come up to speed on energy and how energy functions.

**Mr. Morrison** then reviewed PNWER's Roadmap to Resilient, Ultra-Low Energy Buildings in the Pacific Northwest. He advised this is a program to drive more energy efficiency in commercial and residential building in the region. He presented estimated economic and energy savings to the region and encouraged Legislators to support this initiative.

**Larry Doke**, PNWER President, gave an update on the Invasive Mussels Federal Funding program. He stated that the Northwest is the last region in the U.S. without mussels, but they are coming. PNWER advocates to get funds appropriated for mussel prevention efforts to protect the Columbia River Basin. He stated that we could have an active infestation at any time and need to be ready throughout the region with early detection and rapid response plans.

**Chairman Heider** thanked the presenters for their updates and expressed his appreciation for all that PNWER does for Idaho.

**ADJOURNED:** There being no further business before the Committee, **Chairman Heider** adjourned the meeting at 2:57 p.m.

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Senator Heider  
Chair

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Tyler Brock  
Secretary

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Lois Bencken  
Assistant Secretary

**AMENDED AGENDA #1**  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**  
**1:30 P.M.**  
**Room WW55**  
**Monday, January 21, 2019**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<b>Introduction</b>	Committee Members	Chairman Heider
<a href="#"><u>S1001</u></a>	Legislative Amendment, clarifying language in the statute regarding a cost-sharing program for the repair and plugging of wells and to make technical corrections	Gary Spackman, Director, Idaho Department of Water Resources
<b>Rules Review</b>	<b>Idaho Department of Parks and Recreation</b>	
<b>Docket No.</b> <a href="#"><u>26-0120-1701</u></a>	Rules Governing the Administration of Parks and Recreation Areas and Facilities	Keith Hobbs, Operations Administrator, Idaho Department of Parks and Recreation
<a href="#"><u>26-0123-1701</u></a>	Rules Governing Filming Within Idaho State Parks	Keith Hobbs, Operations Administrator, Idaho Department of Parks and Recreation

***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 Heider	Sen Patrick
Vice Chairman Brackett	Sen Guthrie
Sen Bair	Sen Stennett
Sen Johnson	Sen Jordan
Sen Mortimer	

COMMITTEE SECRETARY

Jamie Skrypkun  
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MINUTES  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**

**DATE:** Monday, January 21, 2019

**TIME:** 1:30 P.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer, Patrick, and Guthrie

**ABSENT/ EXCUSED:** Senators Stennett 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 Heider** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:31 p.m.

**S 1001** **Gary Spackman**, Director of the Idaho Department of Water Resources (IDWR), explained **S 1001** amends Idaho Code § 42-1607 regarding the inventory and maintenance of artesian wells. It eliminates language contained in the original statute regarding a cost-share for which there was never an appropriation.

**Director Spackman** advised that after the print hearing on this bill, discussions took place with the Governor's office and other interested third parties concerning additional language changes to this bill. It is his understanding that those proposals for changing the language of **S 1001** have been fruitful, and some agreement has been reached regarding its future.

**Director Spackman** acknowledged that these newly proposed changes have not been put in legislative form. He offered to present the original bill as it is currently written, or to allow some other process to go forward to incorporate those changes in the language and then bring **S 1001** back before the Committee.

**DISCUSSION:** **Senator Mortimer** said he was unfamiliar with the language in the original 1980s statute and asked Director Spackman to provide some history.

**Director Spackman** indicated that when the original statute was enacted, there was a great deal of anxiety regarding the possible listing of the Bruneau hot spring snail as an endangered species. The snail needed the hot springs to survive. The concern was if the snail was listed as an endangered species, then many of these water rights, which authorized the diversion of water from the artesian wells, would be either controlled or eliminated.

**Senator Mortimer** asked if IDWR has a current list of artesian wells that are in need of plugging, reconstruction, or repairs. **Director Spackman** indicated that there are two inventories he could distribute to the Committee. One was originally conducted by CH2M Hill, an engineering company, and IDWR followed up that study with their own updated list.

**Senator Mortimer** inquired if any of those wells are of particular concern to IDWR at this time. **Director Spackman** advised there is one well in particular that is leaking in Owyhee County, and Oneida County has wells leaking for reasons unknown. Pressures are being lost because of those leaking artesian wells. On the other hand, IDWR has seen pressure recovery due to plugged or repaired wells in the Treasure Valley.

**Senator Bair** stated he was comfortable with the original piece of legislation. He was less comfortable with the draft amendment before him which adds back in the cost-sharing provision, providing that the Legislature appropriates the money to IDWR for cost-sharing. He wondered why Idaho would want to provide a benefit to a single, particular person. **Director Spackman** advised that some third parties felt that if there was a possibility of monetary appropriation in the future, the cost-share language should continue to be a part of the statute. He stated that in discussions with the Governor's office, the Statement of Purpose was rewritten to make sure this does not create the expectation that there will be funding. **Senator Bair** asked Director Spackman if he has the authority to order that a well be repaired. **Director Spackman** indicated that the statute does grant him that authority.

**Sam Eaton**, Policy Director and counsel for Governor Brad Little, was asked to comment on the position of the Governor regarding the added cost-share language. He advised the Governor's office did not propose the amendment, but is willing to work to appease everyone. They will support the decision of the Committee; however, they want to make sure this does not create the expectation that there will be funding.

**Senator Guthrie** commented that funds have already been committed to projects aimed at recharging the aquifer, and capping or repairing these artesian wells may fall under that category. He stated that leaving the cost-share language in the bill provides a future opportunity and would not be harmful.

**Vice Chairman Brackett** stated that it may be beneficial for the Committee to have more information in terms of artesian well inventory. He noted that the water users have not yet taken this before their legislative committee. It would be good to know the outcome of that, and perhaps a decision by the Committee should be delayed until that information is available.

**MOTION:** **Vice Chairman Brackett** moved to hold **S 1001** until the next meeting. **Senator Bair** seconded the motion.

**DISCUSSION:** **Mr. Spackman** indicated he will provide the Committee with information on existing inventories of Idaho's artesian wells. He further clarified that the Governor's office did not promote the inclusion of any language related to the cost-share.

**VOICE VOTE:** The motion to hold **S 1001** until the next meeting passed by **voice vote**.

**DOCKET NO. 26-0120-1701** **Rules Governing the Administration of Parks and Recreation Areas and Facilities.** **Keith Hobbs**, Operations Administrator, Idaho Department of Parks and Recreation (Parks and Recreation), advised this proposed rule clarifies that in addition to paying the proper motor vehicle entrance and camping fee, one must also display proof of payment; failure to properly display proof may result in a surcharge assessment.

**DISCUSSION:** **Senator Guthrie** expressed concern that this rule may promote an atmosphere of non-payment, and may be punitive to the person who does pay, but does not display proof of payment. **Mr. Hobbs** explained that compliance efforts are primarily geared toward education and if the individual can show proof of payment, the compliance officer will be amenable to that. However, if the individual cannot show proof of payment they will be assessed the entrance fee of \$5 and the surcharge of \$10.

**MOTION:** **Senator Patrick** moved to approve **Docket No. 26-0120-1701**. **Senator Mortimer** seconded the motion. The motion passed by **voice vote**, with **Senator Guthrie** and **Senator Johnson** requesting that they be recorded as voting nay.

**DOCKET NO.  
26-0123-1701**

**Rules Governing Filming Within Idaho State Parks.** **Mr. Hobbs** informed the Committee that Parks and Recreation is authorized through statute to manage the production of commercial filming within Idaho state parks. The current rule was last updated in 1993 and is too restrictive to accommodate the changing needs of park visitors and park managers. This rule change defines commercial filming for which a permit is required. The change removes the permit requirement for the majority of photographers who only wish to collect images without interfering with the existing park operations. He stated filming for news purposes remains exempt from any permitting requirements.

**DISCUSSION:** **Senator Bair** asked if there is a fee schedule for commercial filming. **Mr. Hobbs** indicated there is no schedule. Parks and Recreation will typically charge a \$100 application fee and then negotiate a greater compensation, depending on the impact to park resources and the potential commercial gain the photographer stands to realize.

In response to further questions from the Committee, **Mr. Hobbs** advised that should an amateur photographer later use a park photo for distribution and gain, it is not the intent of Parks and Recreation to interfere with that opportunity. He further stated that park managers have the discretion to exempt Idaho Public Television and other non-profit organizations from permitting costs.

**TESTIMONY:** **Ryan Davidson** from Ada County spoke in opposition to **Docket No. 26-0123-1701**. He expressed his concern that the rule was not specific enough regarding those casual photographers using cell phone cameras and the potential liability should they later profit from a photo taken in the park.

**Mr. Hobbs** responded by pointing out the definition in the rule of exempt filming includes any filming or still photography which does not use sets, props, or models, or require on site management to protect park resources.

**DISCUSSION:** **Senator Guthrie** asked Mr. Hobbs how many permits were sold in the last year and how much revenue was collected. **Mr. Hobbs** advised there were approximately eight to ten commercial permits issued and each paid a \$100 application fee.

In response to further questions from the Committee, **Mr. Hobbs** advised that the proposed rule is much less restrictive to the casual photographer than the current rule and makes it easier for Parks and Recreation staff to enforce the rule.

**MOTION:** **Senator Mortimer** moved to approve **Docket No. 26-0123-1701**. **Senator Guthrie** seconded the motion. The motion passed by **voice vote**.

**ADJOURNED:** There being no further business at this time, **Chairman Heider** adjourned the meeting at 2:24 p.m.

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Senator Heider  
Chair

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Tyler Brock  
Secretary

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Lois Bencken  
Assistant Secretary

**AMENDED AGENDA #2**  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**  
**1:30 P.M.**  
**Room WW55**  
**Wednesday, January 23, 2019**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<b>Introduction</b>	Committee members	Chairman Lee Heider
<a href="#"><u><b>S 1001</b></u></a>	<b>Legislative Amendment</b> clarifying language in the statute regarding plugging and repairing artesian wells and basins and technical corrections	Vice-Chairman Bert Brackett
<b>Gubernatorial Appointments</b>	Re-appointment of <b>LANE CLEZIE</b> of Pocatello, to the <u>Idaho Fish and Game Commission</u> , serving June 30, 2018, to June 30th, 2022.	Lane Clezie
	Appointment of <b>TIM MURPHY</b> of Boise to the <u>Idaho Fish and Game Commission</u> , serving Nov. 28, 2018, to June 30th, 2022.	Tim Murphy
	Re-appointment of <b>JO ANN COLE-HANSEN</b> of Lewiston to the <u>Idaho Water Resource Board</u> , serving Jan. 1, 2019, to Jan. 1, 2023.	Jo Ann Cole-Hansen
	Re-appointment of <b>JEFFREY RAYBOULD</b> of St. Anthony, to the <u>Idaho Water Resource Board</u> , serving Jan. 1, 2019 to Jan. 1, 2023.	Jeffrey Raybould
	Re-appointment of <b>DALE VAN STONE</b> of Hope to the <u>Idaho Water Resource Board</u> serving Jan. 1, 2019 to Jan. 1, 2023.	Dale van Stone
	Re-appointment of <b>PETE VAN DER MEULEN</b> of Hailey to the <u>Idaho Water Resource Board</u> , serving Jan. 1, 2019 to Jan. 1, 2023.	Pete van der Meulen
<b>Docket No.</b> <a href="#"><u><b>13-0109-1805</b></u></a>	Rules Governing the Taking of Big Game Birds in the State of Idaho	Sharon Kiefer Chief, Bureau of Communications, Idaho Department of Fish and Game
<b>Docket No.</b> <a href="#"><u><b>13-0110-1801</b></u></a>	Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife	Sharon Kiefer Chief, Bureau of Communications, Idaho Department of Fish and Game

**Docket No.**  
**13-0110-1802**

Rules Governing the Importation, Possession,  
Release, Sale, or Salvage of Wildlife

Sharon Kiefer  
Chief, Bureau of  
Communications,  
Idaho Department of  
Fish and Game

***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 Heider

Vice Chairman Brackett

Sen Bair

Sen Johnson

Sen Mortimer

Sen Patrick

Sen Guthrie

Sen Stennett

Sen Jordan

COMMITTEE SECRETARY

Jamie Skrypkun

Room: WW37

Phone: 332-1323

email: [sres@senate.idaho.gov](mailto:sres@senate.idaho.gov)

MINUTES  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**

**DATE:** Wednesday, January 23, 2019

**TIME:** 1:30 P.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer, Patrick, Guthrie, 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 Heider** called the meeting of the Resources and Environment Committee (Committee) to order at 1:30 p.m.

**PASSED THE GAVEL:** Chairman Heider passed the gavel to Vice Chairman Brackett.

**S 1001** **Legislative Amendment Clarifying Language in the Statute Regarding Plugging and Repairing Artesian Wells and Basins and Technical Language.** **Vice Chairman Brackett** announced that the Committee has now received input from the Water Users Legislative Committee, has been provided with an inventory of statewide artesian wells (see attachment 1), and is now ready to reconsider **S 1001**.

**MOTION:** **Chairman Heider** moved that **S 1001** be sent to the 14th Order of Business for possible amendment. **Senator Guthrie** seconded the motion.

**DISCUSSION:** **Senator Mortimer** stated that this is an agency bill, and it may be prudent to hold the bill and allow the Idaho Department of Water Resources the opportunity to bring it back to the Committee rather than send it to the 14th Order for amendment.

**SUBSTITUTE MOTION:** **Senator Mortimer** moved that **S 1001** be held in Committee. **Senator Jordan** seconded the motion. The motion passed by **voice vote**.

**PASSED THE GAVEL:** Vice Chairman Brackett returned the gavel to Chairman Heider.

**GUBERNATORIAL APPOINTMENT:** **Re-appointment of Lane Clezie, of Pocatello, to the Idaho Fish and Game Commission (Commission), serving June 30, 2018, to June 30, 2022.** **Mr. Clezie** stated that he has been a member of the Commission for four plus years. He has been married for 50 years and has three sons with families scattered throughout the state. His interest in serving on the Commission is to ensure his children and grandchildren enjoy the animals, fishing and habitat he has enjoyed.

**DISCUSSION:** In response to questions from Senator Bair, **Mr. Clezie** stated he feels his greatest accomplishment on the Commission has been participating in the de-listing of the grizzly bear as an endangered species. He also advised that the Commission has several ongoing projects. A priority for the Commission is looking at the wolf issue and creating opportunities for sportsmen to manage and harvest the wolf population.

**Chairman Heider** thanked Mr. Clezie for appearing before the Committee and complimented him on doing a wonderful job. He indicated that voting on this re-appointment would take place at the next Committee meeting.

**GUBERNATORIAL  
APPOINTMENT:**

**Appointment of Tim Murphy, of Boise, to the Idaho Fish and Game Commission (Commission), serving November 28, 2018, to June 30, 2022.** **Mr. Murphy** stated that public service in natural resource management has been the focus of his professional life for nearly 40 years. He indicated his wife, Mary Elizabeth, has been and continues to be the primary reason for the successes he has had through many relocations across the West. She maintained the home for their three children allowing him to focus on the people and resources he was entrusted to manage. **Mr. Murphy** advised that he retired last year from his position as BLM Idaho State Director and was formerly the director of the National Fire Center. He is currently chairman of the Public Advisory Council to the University of Idaho Rangelands Center, a member of the Society for Range Management, and is a volunteer with the National Kidney Foundation.

**Mr. Murphy** indicated that his aim is to preserve working landscapes, including agriculture's contribution to open working land, for Idaho's desired environmental, economic, and social outcomes. He believes the primary threat to wildlife resources across Region 3 is fire and invasive annual grasses, namely cheat grass. In dealing with that threat he will emphasize preparedness, prevention, and fuel breaks, including the use of livestock grazing to give tactical advantage to our firefighters and improve safety during their operations.

**DISCUSSION:**

In response to questions from the Committee, **Mr. Murphy** stated that he likes to hunt and enjoys fly fishing. He indicated he supports the Idaho Fish and Game Department acquiring private lands when it is focused on access and opportunities for hunters, anglers, and trappers. He further indicated that during his short time on the Commission he has been impressed with the success of the most recent trespass law.

**Chairman Heider** thanked Mr. Murphy for appearing before the Committee and for his interest in fish and game issues. He advised a vote will be taken on this nomination at the next meeting.

**GUBERNATORIAL  
APPOINTMENT:**

**Re-appointment of Jo Ann Cole-Hansen, of Lewiston, to the Idaho Water Resource Board (Board), serving January 1, 2019, to January 1, 2023.** **Ms. Cole-Hansen** stated that for the last 13 years she has worked for the Lewiston Orchards Irrigation District (District) as their financial officer. She advised that the District has been working with the U.S. Bureau of Reclamation to change the point of diversion for the irrigation system from the Craig Mountain watershed to a deep well system on the edge of town. She indicated that the District has been working with the Board in studying the groundwater situation in the Lewiston aquifer, as most of the water that the District's wells are being drawn from comes from the Snake River.

**DISCUSSION:**

In response to questions from Senator Bair, **Ms. Cole-Hansen** advised that she was appointed to the Board in June of 2018 to fill a vacant position. She has attended several committee and board meetings and it is her impression that the Board is a very close knit, tight-functioning group that cares deeply about the water resources in this state. She feels they want to do what is best for the entire state, not just their constituents or their area, and she would be pleased to be part of that.

**Ms. Cole-Hansen** further stated, in response to a question from Senator Johnson, that her work with the District involved a great deal of planning for the future. With fewer rain and snow events, the District's water supply is dwindling. The District worked together with federal, county, city, and tribal partners to come up with a creative resolution that they are now pursuing. **Senator Johnson** complimented her for her excellent work with the District, and **Senator Stennett** thanked her for bringing her diverse expertise to the Board.

**Chairman Heider** asked Ms. Cole-Hansen how she felt about the first-in-time, first-in-right doctrine of water rights. **Ms. Cole-Hansen** advised that first-in-time, first-in-right is something that is very dear to her heart.

**Chairman Heider** thanked Ms. Cole-Hansen for appearing before the Committee and advised that a vote on her re-appointment would take place at the next meeting.

**GUBERNATORIAL  
NOMINATION:**

**Re-appointment of Jeffrey Raybould, of St. Anthony, to the Idaho Water Resources Board (Board), serving January 1, 2019, to January 1, 2023.**

**Mr. Raybould** stated that he farms in eastern Idaho with his father, who is semi-retired, and his two children. He has served on the Board for eight years and has been involved with water issues for a long time. He feels the Board works well together, is proud of the things that have been achieved during his tenure on the Board, and looks forward to continuing to help plan and manage Idaho's water resources.

**DISCUSSION:**

**Vice Chairman Brackett** asked Mr. Raybould what issues he sees the State facing that the Board needs to address. **Mr. Raybould** stated population growth is causing demands for additional water supply all over the State. He mentioned several aquifer issues and indicated the Board is involved in planning to help put in place options to develop additional water supplies and capture the existing water supply. He indicated a great interest in the Lewiston Orchard's project, stating the wells they are drilling are about 2,000 feet deep and that aquifer actually is recharged by the Snake River when flows are high. It is a water supply that would not decline over time; it would be replenished through natural recharge. He advised the Board has been working with the Priest Lake area to ensure an adequate supply of water so that elevations are appropriate for recreation and to provide some minimum stream flow into the Priest River in a drought situation. He added the Board is looking at water supply concerns in the Treasure Valley, developing a long range plan to have an adequate water supply for the growth that is occurring, and looking at other parts of the State where they can accomplish additional surface storage.

**Senator Stennett** asked Mr. Raybould how he avoids conflicts of interest, given his unique position and expertise. **Mr. Raybould** advised that anytime an issue involves a conflict of interest with his personal business, or other boards he serves on, he steps aside and abstains from voting on those issues.

**Senator Bair** asked Mr. Raybould if he could provide a time frame for the Anderson Ranch Dam project. **Mr. Raybould** indicated that the goal is to have the study completed by mid to late 2020. It would then go to Congress and funding for the project may be two to three years out or longer.

**Chairman Heider** thanked Mr. Raybould for appearing before the Committee and for his continued service on the Board. He advised a vote would be taken on the re-appointment at the next Committee meeting.

**GUBERNATORIAL NOMINATION:** **Re-appointment of Dale Van Stone, of Hope, to the Idaho Water Resource Board (Board), serving January 1, 2019 to January 1, 2023.** Mr. Van Stone advised he was appointed to the Board in 2015. He has lived in Bonner County for 32 years, has a farm with an irrigation system, and raises hay and cattle. He is a member of the Bonner Soil and Water Conservation District, and has served on many other boards. He commented that this Board is a good one, they have good staff, get good information, and make things happen.

In response to questions from the Committee, **Mr. Van Stone** stated he feels water issues in Northern Idaho are getting more attention. He mentioned in particular the work with the Priest Lake project.

**Chairman Heider** thanked Mr. Van Stone for his service on the Board and for his appearance before the Committee. He announced that a vote on this Re-appointment will take place at the next Committee meeting.

**GUBERNATORIAL APPOINTMENT:** **Re-appointment of Pete Van Der Meulen, of Hailey, to the Idaho Water Resource Board (Board), serving January 1, 2019, to January 1, 2023.** Mr. Van Der Meulen stated that he has been on the Board for eight years. He feels the Board has accomplished a tremendous amount of work with the Legislature's help during that time, and he has appreciated the opportunity to be part of it. He indicated there is a lot more work to do, and he would like to remain on the Board for another term.

**Chairman Heider** thanked Mr. Van Der Meulen for appearing before the Committee and advised a vote on the re-appointment would be taken at the next Committee meeting.

**DOCKET NO. 13-0109-1805** **Rules Governing the Taking of Big Game Birds in the State of Idaho.**

**Sharon Kiefer**, Chief, Bureau of Communications, Idaho Department of Fish and Game (Department), reminded the Committee that this docket was previously held by the Committee. The rule establishes the administrative framework for the Department to be able to adopt land owner permission hunts (LPH) for turkeys where depredation issues exist on private property. The landowner controls who is allowed to utilize their permission slip to hunt on their property. There was some confusion at the previous hearing regarding the LPH process; she gave the following explanation: 1.) the Department proclaims how many tags are available and gives the landowner a corresponding number of permission slips; 2.) the landowner provides hunters with a permission slip; and 3.) the hunter then takes the permission slip into the Idaho Fish and Game office and buys a specially designated tag specific for that LPH. **Ms. Kiefer** also mentioned questions were brought up at the previous meeting regarding how the acreage for LPH hunts is determined. She stated properties over 79 acres are where they generally find the more intensive types of depredations.

**DISCUSSION:** **Senator Bair** asked Ms. Kiefer why they would not extend this type of hunt to the owner of a small acreage who has a depredation problem. **Ms. Kiefer** advised him that the Department has other tools available for that landowner. She stated they always have the opportunity to work with landowners on kill permits that either the Department or the landowner can exercise. She added the Department has a robust tool box to work with landowners on this issue.

**Senator Guthrie** asked Mr. Kiefer if a hunter who has permission from one landowner within an area of depredation that encompasses other property is allowed to hunt on those other properties. **Ms. Kiefer** replied that the permission is specific to the property of the landowner granting permission. **Senator Guthrie** asked how a corporation owner would give permission. **Ms. Kiefer** advised that corporations have a land manager or designated agent that the Department works with.

**TESTIMONY:** **Douglas Bates** spoke in favor of **Docket No. 13-0109-1805**. He stated he owns about 1,000 acres in the Parma area. He has counted 400 to 500 turkeys feeding in his corn crop. He stated he appreciates the turkeys, they are majestic birds, but he suffers pretty severe crop depredation as the numbers have grown. He believes this rule allows him to work effectively with Idaho Fish and Game to manage the turkey population and related depredation.

**MOTION:** **Senator Guthrie** moved to approve **Docket No. 13-0109-1805**. **Senator Bair** seconded the motion. The motion passed by **voice vote**.

**DOCKET NO. 13-0110-1801** **Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife.** **Ms. Kiefer** stated this rule updates the Chronic Wasting Disease risk management strategy. It provides that the Department will generally not approve possession, importation, transport, sale, barter, or trade of elk, moose, mule deer, white deer, fallow deer, or muntjac deer because of concerns about transmission of Chronic Wasting Disease. She stated that nothing in this rule is intended to put any kind of limitation on the statutory and rule authorities of the Idaho Department of Agriculture relative to the domestic cervidae industry.

**DISCUSSION:** Ms. Kiefer deferred a question from Senator Stennett concerning a muntjac deer to Toby Boudreaux, Chief of the Wildlife Bureau, Idaho Department of Fish and Game. **Mr. Boudreaux** advised that a muntjac deer is a species from China that has been domesticated and are basically owned privately.

**Vice Chairman Brackett** noted that Ms. Kiefer indicated the House had some concern regarding this bill and asked her if she knew if the House had considered this rule. **Ms. Kiefer** advised that the House did reject the rule. **Senator Johnson** also expressed concerns with the language of the bill. **Ms. Kiefer** indicated that after hearing some of the confusion and concerns, the Department has thoughts about ways they could make this rule much better.

**MOTION:** **Vice Chairman Brackett** moved to reject **Docket No. 13-0110-1801**. **Senator Johnson** seconded the motion. The motion passed by **voice vote**.

**ADJOURNED:** **Chairman Heider** indicated that the Committee will not have time to hear the final rule on the agenda and **Docket No. 13-0110-1802** will be rescheduled at a later time. There being no further business, **Chairman Heider** adjourned the meeting at 2:58 p.m.

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Senator Heider  
Chair

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Tyler Brock  
Secretary

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Lois Bencken  
Assistant Secretary

January 22, 2019

**MEMORANDUM**

To: Gary Spackman, Director

From: Tom Neace, Ground Water Protection Section

RE: Flowing Artesian Wells

An artesian well is defined in Idaho Code §42-1604 as “any well... which encounters pressurized ground water... under sufficient head to rise above the elevation at which it was first encountered whether or not the fluid flows at land surface. If the water stands above land surface, the well is a flowing artesian well.” Department records document a significant number of flowing artesian wells throughout the State of Idaho.

**Flowing Wells Identified in the Statewide Wells Database**

The Department “wells database” identifies a total of 410 flowing artesian wells statewide, recorded in the following counties.

County	# of flowing artesian wells	County	# of flowing artesian wells
Ada	37	Idaho	30
Adams	12	Jefferson	3
Bear Lake	2	Jerome	1
Benewah	12	Kootenai	45
Blaine	2	Latah	10
Boise	13	Lemhi	4
Bonner	69	Lewis	10
Bonneville	1	Nez Perce	11
Boundary	5	Owyhee	6
Camas	1	Payette	2
Canyon	54	Power	1
Caribou	4	Shoshone	1
Cassia	5	Teton	4
Clearwater	7	Twin Falls	17
Elmore	2	Valley	17
Gem	9	Washington	10
Gooding	3		

The total number of flowing artesian wells statewide as reported in the database is not considered an accurate estimate. Prior to 1987, well reports from many wells were not submitted to the Department, because well permits were not required until 1987.

**Historical Records of Flowing Artesian Wells**

Morrison-Kundsens Engineers conducted a Phase I - Artesian Well Study in Southern Idaho for the Department from 1987 - 1989. In 1991, a Phase II - Artesian Well Study was conducted by ThermaSource, Inc. as a follow-up to the earlier Morrison-Kundsens study. The studies evaluated over 6,000 wells and identified 770 flowing artesian wells. The Phase II Study determined that over 90% of the wells were reported as 300 feet deep or less and 81% of the wells studied were for domestic use. The wells that were studied at that time are now all greater than 40 years old.

**Eagle-Star Area Flowing Artesian Wells**

Ninety-nine (99) flowing artesian wells were identified and inventoried during the past five years in the Eagle-Star area. Of those 99 flowing artesian wells, 34 flowing artesian wells have been decommissioned, and 22 have been controlled by repair or reducing either the flow to the applicable water right or the domestic exemption. Approximately 39 of the wells identified were in compliance. Four (4) of the wells remain substantially out of compliance including:

- Carol Lennon Well
- Hoffburg Well
- 4149 State Street Limited Well
- CT Real Estate Well

The Department’s State Office and Western Region continue to work with the landowners of the four out of compliance wells.

**Additional Western Region Flowing Artesian Wells**

Sonny Hornbaker, former IDWR Western Region Ground Water Protection Section Specialist, located additional flowing artesian wells from archived inspections in Western Region, just before his retirement in 2018. Hornbaker added 103 additional sites to the database that need to be inspected in six counties within Western Region.

County	# of flowing artesian wells
Ada	24
Canyon	7
Elmore	2
Gem	20
Owyhee	46
Payette	4

**Statewide Estimate of Flowing Artesian Well and Potential Problem Wells**

I would estimate, based on the work performed on flowing artesian wells and records in the wells database, approximately 1,000 flowing artesian wells are present in Idaho. Potentially hundreds of flowing artesian wells statewide may be out of compliance with applicable Statutes and Rules. Uncontrolled flowing artesian wells result in the waste of water, commingling of aquifers and loss of artesian pressure in the aquifer.

The cost of repairing or decommissioning the flowing artesian wells could be significant, as much as \$3 - \$5 million, depending on the depth, pressure, condition of the well and complexity of the formation.

This cost estimate was developed using the following assumptions:

- One-thousand (1,000) flowing artesian wells exist statewide.
- Approximately 300 to 500 flowing artesian wells need to be repaired or decommissioned.
- Cost for repair or decommissioning is \$10,000 per well.

Please contact me if you have any questions or wish to discuss further.

**AMENDED AGENDA #2**  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**  
**1:30 P.M.**  
**Room WW55**  
**Monday, January 28, 2019**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>RS26434C1</u></a>	Relating to the Idaho Wolf Depredation Control Board, repealing sections of the code relating to a sunset date, amendments, and to remove a date range regarding The Idaho Fish and Game Commission's Compliance with specified Provisions.	Carl Rey Idaho Wolf Depredation Control Board
Docket No. <a href="#"><u>13-0110-1802</u></a>	Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife	Sharon Kiefer, Chief, Bureau of Communications, Idaho Department of Fish and Game
<b>Vote on Gubernatorial Appointments</b>	<p>Re-appointment of <b>LANE CLEZIE</b> of Pocatello, to the Idaho Fish and Game Commission, serving June 30, 2018, to June 30th, 2022.</p> <p>Appointment of <b>TIM MURPHY</b> of Boise to the Idaho Fish and Game Commission, serving Nov. 28, 2018, to June 30th, 2022.</p> <p>Re-appointment of <b>JO ANN COLE-HANSEN</b> of Lewiston to the Idaho Water Resource Board, serving Jan. 1, 2019, to Jan. 1, 2023.</p> <p>Re-appointment of <b>JEFFREY RAYBOULD</b> of St. Anthony, to the Idaho Water Resource Board, serving Jan. 1, 2019 to Jan. 1, 2023.</p> <p>Re-appointment of <b>DALE VAN STONE</b> of Hope to the Idaho Water Resource Board serving Jan. 1, 2019 to Jan. 1, 2023.</p> <p>Re-appointment of <b>PETE VAN DER MEULEN</b> of Hailey to the Idaho Water Resource Board, serving Jan. 1, 2019 to Jan. 1, 2023.</p>	Chairman Lee Heider

***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 Heider	Sen Patrick
Vice Chairman Brackett	Sen Guthrie
Sen Bair	Sen Stennett
Sen Johnson	Sen Jordan

COMMITTEE SECRETARY

Jamie Skrypkun  
Room: WW37  
Phone: 332-1323  
email: sres@senate.idaho.gov

Sen Mortimer

MINUTES

## SENATE RESOURCES & ENVIRONMENT COMMITTEE

**DATE:** Monday, January 28, 2019

**TIME:** 1:30 P.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer, Patrick, Guthrie, 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 Heider** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:31 p.m.

**RS 26434C1** **Relating to the Idaho Wolf Depredation Control Board, repealing sections of the code relating to a sunset date, amendments, and to remove a date range regarding The Idaho Fish and Game Commission's Compliance with specified Provisions.** **Carl Rey**, a member of the Idaho Wolf Depredation Control Board (Board), presented this RS. He stated that the Board was established in 2014, all Board members are serving their second term, and the Board is working very well. The Board is requesting repeal of the sunset provision that would reauthorize the Board's authority in the future, and repeal of the sunset provisions that affect funding of the Board.

**DISCUSSION:** In response to questions from the Committee, **Mr. Rey** advised that the federal government put wolves in Idaho. The Board's mandate is not to harvest or remove as many wolves as they can from the ecosystem, but to manage problem wolves that prey on livestock. Because the Board is working with problem wolves, lethal means of control are usually necessary and the Board's mandate does not include control by non-lethal methods. The Board works with Idaho Fish and Game and USDA Wildlife Services to monitor the wolf population and handle complaints from livestock producers. **Mr. Rey** further stated that although the Board's authorization does not sunset until 2020, the Board would not be able to present funding requests next year for 2020 operation if the sunset clause is not removed at this time. He indicated that because the Board has surplus funding, this year's funding request was limited to \$200,000 and this will require the Board to dip into surplus funds.

**MOTION:** **Senator Bair** moved to send **RS 26434C1** to print. **Vice Chairman Brackett** seconded the motion. The motion passed by **voice vote**.

**DOCKET NO. 13-0110-1802** **Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife.** **Sharon Kiefer**, Chief, Bureau of Communications, Idaho Department of Fish and Game, stated that the intent of this rule is to prevent the spread of Chronic Wasting Disease (CWD) in the State of Idaho. She indicated that Idaho does not currently have CWD, but many states do. This rule prohibits the importation of carcasses or other parts of deer, elk, or moose from any area outside of Idaho with a documented case of CWD. Wrapped meat, edible organs, and finished taxidermy are listed among items that may be imported. Brain tissue and spinal tissue may not be imported.

**MOTION:** **Senator Mortimer** moved to approve **Docket No. 13-0110-1802**. **Senator Bair** seconded the motion. The motion passed by **voice vote**.

**VOTE ON  
GUBERNATORIAL  
APPOINTMENTS:**

**MOTION:** **Re-appointment of Lane Clezie to the Idaho Fish and Game Commission, serving June 30, 2018, to June 30, 2022.** **Senator Stennett** moved to send the Gubernatorial appointment of **Lane Clezie** to the Idaho Fish and Game Commission to the floor with a recommendation that he be confirmed by the Senate. **Senator Guthrie** seconded the motion. The motion passed by **voice vote**. **Chairman Heider** will sponsor the appointment on the Senate floor.

**MOTION:** **Appointment of Tim Murphy to the Idaho Fish and Game Commission, serving November 28, 2018, to June 30, 2022.** **Vice Chairman Brackett** moved to send the Gubernatorial appointment of **Tim Murphy** to the Idaho Fish and Game Commission to the floor with a recommendation that he be confirmed by the Senate. **Senator Jordan** seconded the motion. The motion passed by **voice vote**. **Vice Chairman Brackett** will sponsor the appointment on the Senate floor.

**MOTION:** **Re-appointment of Jo Ann Cole-Hansen to the Idaho Water Resource Board, serving January 1, 2019, to January 1, 2023.** **Senator Johnson** moved to send the Gubernatorial appointment of **Jo Ann Cole-Hansen** to the Idaho Water Resource Board to the floor with a recommendation that she be confirmed by the Senate. **Senator Stennett** seconded the motion. The motion passed by **voice vote**. **Senator Johnson** will sponsor the appointment on the Senate floor.

**MOTION:** **Re-appointment of Jeffrey Raybould to the Idaho Water Resource Board, serving January 1, 2019, to January 1, 2023.** **Senator Bair** moved to send the Gubernatorial appointment of **Jeffrey Raybould** to the Idaho Water Resource Board to the floor with a recommendation that he be confirmed by the Senate. **Senator Mortimer** seconded the motion. The motion passed by **voice vote**. **Senator Bair** will sponsor the appointment on the Senate floor.

**MOTION:** **Re-appointment of Dale Van Stone to the Idaho Water Resource Board, serving January 1, 2019, to January 1, 2023.** **Senator Guthrie** moved to send the Gubernatorial appointment of **Dale Van Stone** to the Idaho Water Resource Board to the floor with a recommendation that he be confirmed by the Senate. **Senator Stennett** seconded the motion. The motion passed by **voice vote**. **Senator Stennett** will sponsor the appointment on the Senate floor.

**MOTION:** **Re-appointment of Pete Van Der Meulen to the Idaho Water Resource Board, serving January 1, 2019 to January 1, 2023.** **Senator Stennett** moved to send the Gubernatorial appointment of **Pete Van Der Meulen** to the Idaho Water Resource Board to the floor with a recommendation that he be confirmed by the Senate. **Senator Mortimer** seconded the motion. The motion passed by **voice vote**. **Senator Stennett** will sponsor the appointment on the Senate floor.

**ADJOURNMENT:** There being no further business, **Chairman Heider** adjourned the meeting at 1:53 p.m.

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Senator Heider  
Chair

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Tyler Brock  
Secretary

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Lois Bencken  
Assistant Secretary

AGENDA  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**  
**1:30 P.M.**  
**Room WW55**  
**Wednesday, January 30, 2019**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<b>H <a href="#">0001</a></b>	<b>Water-Ways and Means</b> Legislation that adds a new section to existing code re: water storage projects larger than one thousand (1,000) acre-feet	Speaker Bedke, House of Representatives
<b><a href="#">RS26513C1</a></b>	Ground Water Districts	Senator Bair
<b>Gubernatorial Appointment</b>	Re-appointment of <b>LOUISE STARK</b> of Challis, ID, to the <u>Idaho Outfitters and Guides Licensing Board</u> to serve a term commencing April 20, 2018 until April 20, 2021	Louise Stark
<b>Docket No. <a href="#">58-0102-1802</a></b>	<b>Water Quality Standards</b> , Revise recreational use criteria and aquatic life criteria for three toxics	Barry Burnell, Idaho Dept. of Environmental Quality
<b>Docket No. <a href="#">13-0116-1802</a></b>	The Trapping of Predatory and Unprotected Wildlife and the Taking of Fur-bearing Animals	Sharon Kiefer, Deputy Director, Programs and Policies, Idaho Department of Fish and Game
<b>Docket No. <a href="#">13-0116-1803</a></b>	The Trapping of Predatory and Unprotected Wildlife and the Taking of Fur-bearing Animals	Sharon Kiefer, Chief, Bureau of Communications, Idaho Department of Fish and Game
<b>Presentation</b>	<b>Overview of the Legislative Budget Book</b> regarding Natural Resources and other topics	Robert Sepich, Senior Budget Analyst, Legislative Services Office, Idaho State Legislature  Maggie Smitch, Budget Analyst, LSO

***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 Heider

Vice Chairman Brackett

Sen Bair

Sen Johnson

Sen Mortimer

Sen Patrick

Sen Guthrie

Sen Stennett

Sen Jordan

COMMITTEE SECRETARY

Jamie Skrypkun

Room: WW37

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MINUTES  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**

**DATE:** Wednesday, January 30, 2019

**TIME:** 1:30 P.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer, Patrick, Guthrie, 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 Heider** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:31 p.m.

**H 0001** **Water-Ways and Means Legislation That Adds a New Section to Existing Code Re: Water Storage Projects Larger Than One Thousand Acre-feet.** **Speaker Bedke**, House of Representatives, District 27, presented this bill. He indicated that this new section to Idaho Code is the result of a settlement reached in a multi-year litigation and negotiation regarding the fill and refill of the Boise River System. It requires that any new water storage over 1,000 acre-feet will be subordinate to existing uses, and ensures that new or proposed projects to store more than one thousand acre-feet of surface water do not interfere with the storage of water in existing on-stream storage reservoirs operated for storage and flood control purposes.

**DISCUSSION:** **Senator Stennett** asked how the limitation of 1,000 acre-feet was determined and how the ponds under 1,000 acre-feet are regulated. **Speaker Bedke** indicated that neighborhood ponds used for lawn irrigation and subdivision aesthetics are generally under 1,000 acre-feet. It was not deemed necessary to include those small ponds in this regulation; they do, however, have a permitting process.

In response to questions from Senator Mortimer and Senator Guthrie, **Speaker Bedke** advised that this new section will apply to all new storage throughout the State of Idaho, and will affect new on-stream storage facilities on the Boise River and the Snake River. He further indicated that stakeholders all along the Snake River and the Boise River were consulted and are in agreement with this proposed legislation. He stated that also blended into this law and the court cases is the concept of not shutting off the water completely for new uses and the ability to develop the land. **Speaker Bedke** stated that the fill of new storage, or the refill of new storage, will be done in priority and not jumped ahead of existing permit holders. As an example, he stated that existing rights filled out of American Falls Reservoir, or any other reservoir along the Snake River, would take priority over new fill at Island Park.

**Vice Chairman Brackett** asked how this would affect pending applications for water, specifically, Elmore County's pending application for flood water on the Boise River, and the Anderson Ranch Dam project. **Speaker Bedke** indicated that **H 0001** has an emergency clause, and would go into effect upon the signature of the Governor. He stated that pending claims in the system now, including the Elmore County application, will fall in line under the same orderly process that has always been used. He added that all of this has to go before the Water Court for blessing. With regard to the Anderson Ranch Dam project, **Speaker Bedke** advised that when that project is complete, it is going to be a new water right that is going to be filled after other priority rights have been filled..

**TESTIMONY:** **Gary Spackman**, Director, Idaho Department of Water Resources, spoke in favor of **H 0001**. He stated it is his responsibility to administer Idaho water rights and to optimize the development and beneficial use of the waters of the State while still protecting senior water right holders. He indicated that he believes that this legislation is reasonable and will allow him to accomplish his responsibility as Director.

**DISCUSSION:** **Senator Mortimer** asked if, in a reservoir of over 1,000 acre-feet, this legislation authorizes the Director to issue water rights for the first 1,000 acre-feet, or is that first 1,000 acre-feet for the benefit of older permit holders. **Director Spackman** stated that if he receives an application for 1,000 acre-feet or more, that application in its entirety would be subordinate to the physical refill of the other on-stream reservoirs in the system.

**TESTIMONY:** **Paul Arrington**, Chairman, Idaho Water Users Association, spoke in favor of **H 0001**. He stated that the final bill before the Committee today was not the original draft. A lot of people throughout the state were consulted, changes were made, and ultimately this bill came forward. He indicated that the Legislative Committee for the Idaho Water Users Association has voted to support this bill.

**DISCUSSION:** **Chairman Heider** asked Mr. Arrington to confirm that this bill does not affect the priority doctrine that we have in Idaho of first-in-time, first-in-right. **Mr. Arrington** advised that is correct; this bill is about codifying elements of the prior appropriation doctrine.

**Senator Stennett** asked if anything prevents an individual from getting many small permits that add up to more than 1,000 acre-feet. **Mr. Arrington** stated that frankly, there is not. However, he added that the Director must consider each application and its impact on other water rights. He advised there is also a protest procedure for those who feel they would be impacted by new applications.

**MOTION:** **Vice Chairman Brackett** moved to send **H 0001** to the floor with a **do pass** recommendation. **Senator Bair** seconded the motion. The motion passed by **voice vote**. Senator Rice will sponsor the bill on the floor.

**RS 26513C1** **Ground Water Districts.** **Senator Bair** yielded to **Lynn Tominaga**, Executive Director, Idaho Ground Water Appropriators, to present **RS 26513C1**. **Mr. Tominaga** advised that ground water district assessments are levied only once per year. This proposed legislation allows ground water districts to recover costs by levying a special assessment when actual expenses exceed projections. It further enhances the ability of ground water districts to enforce compliance with mitigation plans approved by the Idaho Department of Water Resources.

**MOTION:** **Senator Mortimer** moved to send **RS 26513C1** to print. **Senator Bair** seconded the motion. The motion passed by **voice vote**.

**GUBERNATORIAL APPOINTMENT:** **Re-appointment of Louise Stark of Challis, Idaho, to the Idaho Outfitters and Guides Licensing Board (Board) to serve a term commencing April 20, 2018 until April 20, 2021.** **Ms. Stark** stated she has served on the Board for over six years. She is a licensed outfitter, and has a big picture perspective of what outfitters and guides do. She and her husband operate on three stretches of the Salmon River, and also have hunt concessions on two national forests as well as the Bureau of Land Management. **Ms. Stark** indicated she has unfinished business on the board, and is looking forward to a third term.

**DISCUSSION:** **Senator Bair** asked Ms. Stark to share with the Committee what her biggest concerns and biggest challenges have been over her last three year term. **Ms. Stark** indicated that outfitters in the State of Idaho not only hold a license for the activities and the areas in which they operate, but also hold special use permits with federal agencies. The recent government shutdown greatly impacted the ability to conduct business. **Ms. Stark** also indicated that information management has been a big concern. The Board has approved moving toward a new database, which should resolve some of those concerns. She additionally mentioned financial needs may become a concern in the future, as there has not been a fee increase in a number of years.

**Vice Chairman Brackett** asked what unfinished business Ms. Stark referred to in her introduction. **Ms. Stark** indicated that the Board has been working with outfitters and guides to resolve some concerns with tag allocation, and she looks forward to continuing that work during 2019.

**Chairman Heider** asked if the people who employ Ms. Stark as a guide generally purchase their licenses from her, or are they responsible for getting their own licenses. **Ms. Stark** indicated sometimes it is more advantageous for them to work with her, as she can deal with allocated tags and some very special tags; however, she is open to accommodating their needs if they come to her with tags already purchased.

**Chairman Heider** thanked Ms. Stark for appearing before the Committee and indicated that voting on this re-appointment would take place at the next Committee meeting.

**DOCKET NO.  
58-0102-1802**

**Water Quality Standards, Revise Recreational Use Criteria and Aquatic Life Criteria for Three Toxics.** **Barry Burnell**, Water Quality Division Administrator, Idaho Department of Environmental Quality (DEQ), stated that the purpose of this proposed rulemaking is to adopt criteria to protect aquatic life in surface waters from three toxic substances, and to adopt an alternate fecal indicator bacteria criteria (see attachment 1). **Mr. Burnell** indicated that this bill was previously rejected by the Committee due to opposition to the section adopting an alternate fecal indicator bacteria criteria. DEQ is now withdrawing that section from the rule package and asking the Committee to approve the rule with the rejection of that section.

**MOTION:** **Senator Bair** moved to reconsider **Docket 58-0102-1802**. **Vice Chairman Brackett** seconded the motion. The motion passed by **voice vote**.

**MOTION:** **Vice Chairman Brackett** moved to approve **Docket 58-0102-1802** with the exception of Subsection 251.02. **Senator Bair** seconded the motion. The motion passed by **voice vote**.

**DOCKET NO.  
13-0116-1802**

**The Trapping of Predatory and Unprotected Wildlife and the Taking of Fur-bearing Animals. Sharon Kiefer**, Deputy Director, Programs and Policies, Idaho Department of Fish and Game (Department), stated that this proposed rule was negotiated with the Idaho Trappers Association, and is a revision of the rules relating to the placement of ground sets, which is a type of trapping set. She advised this rule requires that those sets must be ten feet from the edge of any maintained, unpaved public trails, and adds paved trails to that same distance requirement. She noted that the concern of the Idaho Trappers Association was trying to ensure there was no conflict with recreational use with pets.

**MOTION:**

**Senator Johnson** moved to approve **Docket No. 13-0116-1802**. **Senator Stennett** seconded the motion. The motion passed by **voice vote**.

**DOCKET NO.  
13-0116-1803**

**The Trapping of Predatory and Unprotected Wildlife and the Taking of Fur-bearing Animals. Ms. Kiefer** stated that this proposed rule is administrative cleanup. She explained that when the Idaho Fish and Game Commission (Commission) set their fur-bearer season for 2018 and 2019, their season proclamation rescinded the restriction that red fox could only be taken by trapping in Valley County and portions of Adams County. With this rule the Department is rescinding the restriction that red fox could only be taken by trapping in those areas.

**DISCUSSION:**

In response to a question by Senator Bair, **Ms. Kiefer** advised that in certain circumstances a proclamation can trump a rule. Because the Commission was not adopting a season with that take restriction, and based on the constituents' desires, this did fall within the Commission's ability to establish by proclamation. She further stated that there are numerous examples in the Department's rule book where the Department has passed rules which give the Commission the authority to establish certain criteria via proclamation rather than in rule.

**MOTION:**

**Senator Guthrie** moved to approve **Docket No. 13-0116-1803**. **Vice Chairman Brackett** seconded the motion. The motion passed by **voice vote**.

**ADJOURNED:**

**Chairman Heider** announced that the presentation by the Legislative Services Office scheduled on the agenda will be moved to the next meeting. There being no further business, he adjourned the meeting at 2:54 p.m.

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Senator Heider  
Chair

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Tyler Brock  
Secretary

Lois Bencken  
Assistant Secretary

**Idaho Water Quality Standard Rule  
Adopts Aquatic Life Criteria for 3 Toxics and  
Adopts an Alternate Fecal Indicator Bacteria Criteria  
Docket No. 58-0102-1802  
<< Senate Tab 2 Page 209>>**

**1. Why was this rulemaking necessary?**

- The purpose of this rulemaking is to adopt criteria to protect aquatic life in surface waters from three toxic substances and to adopt an alternate fecal indicator bacteria criteria.
- 3 Toxics are:
  - acrolein (aquatic herbicide - EPA 304a recommended criteria in 2009 = 3 ug/L)
  - carbaryl (pesticide- EPA 304a recommended criteria in 2012 = 2.1 ug/L)
  - diazinon (pesticide- EPA 304a recommended criteria in 2005 = 0.17 ug/L) (pg 215)
- The alternate fecal indicator bacteria proposed is enterococci. (pg 229)
  - E. coli is the current bacteria standard (126 counts per 100 mL)
  - Enterococci criteria is proposed to be 35 counts per 100 mL
    - The relationship of enterococci concentration to human illnesses is direct, whereas E. coli criteria is derived based on its relationship to enterococci.
    - Additionally, enterococci is proposed to be an alternate fecal indicator bacteria because it is anticipated to have longer holding times for analysis than E. coli. This provides for remote sampling locations to get the bacteria samples into the lab in time to run the analysis within standard laboratory methods.
- One additional change is to include secondary contact recreation (wading) in with waters that are designated for primary contact recreation (swimming). (pg 212)
- This rule should benefit point source dischargers to surface waters by the selection of the bacteria criteria in there IPDES application that suits there needs.

**2. What opportunities did we provide for public involvement?**

- The draft Rule was published in the May 2018 Administrative Bulletin and was negotiated on May 31, and June 28, 2018.
- DEQ provided a 30 day public comment period after publication of the proposed rule in the administrative bulletin September 5, 2018.
- DEQ's Board approved the rule at the November Board meeting.

**3. What is going to be the estimated cost to the regulated community, etc?**

- No additional costs to the regulated community.

**4. What are the controversial issues or contentious elements of the rule?**

- There are no controversial issues with this rule.

**5. Stringency issue?**

- This pending rule regulates an activity currently regulated by the federal government; the pending rule is not broader in scope nor more stringent than federal regulations.

DEQ requests the Committee recommend approval of the rule docket 58-0102-1802. This concludes my presentation. I'll stand for questions.

AGENDA  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**  
**1:30 P.M.**  
**Room WW55**  
**Monday, February 04, 2019**

SUBJECT	DESCRIPTION	PRESENTER
<b>Presentation</b>	Overview of the Legislative Budget Book regarding Natural Resources and other topics	Maggie Smitch Robert Sepich Senior Budget Analyst, LSO
<a href="#"><u>S 1041</u></a>	Ground Water Districts, Assessments	Lynn Tominaga
<a href="#"><u>S 1039</u></a>	Wolf Depredation	Carl Rey Wolf Control Board
<a href="#"><u>RS26664</u></a>	Legislation to allow for ground water to be diverted and used at any time, with or without, a water right for the purpose of fire-fighting.	Vice-Chairman Brackett
<b>Vote on Gubernatorial Appointment</b>	Vote on re-appointment of <b>LOUISE STARK</b> of Challis, ID, to the Idaho Outfitters and Guides Licensing Board to serve a term commencing April 20, 2018 until April 20, 2021	Chairman Heider
<b>RULES REVIEW</b>		Vice-Chairman Brackett
<b>Docket No.</b> <a href="#"><u>13-0117-1801</u></a>	Rules Governing the Use of Bait and Trapping for Taking Big Game Animals	Sharon Kiefer, Chief, Bureau of Communications, Idaho Dept. of Fish and Game
<b>Docket No.</b> <a href="#"><u>13-0117-1802</u></a>	Rules Governing the Use of Bait and Trapping for Taking Big Game Animals	Sharon Kiefer, Idaho Department of Fish and Game
<b>Docket No.</b> <a href="#"><u>13-0118-1801</u></a>	Rules Governing Emergency Feeding of Antelope, Elk, and Deer of the Idaho Fish and Game Commission	Sharon Kiefer, Idaho Department of Fish and Game

***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 Heider

Sen Patrick

COMMITTEE SECRETARY

Jamie Skrypkun

Vice Chairman Brackett  
Sen Bair  
Sen Johnson  
Sen Mortimer

Sen Guthrie  
Sen Stennett  
Sen Jordan

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

**DATE:** Monday, February 04, 2019

**TIME:** 1:30 P.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer, Patrick, Guthrie, 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 Heider** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m.

**PRESENTATION:** **Overview of the Legislative Budget Book Regarding Natural Resources and Other Topics.** **Maggie Smitch**, Budget Analyst, Legislative Services Office (LSO), provided an overview of the budgeting process (see attachment 1). She indicated there are two budgets that are germane to this Committee within her agency assignments: Office of Energy and Mineral Resources, and Public Utilities Commission. **Ms. Smitch** provided historical summaries of the operating budgets for each of those agencies from Fiscal Year (FY) 2018 through requests for FY 2020, with a detailed breakdown of FY 2020 budget requests by the agencies and those recommended by the Governor (see attachment 2).

**Rob Sepich**, Senior Budget Analyst, LSO, reviewed the budget for the Department of Environmental Quality (Department). He provided an historical summary of the operating budget from FY 2018 through requests for FY 2020, and gave a detailed analysis of the Department's budget request for 2020 versus the recommendations by the Governor (see attachment 3). **Mr. Sepich** stated that the Department has carried over \$250,900 from previous years to work on some best management practices. He indicated that most of the line items are the same in the requested budget and the Governor's recommendation, but noted a few differences. The Governor recommended funding only about half of the year's health cost, and did not include all of the replacement items requested by the Department. The Department used the standard 1 percent increase in employee compensation, while the Governor's recommendation is a 3 percent increase for all full time employees. **Mr. Sepich** further explained the line item for Triumph Mine Remediation is a transfer from the Water Pollution Control Fund, and is offset by the Cash Transfers line item. The line item for BURP & LMP Fund Shift represents funds shifted into the General Fund. The Beneficial Use Reconnaissance Program (BURP) monitors the quality of waterways in Idaho, and the Lakes Management Plan (LMP) was set up to prevent a Superfund site in the Coeur d'Alene area. The Governor's recommendation adds an additional line item for the Department's cost-share for statewide network equipment replacement.

**S 1041**

**Ground Water Districts, Assessments.** **Lynn Tominaga**, Executive Director, Idaho Ground Water Appropriators (IGWA), stated that under this rule, if IGWA's expenses exceed projections, the IGWA board may levy an emergency assessment to pay those expenses. Additionally, if a mitigation plan has been approved, and an IGWA member fails to pay the assessment, the IGWA board may levy a special assessment against such member equal to 125 percent of all costs incurred by IGWA to mitigate such member's noncompliance. If the noncompliance constitutes excess water use, the IGWA board may alternatively levy a special assessment equal to \$100 per acre-foot of excess water use.

**Mr. Tominaga** indicated that the Idaho Water Users Association supports this legislation.

**DISCUSSION:**

In response to questions from Senator Mortimer, **Mr. Tominaga** advised that the 125 percent was arbitrarily set. It seemed a reasonable amount to gain the attention of members failing to participate in mitigation plans, and recover costs incurred in enforcing payment of assessments. He further indicated that over the past two years the cost to recharge one acre-foot of water has been approximately \$60. **Mr. Tominaga** stated that if IGWA is unable to collect an assessment, their remedy is to place a lien against the member's property for three years in a row. In the fourth year they can proceed with a sheriff's sale of the property for the amount owed.

**Senator Guthrie** asked if IGWA could accomplish this punitive action through their bylaws and their own regulatory powers, rather than through statute. **Mr. Tominaga** indicated that, other than the ability to place a lien against a member's property for nonpayment of assessment, IGWA does not have regulatory authority.

**Senator Johnson** asked why this legislation changes the term "water user" to "member." **Mr. Tominaga** advised that IGWA has a member category that shares the entire operating cost, and it has mitigation only members, which are usually cities and industrial users that pump groundwater and are paying for mitigation purposes only.

**MOTION:**

**Senator Patrick** moved to send **S 1041** to the floor with a **do pass** recommendation. **Vice Chairman Brackett** seconded the motion. The motion passed by **voice vote**. Senator Bair will sponsor the bill on the floor.

**S 1039**

**Wolf Depredation.** **Carl Rey**, member of the Idaho Wolf Depredation Control Board (Board), stated that this legislation removes sunset provisions pertaining to the continued authority of the Board, and sunset provisions pertaining to the effective dates of the funding mechanisms upon which the Board is dependent.

**DISCUSSION:**

**Senator Stennett** and **Mr. Rey** discussed the methods of non-lethal control of predatory wolves. **Mr. Rey** indicated that the Board has so far perceived its mandate to be control of only problem wolves once they prey on livestock. He is aware of non-lethal control methods occurring with producers such as guard dogs being used, and bringing sheep into areas at night where they are easier to watch. He stated that the Board is not involved in management per se. The Board does have contracts with the USDA Wildlife Services, who then works with livestock producers and with ungulate populations. The USDA Wildlife Services determines what management activities are necessary on the ground, and in some cases it involves the Fish and Game Commission. The Board itself simply administers the funds that oversee those contracts. **Senator Stennett** questioned the convoluted way this Board was set up and the many different agencies involved in its creation. She expressed concern that removing the sunset means there is no cap on the funding. **Mr. Rey** explained the structure of the Board was the result of a long collaborative process with producers, sportsmen, and the Fish and Game Advisory Committee. It took several years to come up with the funding mechanisms and the model that would pass consensus. He further stated that the

funding cap occurs at the authority level of the Joint Finance & Appropriations Committee (JFAC), and what it feels is appropriate in any given year. **Senator Stennett** also noted that at the print hearing it was reported the Board had a \$1.2 million budget surplus and wondered if additional funding was needed at this time. **Mr. Rey** indicated the actual budget surplus at this time is \$700,000, that this is a very high activity period of the year, and all of those bills have not been paid.

- MOTION:** **Senator Patrick** moved to send **S 1039** to the floor with a **do pass** recommendation. **Senator Bair** seconded the motion. The motion passed by **voice vote** with **Senator Stennett** and **Senator Jordan** requesting they be recorded as voting nay. Vice Chairman Brackett will sponsor the bill on the floor.
- RS 26664** **Legislation to Allow for Ground Water to be Diverted and Used at Any Time, With or Without, a Water Right for the Purpose of Fire-fighting.** Vice Chairman Brackett presented this proposed legislation and advised that it clarifies that water can be diverted to fight fires at any time without a permit, regardless of the source.
- MOTION:** **Vice Chairman Brackett** moved to send **RS 26664** to print. **Senator Bair** seconded the motion. The motion passed by **voice vote**.
- VOTE ON GUBERNATORIAL APPOINTMENT:** **Vote on Re-appointment of Louise Stark of Challis, ID, to the Idaho Outfitters and Guides Licensing Board to serve a term commencing April 20, 2018 until April 20, 2021.**
- MOTION:** **Senator Stennett** moved to send the gubernatorial appointment of **Louise Stark** to the Idaho Outfitters and Guides Licensing Board to the floor with a recommendation that she be confirmed by the Senate. **Senator Bair** seconded the motion. The motion passed by **voice vote**.
- DOCKET NO. 13-0117-1801** **Rules Governing the Use of Bait and Trapping for Taking Big Game Animals.** **Sharon Kiefer**, Chief, Bureau of Communications, Idaho Department of Fish and Game (Department) indicated this rule is identical to **Docket No. 13-0116-1802** which she presented at an earlier meeting; it is just in a different chapter. It relates to the setback requirements for ground sets for trapping wolves. The rule was negotiated with the Idaho Trappers Association due to concerns about domestic animals on trails.
- MOTION:** **Senator Mortimer** moved to approve **Docket No. 13-0117-1801**. **Senator Bair** seconded the motion. The motion passed by **voice vote**.
- DOCKET NO. 13-0117-1802** **Rules Governing the Use of Bait and Trapping for Taking Big Game Animals.** **Ms. Kiefer** stated that this rule is an outgrowth of the Department's update to their chronic wasting disease risk management strategy. This rule would restrict the use of natural urine as a lure scent or bait for hunting, and only allow the use of synthetic urine.
- MOTION:** **Senator Bair** moved to approve **Docket No. 13-0117-1802**. **Senator Mortimer** seconded the motion. The motion passed by **voice vote**.
- DOCKET NO. 13-0118-1801** **Rules Governing Emergency Feeding of Antelope, Elk, and Deer of the Idaho Fish and Game Commission.** **Ms. Kiefer** stated this rule makes a technical correction to the title by adding "Pronghorn" prior to antelope and deletes the unneeded reference to Idaho Fish and Game Commission. In addition, the proposed rule includes consideration of the risk of disease transmission, primarily Chronic Wasting Disease (CWD), as a criteria in decisions made by the Department for emergency winter feeding of deer and elk. **Ms. Kiefer** also indicated that the proposed rule adds a new section prohibiting private feeding of deer and elk within a designated CWD Management Zone. She advised that CWD has not been detected in Idaho at this time, and there is no designated CWD Management Zone, so this part of the rule has no effect at this time. She pointed out that incidental grazing on private range land is not a violation of this rule, nor

is incidental feeding when not trying to feed big game animals but providing feed to livestock. **Ms. Kiefer** emphasized that normal agricultural practices of feeding livestock is not considered public supplemental feeding of deer and elk.

**DISCUSSION:** **Chairman Heider** inquired why pronghorn antelope are not always included when the chapter references animals subject to CWD. **Ms. Kiefer** deferred the question to **Toby Boudreau**, acting Chief of the Wildlife Bureau, Idaho Department of Fish and Game, who advised that pronghorn antelope do not get CWD; it is mostly seen in mule deer, whitetail deer, elk, and moose.

**Senator Bair** indicated it has always been his feeling that the Department was less than enthusiastic about winter feeding, partly because of the risk of disease. He expressed concern that if we add yet another criteria for not feeding, this will become an historic event. **Ms. Kiefer** indicated winter feeding is always a risk/benefit evaluation. She deferred again to Mr. Boudreau for further response. **Mr. Boudreau** indicated that over the 14 years he has been with the Department, hundreds of thousands of dollars have been spent toward feeding elk in bad winters. This has been done mostly to keep them away from commercial crops and private livestock. Feeding is not as regular as it may have been 25 years ago, but he feels it is important. The Department feeds when it is needed, in the places that it is absolutely required.

**Vice Chairman Bracket** asked why the Department did not conduct negotiated rulemaking. **Ms. Kiefer** indicated that agricultural feeding of livestock is not affected by this rule. The Department does not know who among the general public, not tied to agriculture, would be feeding wildlife. **Vice Chairman Brackett** commented that when in doubt, negotiated rulemaking should be considered. **Ms. Kiefer** advised that the Department did take public input through its website for 21 days, and the rule was published in the Administrative Bulletin, which provided for an additional 21 days of input.

**MOTION:** **Senator Jordan** moved to approve **Docket No. 13-0118-1801**. **Senator Stennett** seconded the motion. The motion passed by **voice vote**.

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

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Senator Heider  
Chair

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Tyler Brock  
Secretary

Lois Bencken  
Assistant Secretary

# First Regular Session, Sixty-Fifth Legislature

## Idaho Legislative Budget Book For Fiscal Year 2020

This **Legislative Budget Book** is the primary reference document used by the Joint Senate Finance and House Appropriations Committee, in setting the Idaho State Budget. The publication is also available online at:

<https://legislature.idaho.gov/lso/bpa/pubs/>

**Section I** of this document contains statewide summary reports, charts, graphs and historical tables.

**Section II** provides a detailed description of agency budget requests for the Executive Branch, which includes twenty executive departments and the seven offices for statewide elected officials, the Judicial Branch and the Legislative Branch. Also included is the Governor's recommendation that provides the Legislature with a side-by-side comparison of each agency's budget request and the Governor's budget recommendation in a single, inclusive document. Policy oversight is emphasized in this document by grouping and displaying minor programs at the agency or divisional level, and clearly displaying and comparing the key policy budget decisions that need to be made. Detail objects of expenditures (personnel costs, operating expenditures, capital outlay, and trustee and benefit payments) are de-emphasized to allow the use of larger fonts with fewer pages.

**Supporting Agency Profile Documents** include other analyses intended to lend context to the discussion of each agency's budget.

A comprehensive database, and numerous working files, also support the information contained in this document. These enable the Legislature's Budget and Policy Analysis staff to provide an extensive amount of fiscal information to legislative leadership, members of JFAC, germane committees and the Legislature as a whole.

A Publication of the Legislative Services Office

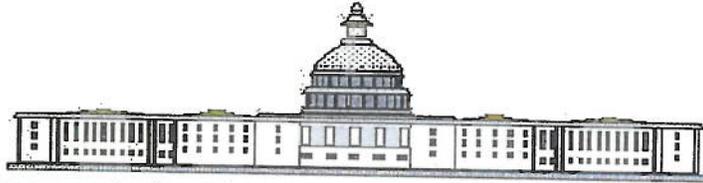
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# Budget and Policy Analysis

## Staff Assignments



**Paul Headlee, Division Manager**

Legislative Branch

**334-4746**

**Keith Bybee, Deputy Division Manager**

Executive Office of the Governor, Division of Financial Management, Department of Commerce, Department of Revenue and Taxation, Department of Insurance, Department of Labor, Department of Finance, Workforce Development Council, Economic Outlook and Revenue Assessment Committee

**334-4739**

**Robyn Lockett, Principal Analyst**

Public School Support/Financing, Educational Services for the Deaf and Blind, Superintendent of Public Instruction, Division of Human Resources, Office of Information Technology Services, Change in Employee Compensation Committee

**334-4745**

**Jared Tatro, Principal Analyst**

Department of Health and Welfare, Catastrophic Health Care Program, Public Health Districts, Division of Veterans Services, Office of Drug Policy, Joint Millennium Fund Committee

**334-4740**

**Jared Hoskins, Principal Analyst**

Department of Correction, Board of Correction, Commission of Pardons and Parole, Department of Juvenile Corrections, Judicial Branch, Attorney General, Public Defense Commission, State Appellate Public Defender, Justice Reinvestment Oversight Committee

**334-4743**

**Rob Sepich, Senior Analyst**

Department of Environmental Quality, Department of Fish and Game, Department of Lands, Endowment Fund Investment Board, Department of Parks and Recreation, Lava Hot Springs, Department of Water Resources, Department of Agriculture, Soil and Water Conservation Commission, Office of Species Conservation, Wolf Depredation Control Board

**334-4742**

**Janet Jessup, Senior Analyst**

College and Universities, Agricultural Research and Extension, Health Education Programs, Special Programs, Community Colleges, Career Technical Education, Office of the State Board of Education, STEM Action Center

**334-4730**

**Christine Otto, Analyst**

Idaho Transportation Department, Idaho State Police, Regulatory Boards, Division of Building Safety, Military Division

**334-4732**

**Jill Randolph, Analyst**

Department of Administration, Permanent Building Fund, Capitol Commission, Idaho Public Television, Division of Vocational Rehabilitation, Arts Commission, Commission for the Blind and Visually Impaired, Commission on Aging, State Independent Living Council, Historical Society, Commission for Libraries, Commission on Hispanic Affairs

**334-4749**

**Maggie Smith, Analyst**

Lieutenant Governor, State Treasurer, Secretary of State, State Controller, State Liquor Division, Office of Energy and Mineral Resources, PERSI, Industrial Commission, Public Utilities Commission, State Lottery, Medical Boards

**334-4741**

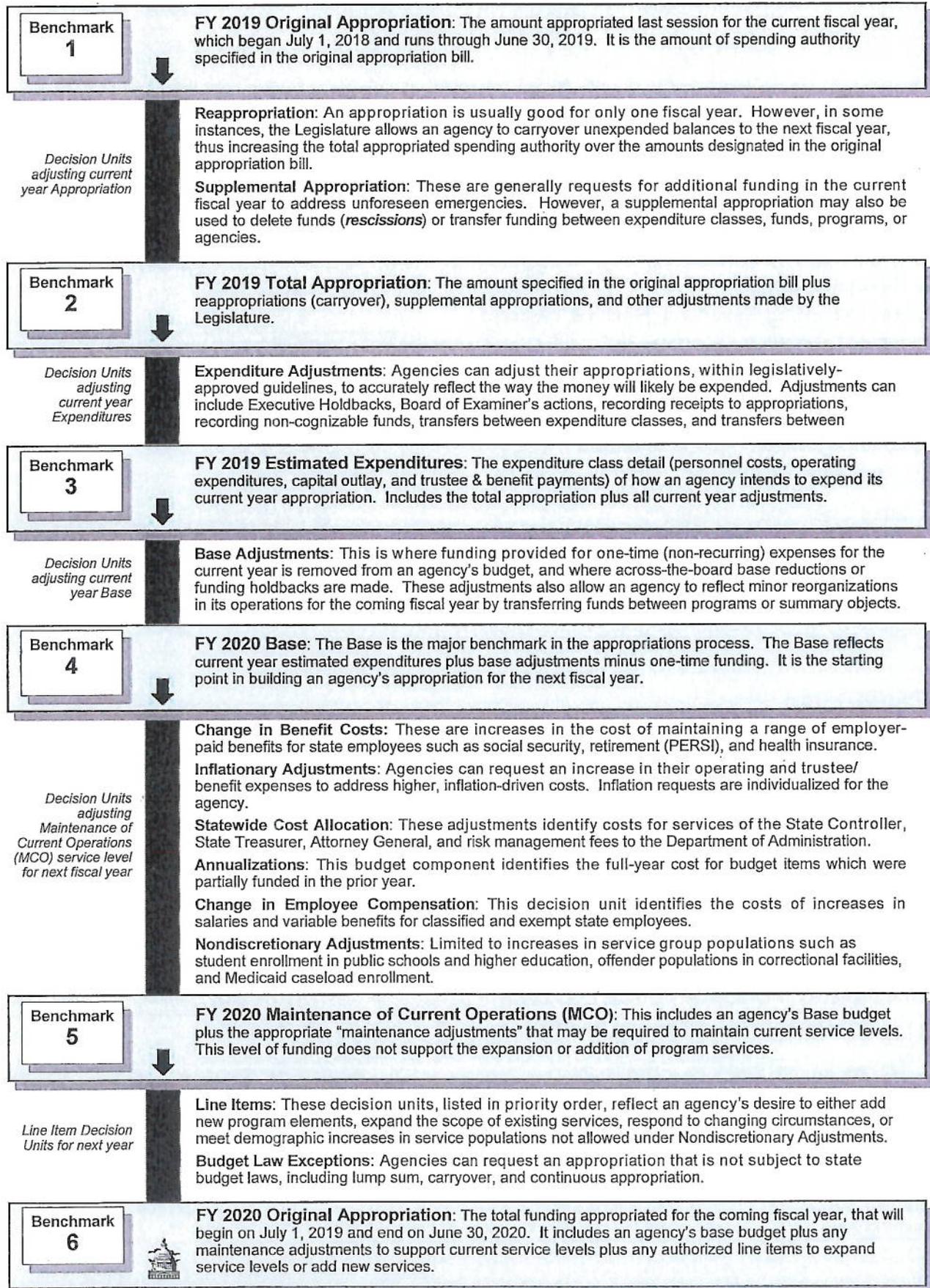
**J. Shane Winslow, Data Systems Coordinator**

**334-4738**

**Lindsey Youtz, Administrative Assistant**

**334-3537**

# The Idaho Decision Unit (DU) Budget Model



# Office of Energy and Mineral Resources

Analyst: Smith

## Historical Summary

OPERATING BUDGET	FY 2018 Total App	FY 2018 Actual	FY 2019 Approp	FY 2020 Request	FY 2020 Gov Rec
<b>BY FUND CATEGORY</b>					
Dedicated	888,000	481,500	893,100	907,100	920,800
Federal	412,700	328,300	415,600	418,600	421,000
<b>Total:</b>	<b>1,300,700</b>	<b>809,800</b>	<b>1,308,700</b>	<b>1,325,700</b>	<b>1,341,800</b>
Percent Change:		(37.7%)	61.6%	1.3%	2.5%
<b>BY OBJECT OF EXPENDITURE</b>					
Personnel Costs	840,500	605,000	850,500	860,400	869,500
Operating Expenditures	398,700	189,600	393,800	402,900	409,900
Capital Outlay	3,500	1,500	6,400	4,400	4,400
Trustee/Benefit	58,000	13,700	58,000	58,000	58,000
<b>Total:</b>	<b>1,300,700</b>	<b>809,800</b>	<b>1,308,700</b>	<b>1,325,700</b>	<b>1,341,800</b>
Full-Time Positions (FTP)	8.00	8.00	8.00	8.00	8.00

## Division Description

The Office of Energy Resources was originally created by Governor Andrus through Executive Order (EO) in 1975. Those responsibilities were assigned to the Idaho Department of Water Resources in 1981. Program authority was modified by EO 2001-06 when energy standards for building codes were transferred to the Division of Building Safety. On October 19, 2007, Governor Otter issued EO 2007-15 reestablishing the Office of Energy Resources within the Office of the Governor. He replaced that with EO 2011-14 and again with EO 2012-08 on October 18, 2012. On October 11, 2016, Governor Otter changed the name to the Office of Energy and Mineral Resources effective for four more years.

The duties, powers, and authorities of the Office of Energy and Mineral Resources shall include:

1. Serving as Idaho's clearinghouse and first point of contact for energy and mineral information, including addressing policy inquiries, and providing information regarding issues;
2. Coordinating the state's energy and mineral planning development efforts;
3. Advising the Governor, the Legislature and other public officials of the state's energy requirements, supply, transmission, management, conservation and efficiency efforts;
4. Coordinating and cooperating with federal and state agencies, departments, and divisions and local governments on issues concerning the state's energy requirements, supply, transmission, management, conservation, and efficiency efforts;
5. Pursuing and accepting federal delegation of responsibility and authority for matters that affect the energy supply, transmission, management, consumption, and conservation by the citizens of Idaho other than energy codes and standards for buildings and those matters under the jurisdiction of the Idaho Public Utilities Commission;
6. Advising the Governor, the Legislature and other public officials of the state's mineral acquisition, exploration and production planning, and policy development efforts;
7. Coordinating and cooperating with federal and state agencies, departments and divisions, and local governments on issues concerning the state's mineral supply and management;
8. Pursuing and accepting federal delegation of responsibility and authority for matters that affect the mineral supply, management, acquisition, exploration, and development;
9. Coordinating, supporting, and overseeing the Idaho Strategic Energy Alliance;
10. Assisting state agencies, departments, divisions, and local governments to secure funding where available for energy conservation projects and renewable energy resource opportunities;
11. Administering energy loan programs and other forms of financial assistance for eligible projects;
12. Entering into other agreements or contracts and doing that which is necessary to carry out the provisions of the executive order, and in the performance of other duties as may be directed by the Governor.

The Office of Energy and Mineral Resources may accept private contributions, state or federal funds, funds from other public agencies, or any other source. These moneys shall be expended solely for the purposes provided in the executive order and accounted for as provided by law.

**Office of Energy and Mineral Resources**  
**FY 2020 Request**

	FTP	Gen	Ded	Fed	Total
FY 2019 Original Appropriation	8.00	0	893,100	415,600	1,308,700
FY 2019 Total Appropriation	8.00	0	893,100	415,600	1,308,700
FY 2019 Estimated Expenditures	8.00	0	893,100	415,600	1,308,700
Removal of Onetime Expenditures	0.00	0	(6,400)	0	(6,400)
Base Adjustments	0.00	0	0	0	0
<b>FY 2020 Base</b>	<b>8.00</b>	<b>0</b>	<b>886,700</b>	<b>415,600</b>	<b>1,302,300</b>
Benefit Costs	0.00	0	1,900	800	2,700
Replacement Items	0.00	0	4,400	0	4,400
Statewide Cost Allocation	0.00	0	9,100	0	9,100
Change in Employee Compensation	0.00	0	5,000	2,200	7,200
<b>FY 2020 Program Maintenance</b>	<b>8.00</b>	<b>0</b>	<b>907,100</b>	<b>418,600</b>	<b>1,325,700</b>
<b>FY 2020 Total</b>	<b>8.00</b>	<b>0</b>	<b>907,100</b>	<b>418,600</b>	<b>1,325,700</b>
Chg from FY 2019 Orig Approp.	0.00	0	14,000	3,000	17,000
% Chg from FY 2019 Orig Approp.	0.0%		1.6%	0.7%	1.3%

## Office of Energy and Mineral Resources

### FY 2020 Govs Rec

	FTP	Gen	Ded	Fed	Total
<b>FY 2019 Original Appropriation</b>	8.00	0	893,100	415,600	1,308,700
<b>FY 2019 Total Appropriation</b>	8.00	0	893,100	415,600	1,308,700
<b>FY 2019 Estimated Expenditures</b>	8.00	0	893,100	415,600	1,308,700
Removal of Onetime Expenditures	0.00	0	(6,400)	0	(6,400)
Base Adjustments	0.00	0	0	0	0
<b>FY 2020 Base</b>	8.00	0	886,700	415,600	1,302,300
Benefit Costs	0.00	0	(1,600)	(1,200)	(2,800)
Replacement Items	0.00	0	4,400	0	4,400
Statewide Cost Allocation	0.00	0	9,100	0	9,100
Change in Employee Compensation	0.00	0	15,200	6,600	21,800
<b>FY 2020 Program Maintenance</b>	8.00	0	913,800	421,000	1,334,800
GOV TECH 1. Network Equip Replacement	0.00	0	600	0	600
GOV TECH 2. Mobile Device Security	0.00	0	2,700	0	2,700
GOV TECH 4. Modernization – Admin Billin	0.00	0	3,700	0	3,700
<b>FY 2020 Total</b>	8.00	0	920,800	421,000	1,341,800
Chg from FY 2019 Orig Approp.	0.00	0	27,700	5,400	33,100
% Chg from FY 2019 Orig Approp.	0.0%		3.1%	1.3%	2.5%

# Public Utilities Commission

Analyst: Smith

## Historical Summary

OPERATING BUDGET	FY 2018 Total App	FY 2018 Actual	FY 2019 Approp	FY 2020 Request	FY 2020 Gov Rec
<b>BY FUND CATEGORY</b>					
Dedicated	6,248,800	6,079,000	6,356,700	6,412,100	6,271,000
Federal	324,000	180,100	325,900	328,700	331,500
<b>Total:</b>	<b>6,572,800</b>	<b>6,259,100</b>	<b>6,682,600</b>	<b>6,740,800</b>	<b>6,602,500</b>
Percent Change:		(4.8%)	6.8%	0.9%	(1.2%)
<b>BY OBJECT OF EXPENDITURE</b>					
Personnel Costs	4,616,100	4,092,900	4,666,000	4,718,700	4,491,000
Operating Expenditures	1,880,600	2,105,700	1,942,800	1,951,700	2,041,100
Capital Outlay	76,100	60,500	73,800	70,400	70,400
<b>Total:</b>	<b>6,572,800</b>	<b>6,259,100</b>	<b>6,682,600</b>	<b>6,740,800</b>	<b>6,602,500</b>
Full-Time Positions (FTP)	52.00	52.00	52.00	52.00	49.00

## Department Description

The Idaho Public Utilities Commission (PUC) was established by the 12th Session of the Idaho Legislature and was organized on May 8, 1913. The commission oversees the intrastate operation of investor-owned electric, gas, water, telecommunications utilities, pipelines, and railroads. The commission does not regulate publicly owned municipal, or cooperative utilities. The commission serves the citizens and utilities of Idaho by determining fair, just, and reasonable rates for utility commodities and services to be delivered safely, reliably, and efficiently. After the Legislature removed the motor carrier function from the commission in 1999, the Administration, Utilities, and Regulated Carriers Programs were combined into one program for budgeting purposes. The PUC is divided internally into two divisions: Administration and Utilities.

The Administration Division has management, fiscal, personnel, public affairs, pipeline safety, and railroad safety responsibilities. It provides support services for the agency (Sections 61-301 through 337, Idaho Code). The pipeline safety section oversees the safe operation of interstate oil and natural gas pipelines in Idaho. The rail section oversees the safe operations of railroads that move freight through Idaho and enforces state and federal regulations safeguarding the transportation of hazardous materials by rail. The PUC is federally preempted from regulating railroad rates, charges, routes, and service; but it can still regulate non-economic railroad operations such as abandonment proceedings, enforcing safety regulations, establishing clearance safety rules, and deciding grade crossing disputes. The commission has also entered into a joint state-federal program with the Federal Railroad Administration to promote and enforce federal safety regulations relating to the transportation of hazardous materials by rail in Idaho.

The Utilities Division has audit, engineering, telecommunications, technical analysis, and consumer assistance responsibilities. The audit section advises the commission on auditing, accounting, financing, income tax, and security issues. It participates in all rate cases to determine proper income, expenses, rate bases, and revenue requirements. The engineering, telecommunications, and technical analysis sections are primarily responsible for economic and engineering analysis of rates, rate design, and cost-of-service and technical evaluations of company proposals. The consumer assistance section is responsible for handling customer complaints and specialized information requests.

Programs are funded by the Public Utilities Commission (PUC) Fund which consists of fees collected from the regulated utilities (telecommunications, power, natural gas, and water corporations) in an amount not more than 0.3% of their intrastate revenues (Section 61-1004, Idaho Code) and from railroad corporations, not more than 1% of the gross operating revenues derived from the intrastate business. The pipeline safety program is also partially funded with a federal grant from the US Department of Transportation. In prior years, General Fund expenditures for the salaries and benefits of the commissioners (Section 61-1009, Idaho Code) were reimbursed to the General Fund at year-end from the PUC Fund. However, beginning in FY 2001, the law was changed and commissioners' salaries are now paid from the PUC Fund.

**Public Utilities Commission**  
**FY 2020 Request**

	FTP	Gen	Ded	Fed	Total
FY 2019 Original Appropriation	52.00	0	6,356,700	325,900	6,682,600
<b>Supplementals</b>					
1. Chinden Campus Relocation	0.00	0	2,419,300	0	2,419,300
FY 2019 Total Appropriation	52.00	0	8,776,000	325,900	9,101,900
Noncognizable Funds and Transfers	0.00	0	0	0	0
FY 2019 Estimated Expenditures	52.00	0	8,776,000	325,900	9,101,900
Removal of Onetime Expenditures	0.00	0	(2,511,200)	0	(2,511,200)
FY 2020 Base	52.00	0	6,264,800	325,900	6,590,700
Benefit Costs	0.00	0	15,400	600	16,000
Replacement Items	0.00	0	82,700	0	82,700
Statewide Cost Allocation	0.00	0	14,700	0	14,700
Change in Employee Compensation	0.00	0	34,500	2,200	36,700
FY 2020 Program Maintenance	52.00	0	6,412,100	328,700	6,740,800
Budget Law Exemptions	0.00	0	0	0	0
FY 2020 Total	52.00	0	6,412,100	328,700	6,740,800
Chg from FY 2019 Orig Approp.	0.00	0	55,400	2,800	58,200
% Chg from FY 2019 Orig Approp.	0.0%		0.9%	0.9%	0.9%

## Public Utilities Commission

### FY 2020 Govs Rec

	FTP	Gen	Ded	Fed	Total
<b>FY 2019 Original Appropriation</b>	52.00	0	6,356,700	325,900	6,682,600
<b>Supplementals</b>					
1. Chinden Campus Relocation	0.00	0	2,419,300	0	2,419,300
<b>FY 2019 Total Appropriation</b>	52.00	0	8,776,000	325,900	9,101,900
Noncognizable Funds and Transfers	0.00	0	0	0	0
<b>FY 2019 Estimated Expenditures</b>	52.00	0	8,776,000	325,900	9,101,900
Removal of Onetime Expenditures	0.00	0	(2,511,200)	0	(2,511,200)
<b>FY 2020 Base</b>	52.00	0	6,264,800	325,900	6,590,700
Benefit Costs	0.00	0	(21,000)	(1,000)	(22,000)
Replacement Items	0.00	0	82,700	0	82,700
Statewide Cost Allocation	0.00	0	14,700	0	14,700
Change in Employee Compensation	0.00	0	102,300	6,600	108,900
<b>FY 2020 Program Maintenance</b>	52.00	0	6,443,500	331,500	6,775,000
<b>Line Items</b>					
1. CEC for Commissioners	0.00	0	11,700	0	11,700
GOV TECH 1. Network Equip Replacement	0.00	0	4,500	0	4,500
GOV TECH 3. Modernization – Consolidate	(3.00)	0	(273,600)	0	(273,600)
GOV TECH 4. Modernization – Admin Billin	0.00	0	84,900	0	84,900
Budget Law Exemptions	0.00	0	0	0	0
<b>FY 2020 Total</b>	49.00	0	6,271,000	331,500	6,602,500
Chg from FY 2019 Orig Approp.	(3.00)	0	(85,700)	5,600	(80,100)
% Chg from FY 2019 Orig Approp.	(5.8%)		(1.3%)	1.7%	(1.2%)

# Department of Environmental Quality

Analyst: Sepich

## Historical Summary

OPERATING BUDGET	FY 2018 Total App	FY 2018 Actual	FY 2019 Approp	FY 2020 Request	FY 2020 Gov Rec
<b>BY PROGRAM</b>					
Administration and Support	8,544,700	8,172,900	8,668,500	9,066,600	9,026,800
Air Quality	8,741,100	7,682,700	14,726,500	14,758,900	14,798,800
Water Quality	21,740,700	20,493,700	22,724,200	23,215,900	23,349,200
CDA Basin Commission	524,700	189,100	526,200	528,600	530,400
Waste Mgmt and Remediation	26,187,500	13,053,900	18,145,700	18,130,900	18,189,200
INL Oversight	2,161,200	1,389,400	2,169,000	2,162,200	2,169,700
<b>Total:</b>	<b>67,899,900</b>	<b>50,981,700</b>	<b>66,960,100</b>	<b>67,863,100</b>	<b>68,064,100</b>
<b>BY FUND CATEGORY</b>					
General	19,621,100	19,621,100	20,461,700	22,365,500	22,465,400
Dedicated	11,814,500	9,095,300	17,557,600	16,712,700	16,799,700
Federal	36,464,300	22,265,300	28,940,800	28,784,900	28,799,000
<b>Total:</b>	<b>67,899,900</b>	<b>50,981,700</b>	<b>66,960,100</b>	<b>67,863,100</b>	<b>68,064,100</b>
Percent Change:		(24.9%)	31.3%	1.3%	1.6%
<b>BY OBJECT OF EXPENDITURE</b>					
Personnel Costs	33,058,900	30,425,200	33,682,500	34,604,100	34,901,100
Operating Expenditures	26,542,200	12,370,800	24,725,300	25,184,900	25,156,900
Capital Outlay	646,600	580,300	560,100	525,100	457,100
Trustee/Benefit	7,652,200	7,605,400	7,992,200	7,549,000	7,549,000
<b>Total:</b>	<b>67,899,900</b>	<b>50,981,700</b>	<b>66,960,100</b>	<b>67,863,100</b>	<b>68,064,100</b>
Full-Time Positions (FTP)	382.00	382.00	386.00	389.00	389.00

## Department Description

The Legislature created the Department of Environmental Quality (DEQ) in the public's interest, "to protect human health and the environment as its sole mission" (Section 39-102A, Idaho Code). The department is organized into six budgetary programs.

Administration and Support Services develops policies, legislation, and rules for permitting and regulatory programs; promotes public understanding of environmental issues and solicits public input; assesses program effectiveness in improving water and air quality; and services DEQ internal support needs.

The Air Quality Program addresses compliance with federal and state health-based air quality standards by monitoring air quality and collecting data; developing and issuing permits; and coordinating air quality improvement efforts made by communities, citizen groups, businesses, industries, and governmental agencies.

The Water Quality Program develops strategies to prevent, protect, and remediate areas from pollution so as to maintain or improve water quality. The program protects human health and biological integrity through watershed, drinking water, ground water, waste water, and grant and loan activities.

The Coeur d'Alene Basin Project Commission (Section 39-8104, Idaho Code) coordinates natural resource restoration to address heavy metal contamination caused from upstream mining operations.

Waste Management and Remediation is responsible for ensuring that solid wastes are managed and disposed of in a manner protective of human health and the environment. The program responds to existing releases of hazardous substances and works with active mines to ensure that best management practices are followed.

The primary responsibility of the Idaho National Laboratory (INL) Oversight Program is to independently monitor INL operations and document transportation of radiological materials along transportation corridors. The objective is to protect Idaho's land, air, water, wildlife, and public health from nuclear releases.

**Department of Environmental Quality**  
**FY 2020 Request**

	FTP	Gen	Ded	Fed	Total
<b>FY 2019 Original Appropriation</b>	<b>386.00</b>	<b>20,461,700</b>	<b>17,557,600</b>	<b>28,940,800</b>	<b>66,960,100</b>
Reappropriation	0.00	0	250,900	0	250,900
<b>FY 2019 Total Appropriation</b>	<b>386.00</b>	<b>20,461,700</b>	<b>17,808,500</b>	<b>28,940,800</b>	<b>67,211,000</b>
<b>FY 2019 Estimated Expenditures</b>	<b>386.00</b>	<b>20,461,700</b>	<b>17,808,500</b>	<b>28,940,800</b>	<b>67,211,000</b>
Removal of Onetime Expenditures	0.00	(437,800)	(591,500)	(297,300)	(1,326,600)
<b>FY 2020 Base</b>	<b>386.00</b>	<b>20,023,900</b>	<b>17,217,000</b>	<b>28,643,500</b>	<b>65,884,400</b>
Benefit Costs	0.00	56,500	23,400	43,700	123,600
Replacement Items	0.00	440,100	16,800	148,400	605,300
Statewide Cost Allocation	0.00	206,600	8,400	25,700	240,700
Change in Employee Compensation	0.00	133,600	55,200	104,100	292,900
<b>FY 2020 Program Maintenance</b>	<b>386.00</b>	<b>20,860,700</b>	<b>17,320,800</b>	<b>28,965,400</b>	<b>67,146,900</b>
<b>Line Items</b>					
1. IPEDS Enhancements	3.00	300,000	537,200	(80,500)	756,700
2. Triumph Mine Remediation	0.00	0	1,500,000	0	1,500,000
3. BURP & LMP Fund Shift	0.00	1,037,600	(1,145,300)	0	(107,700)
4. Environmental Remediation Match	0.00	0	0	(100,000)	(100,000)
5. Water Quality Monitoring - Arsenic	0.00	167,200	0	0	167,200
Cash Transfers	0.00	0	(1,500,000)	0	(1,500,000)
Budget Law Exemptions	0.00	0	0	0	0
<b>FY 2020 Total</b>	<b>389.00</b>	<b>22,365,500</b>	<b>16,712,700</b>	<b>28,784,900</b>	<b>67,863,100</b>
Chg from FY 2019 Orig Approp.	3.00	1,903,800	(844,900)	(155,900)	903,000
% Chg from FY 2019 Orig Approp.	0.8%	9.3%	(4.8%)	(0.5%)	1.3%

## Department of Environmental Quality

### FY 2020 Govs Rec

	FTP	Gen	Ded	Fed	Total
<b>FY 2019 Original Appropriation</b>	386.00	20,461,700	17,557,600	28,940,800	66,960,100
Reappropriation	0.00	0	250,900	0	250,900
<b>FY 2019 Total Appropriation</b>	386.00	20,461,700	17,808,500	28,940,800	67,211,000
<b>FY 2019 Estimated Expenditures</b>	386.00	20,461,700	17,808,500	28,940,800	67,211,000
Removal of Onetime Expenditures	0.00	(437,800)	(591,500)	(297,300)	(1,326,600)
<b>FY 2020 Base</b>	386.00	20,023,900	17,217,000	28,643,500	65,884,400
Benefit Costs	0.00	(69,600)	(30,300)	(54,300)	(154,200)
Replacement Items	0.00	310,700	16,800	148,400	475,900
Statewide Cost Allocation	0.00	206,600	8,400	25,700	240,700
Change in Employee Compensation	0.00	472,900	161,900	219,500	854,300
<b>FY 2020 Program Maintenance</b>	386.00	20,944,500	17,373,800	28,982,800	67,301,100
<b>Line Items</b>					
1. IPEDS Enhancements	3.00	303,300	537,800	(83,800)	757,300
2. Triumph Mine Remediation	0.00	0	1,500,000	0	1,500,000
3. BURP & LMP Fund Shift	0.00	1,050,400	(1,145,300)	0	(94,900)
4. Environmental Remediation Match	0.00	0	0	(100,000)	(100,000)
5. Water Quality Monitoring - Arsenic	0.00	167,200	0	0	167,200
GOV TECH 1. Network Equip Replacement	0.00	0	33,400	0	33,400
Cash Transfers	0.00	0	(1,500,000)	0	(1,500,000)
Budget Law Exemptions	0.00	0	0	0	0
<b>FY 2020 Total</b>	389.00	22,465,400	16,799,700	28,799,000	68,064,100
Chg from FY 2019 Orig Approp.	3.00	2,003,700	(757,900)	(141,800)	1,104,000
% Chg from FY 2019 Orig Approp.	0.8%	9.8%	(4.3%)	(0.5%)	1.6%

AGENDA  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**  
**1:30 P.M.**  
**Room WW55**  
**Wednesday, February 06, 2019**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>RS26512</u></a>	Ground Water Districts, relating to non-payment or delinquent assessments	Lynn Tominaga Idaho Water Policy Group
<b>Gubernatorial Appointment Hearing</b>	Appointment of <b>GARY SPACKMAN</b> of Eagle as Director of the Idaho Department of Water Resources to serve a term commencing January 7, 2019, and will serve at the pleasure of the Governor.	Gary Spackman
<b>RULES REVIEW</b>	<b>DEPARTMENT OF LANDS</b>	<b>Vice Chairman Brackett</b>
<b>Docket No.</b> <a href="#"><u>20-0301-1801</u></a>	Dredge and Placer Mining Operations in Idaho	Todd Drage, Minerals Regulatory Program Manager, Idaho Department of Lands
<b>Docket No.</b> <a href="#"><u>20-0302-1801</u></a>	Rules Governing Exploration, Surface Mining, and Closure of Cyanidation Facilities	Todd Drage, Minerals Regulatory Program Manager, Idaho Department of Lands
<b>Docket No.</b> <a href="#"><u>20-0304-1801</u></a>	Rules for the Regulation of Beds, Waters and Airspace over Navigable Lakes in the State of Idaho	Andrew Smyth, Public Trust Program Manager, Idaho Department of Lands
<b>Docket No.</b> <a href="#"><u>20-0401-1701</u></a>	Rules Pertaining to Forest Fire Protection	Craig Foss, Forestry and Fire Division Manager, Idaho Department of Lands
<b>Presentation</b>	<b>Idaho Department of Fish and Game</b> Based on the Legislative Intent (Section 10) of House Bill 230 which passed in 2017	Ed Schriever, Director Idaho Department of Fish and Game

***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 Heider

Sen Patrick

COMMITTEE SECRETARY

Jamie Skrypkun

Vice Chairman Brackett  
Sen Bair  
Sen Johnson  
Sen Mortimer

Sen Guthrie  
Sen Stennett  
Sen Jordan

Room: WW37  
Phone: 332-1323  
email: [sres@senate.idaho.gov](mailto:sres@senate.idaho.gov)

MINUTES  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**

**DATE:** Wednesday, February 06, 2019

**TIME:** 1:30 P.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer, Patrick, Guthrie, 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 Heider** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m.

**RS 26512** **Ground Water Districts, Relating to Non-payment or Delinquent Assessments.** **Lynn Tominaga**, Executive Director, Idaho Ground Water Appropriators (IGWA), advised that this proposed legislation repeals the current procedure used by IGWA and the Director of the Idaho Department of Water Resources (Director) in dealing with delinquent assessments and nonpayment of mitigation costs, and adds a new procedure for dealing with those issues. **Mr. Tominaga** indicated IGWA has been working with the Director to determine what the fiscal impact of this proposed legislation would be. He would like to report back to the Committee when that determination is made.

**MOTION:** **Vice Chairman Brackett** moved to send **RS 26512** to print. **Senator Mortimer** seconded the motion. The motion passed by **voice vote**.

**GUBERNATORIAL APPOINTMENT HEARING:** **Appointment of Gary Spackman of Eagle, ID, as Director of the Idaho Department of Water Resources to serve a term commencing January 7, 2019, and to serve at the pleasure of the Governor.** **Gary Spackman**, appeared before the Committee and described himself as a "humble farmer." He indicated he feels he works well with everyone on water issues, and has learned to listen to both sides of disputes. He noted that progress has been made over the last few years in water matters and disputes across the state, including those issues related to refill of reservoirs in the upper Snake River and in the Boise River.

**DISCUSSION:** **Senator Bair** asked Director Spackman what types of water issues he sees in the near future that will need to be addressed. **Director Spackman** referenced the settlement agreements executed between the surface water users and ground water users. He indicated it will be a challenge to ensure that those agreements and the provisions thereof are accomplished, so that the goals and the aspirations for aquifer recovery and stabilization are satisfied. He further advised there are some interstate challenges, in terms of water deliveries, that we will be confronted with, both in northern Idaho with Washington, and on the Wyoming and Utah borders.

**Senator Patrick** asked if Director Spackman sees the Columbia River Treaty as a threat to some water rights. **Director Spackman** responded that he did. He indicated he does not want to disparage the efforts of the Governor's office and those who have been appointed to negotiate, but advised we need to guard against our reservoirs being co-opted for out-of-state flooding that could occur.

**Senator Johnson** asked whether we have any compacts with adjacent states that deal with water rights, or flow into the Snake River Basin or elsewhere, that may need to be negotiated. **Director Spackman** advised that we have relatively few compacts that have been approved by Congress. He noted we have a compact in the Bear River Basin, and we also have a compact with Wyoming. He indicated we do not, at this time, have any compacts with Oregon or Washington, but there is a possibility of discussions about interstate regulation and a compact in the future.

**Chairman Heider** thanked Director Spackman for appearing before the Committee and advised that a vote would be taken on his confirmation at the next meeting.

**PASSED THE  
GAVEL:**

Chairman Heider passed the gavel to Vice Chairman Brackett for rules review.

**Docket No.  
20-0301-1801**

**Dredge and Placer Mining Operations in Idaho.** **Todd Drage**, Regulatory Minerals Program Manager, Idaho Department of Lands (Department), stated this rule provides for paper or electronic submittal of documents and applications under Idaho's Dredge and Placer Mining Protection Act (see attachment 1 for detailed comments).

**MOTION:**

**Senator Mortimer** moved to approve **Docket No. 20-0301-1801**. **Chairman Heider** seconded the motion. The motion passed by **voice vote**.

**Docket No.  
20-0302-1801**

**Rules Governing Exploration, Surface Mining, and Closure of Cyanidation Facilities.** **Mr. Drage** stated that this rule allows for electronic submittal of documents and applications under Idaho's Surface Mining Act. It provides that new plans will show 100-year floodplains within 100 feet of facilities, and provides changes in regard to reclamation bonding (see attachment 2 for detailed comments).

**DISCUSSION:**

**Senator Patrick** and **Senator Mortimer** questioned how the 100 feet distance was determined. **Mr. Drage** responded that the Department did not do any calculations to come up with the 100 feet. For consistency with other operators, 100 feet was used as a standard by which to measure.

**MOTION:**

**Senator Johnson** moved to approve **Docket No. 20-0302-1801**. **Senator Jordan** seconded the motion. The motion passed by **voice vote**. **Senator Mortimer** requested he be recorded as voting nay.

**Docket No.  
20-0304-1801**

**Rules for the Regulation of Beds, Waters and Airspace over Navigable Lakes in the State of Idaho.** **Andrew Smyth**, Public Trust Program Manager, Idaho Department of Lands (Department), stated that upon statehood, Idaho obtained title to the beds and banks of navigable waterways under the Equal Footing Doctrine. The Department has been given the authority to regulate and control the use and disposition of these lands. Part of managing these lands is administering the Lake Protection Act and corresponding administrative rules. These statutes and rules require lakefront owners to obtain a permit from the Department prior to placing an encroachment, such as a dock or marina, on a lake. **Mr. Smyth** advised this proposed rule would allow applications for encroachment permits to be filed either on paper or electronically. It additionally clarifies and updates the incorporation of other rules, encroachment standards, and violations and penalties (see attachment 3).

**DISCUSSION:** **Senator Patrick** and **Senator Mortimer** discussed with **Mr. Smyth** the inconsistency in the reference to the Rules Concerning the Idaho State Plumbing Code and the Rules Governing the Use of National Electrical Code. **Mr. Smyth** indicated the goal of the Department is to reference Idaho rules. This rule change strikes the reference to the 2008 National Electrical Code, and adds the reference to IDAPA 7.01.06. He explained this administrative rule, administered by the Division of Building Safety, is entitled Rules Governing the Use of National Electrical Code, and the reference is to that title. **Senator Patrick** indicated he was not comfortable with the language and asked for further clarification. Mr. Smyth yielded to **Eric Wilson**, Bureau Chief, Resource Protection and Assistance, Idaho Department of Lands, who advised that the rule does not adopt the entire National Electrical Code, but makes a reference to the IDAPA rule which has adopted some of the National Electrical Code and changed some. He indicated the reference is to the title of the rule, and the Department cannot change that title because it is administered by the Department of Building Safety.

**MOTION:** **Senator Patrick** moved to approve **Docket No. 20-0304-1801**. **Chairman Heider** seconded the motion. The motion passed by **voice vote**.

**Docket No. 20-0401-1701** **Rules Pertaining to Forest Fire Protection**. **Craig Foss**, Division Administrator, Forestry and Fire, Idaho Department of Lands (Department), stated that the Department is responsible for providing fire protection on 6.3 million acres of state and private forest lands in Idaho. During the 2015 fire season, the Department worked with forest landowners, logging contractors, forest industry representatives, and others to develop and implement additional voluntary fire protection practices to lessen the risk of fire starts from forest operations on forest lands. After further discussion, in 2016 and 2017, with interested stakeholders, the Department determined there was a need to enter negotiated rulemaking. **Mr. Foss** advised the Department received extensive comments during several negotiated rulemaking sessions, leading to this proposed rule revision (see attachment 4 for a summary of the rulemaking process and proposed changes.)

**MOTION:** **Chairman Heider** moved to approve **Docket No. 20-0401-1701**. **Senator Bair** seconded the motion. The motion passed by **voice vote**.

**PASSED THE GAVEL:** Vice Chairman Brackett passed the gavel back to Chairman Heider.

**PRESENTATION:** **Ed Schriever**, Director, Idaho Department of Fish and Game (Department), gave the Committee an update on the results of the license fee price lock implemented in 2017, and the depredation compensation program and the depredation prevention program, both of which were significantly bolstered by additional revenues in 2017 (H 0230). He provided the Committee with a copy of the Fiscal Year (FY) 2018 Idaho Fish and Game Director's Annual Report to the Commission, and a Department brochure entitled: A Landowner's Guide to Preventing Big Game Damage and Filing Damage Claims.

**RECORDING LINK:** To hear Director Schriever's presentation in full, go to: <https://legislature.idaho.gov/sessioninfo/2019/standingcommittees/SRE/>.

**ADJOURNED:** There being no more business, **Chairman Heider** adjourned the meeting at 2:56 p.m.

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Senator Heider  
Chair

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Tyler Brock  
Secretary

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Lois Bencken  
Assistant Secretary



## Senate Resources and Environment Committee

IDAPA 20.03.01 – Rules for Dredge and Placer Mining Operations in Idaho  
February 6, 2019

Mr. Chairman and members of the Committee, my name is Todd Drage, and I'm the Regulatory Minerals Program Manager at the Idaho Department of Lands. Thank you for the opportunity to appear before you today to testify. I'm here to present the pending rule docket number 20-0301-1801, which can be found in your 2019 Pending Rules Review book, starting on page 76. The Department is seeking your approval of this pending rule.

This rule falls under Idaho's Dredge and Placer Mining Protection Act as defined in Title 47 Chapter 13 of Idaho Code. I'll provide a brief overview of the Dredge and Placer Mining Act and the reasons for pursuing rule changes. I'll then talk about the negotiated rulemaking the Department carried out in 2018 before summarizing these pending rule changes for your consideration.

Dredge and placer mining is the extraction of minerals from an alluvial deposit containing particles of gold or other valuable minerals. A placer deposit can be in a natural watercourse or an ancient river channel high above a stream. The Idaho Dredge and Placer Mining Protection Act was created to promote responsible resource extraction while protecting the lands, streams, and watercourses of the state.

The Department entered negotiated rulemaking to allow potential operators to submit notices electronically. Currently, when a potential operator wants to conduct exploration, the rules require notices be sent to the Department via certified mail. If an operator wants to actively mine, the rules require that applications are submitted to the Department with five copies of their Reclamation Plan. These are requirements that today seem burdensome and unnecessary. Further, the department is implementing a new system that will allow operators to submit documents online. We believe this will be more convenient for everyone but requires a change to the rules.

Prior to holding any negotiated rulemaking meetings, we sent out a mailer with the draft rule changes and directed stakeholders to IDL's website for more specific information and details on upcoming negotiated rulemaking meetings. The Department then held three negotiated rulemaking meetings in Coeur d'Alene, Pocatello, and Boise in June of 2018.

No comments were provided at the meetings, and no written comments were received at any point during the rulemaking. We also held a public hearing in Boise on September 20th, and no testimony was given.



I'll provide a summary of the content of the changes in the pending rule.

- A couple of edits were language changes that allowed for the electronic submittal of documents and applications. This will allow operators to submit documents in paper or electronic format.
- Secondly, changes were made to incorporate required standard rule sections as outlined in the Administrative Procedures Act.
- And lastly, language was updated to reference specific surface water quality standards (IDAPA 58.01.02) and ground water standards (IDAPA 58.01.11).

Once again, no comments were received during the negotiated rulemaking process or during the public hearing, and we do not believe any outstanding issues exist.

The Department requests approval of this pending rule. Thank you again for the opportunity to provide testimony. I will stand for any questions.



## **Senate Resources and Environment Committee**

IDAPA 20.03.02 – Rules Governing Exploration, Surface Mining, and

Closure of Cyanidation Facilities

February 6, 2019

Mr. Chairman and members of the Committee, my name is Todd Drage, and I'm the Regulatory Minerals Program Manager at the Idaho Department of Lands. Thank you for the opportunity to appear before you today to testify. I'm here to present the pending rule docket number 20-0302-1801 found in your 2019 Pending Rules Review book, starting on page 88. The Department is seeking your approval of this pending rule.

This rule falls under Idaho's Surface Mining Act as defined in Title 47 Chapter 15 of Idaho Code. Today, I'll provide a brief overview of the Surface Mining Act and the reasons for pursuing rule changes. I'll then talk about the negotiated rulemaking the Department carried out in 2018 before summarizing these pending rule changes for your consideration.

The Surface Mining Act was designed to require reclamation of affected lands and to return them to a productive condition. In Idaho, minerals mined by surface mining methods include decorative stone, sand and gravel, phosphate, molybdenum, gold, silver, and others. The Department is responsible for providing regulatory oversight of surface mining activities on all state, federal, and private lands in Idaho.

The Department entered negotiated rulemaking to allow potential operators to submit notices electronically. Currently, when a potential operator wants to conduct exploration, the rules require notices be sent to the Department via certified mail. If an operator wants to actively mine, the rules require that applications are submitted to the Department with five copies of their Reclamation or Permanent Closure Plan. These are requirements that today seem burdensome and unnecessary. Further, the department is implementing a new system that will allow operators to submit documents online. We believe this will be more convenient for everyone but requires a change to the rules.

Another reason to enter negotiated rulemaking was to address the potential impacts of surface mining on adjacent surface waters. The 2017 floods illustrated a need for some clarification and proactive measures at some mine sites.

Prior to holding any negotiated rulemaking meetings, IDL first conducted outreach with current permittees and other parties and agencies with known interest in IDL's surface mining program. We sent out a mailer with the draft rule changes and directed them to IDL's website for more specific information and details on upcoming negotiated rulemaking meetings.



The Department then held three negotiated rulemaking meetings in Coeur d'Alene, Pocatello, and Boise in June of 2018. No comments were provided at the meetings, and no written comments were received at any point during the rulemaking. We also held a public hearing in Boise on September 20th, and no testimony was given.

For these rule changes, I'd like to provide a summary of the content of the changes in the pending rule.

- The primary change to these rules is to allow for electronic submittal of documents and applications. Operators will be able to submit documents in paper or electronically.
- Changes were made to incorporate required standard rule sections as outlined in the Administrative Procedures Act.
- Language was added so that new plans will show 100-year floodplains within 100 feet of their facilities and the best management practices that will be used to keep surface waters from entering their pit.
- To better align with statute, a couple of changes were made in regard to reclamation bonding. The first is raising the soft ceiling for bonding rates to \$15,000 per acre in conformance with what is currently in Title 47, Chapter 15, Idaho Code. The other change is to delete a subsection that restricted how reclamation costs are assessed. This section is out of date and redundant with Idaho Code, Section 47-1513(h).
- And, finally, the word "standards" was added to clarify water quality requirements for best management practices.

Once again, no comments were received during the negotiated rulemaking process or during the public hearing, and we do not believe any outstanding issues exist.

The Department requests approval of this pending rule. Thank you again for the opportunity to provide testimony. I will stand for any questions.



## Senate Resources and Environment Committee

IDAPA 20.03.04 – Rules for the Regulation of Beds, Waters, and Airspace  
Over Navigable Lakes in the State of Idaho

February 6, 2019

Mr. Chairman and members of the Committee, my name is Andrew Smyth. I am the Public Trust Program Manager at the Idaho Department of Lands. Thank you for the opportunity to testify. The Department is seeking your approval of pending rule docket number 20-0304-1801. This is found in your 2019 Pending Rules Review Book, starting on page 111.

I will talk briefly about the Department's authority and the reasons for entering the negotiated rulemaking process. I will then provide a summary of the rulemaking process and finally discuss the pending rule changes themselves.

Upon statehood, Idaho obtained title to the beds and banks of navigable waterways under the Equal Footing Doctrine. The state holds title to these submerged lands in trust for the benefit of its citizens. The Idaho Legislature granted authority to the State Board of Land Commissioners to regulate and control the use and disposition of these lands.

The Department of Lands, as the administrative staff for the Land Board, carries out these duties under the Public Trust Program. Part of managing these lands is administering the Lake Protection Act (Idaho Code Title 58, Chapter 13) and the corresponding administrative rules (IDAPA 20.03.04). These statute and rules require lakefront owners to obtain a permit from the Department prior to placing an encroachment, such as a dock or marina, on a lake.

The Department entered negotiated rulemaking to allow applicants to file their applications electronically, to address complaints regarding height increases of existing permitted boat garages, and to align with other statute and rules.

In June and July, 2018, the Department held four negotiated rulemaking meetings in McCall, Coeur d'Alene, Sandpoint, and Idaho Falls. In addition, the department received two letters. Comments received in opposition to draft rule changes were related to the Department's initial proposal to strike the term 'dock rights'. Based on feedback, the Department did not include this change in the proposed rules and the term 'dock rights' remains intact.

The Department worked with the Office of Administrative Rules to bring incorporations by reference into conformance with the Administrative Procedures Act.

Following publication of the proposed rules, the Department did not receive any comments or objections.



There are six rule sections to be changed.

Section 004 – Incorporation by Reference (page 114)

This section would be updated to incorporate by reference rules of the Idaho Electrical and Plumbing Boards, as well as the Code of Federal Regulations on the United States Aids to Navigation System.

Section 015.05 Encroachment Standards – Boat Garages (page 116)

The rules currently in effect allow existing permitted boat garages to be maintained or replaced at their current size. This proposed change is more specific by allowing existing permitted boat garages to be maintained or replaced at the existing height and at the same square footage of the existing footprint.

Section 015.10 Encroachment Standards – Float Homes (page 117)

To match the incorporation by reference section, this section would be updated to require float homes to meet the Rules Concerning the Idaho State Plumbing Code and the Rules Governing the Use of National Electrical Code.

Section 020.07 – Applications (page 122)

This section would be updated to allow people to file applications for encroachment permits either on paper or electronically.

Section 020.07 – Applications (pages 122 and 123)

This section would be changed to align with statute and clarify that a deposit toward the cost of publication is required with an application for an encroachment permit for bank stabilization projects.

Section 080.02 – Violations – Penalties (page 123)

This rule change provides clarification that notices of noncompliance may be issued to anyone, regardless if they hold a permit or not.

Thank you again for the opportunity to provide testimony, and I'll stand for questions.



## Senate Resources and Environment Committee

IDAPA 20.04.01 – Rules Pertaining to Forest Fire Protection

February 6, 2019

Mr. Chairman and members of the Committee, my name is Craig Foss, Division Administrator – Forestry & Fire at the Idaho Department of Lands. Thank you for the opportunity to appear before you today to present testimony on the forest fire protection rules, referred to as docket number 20-0401-1701 found in your 2019 Pending Rules Review Book, starting on page 125. The Department is seeking your approval of this pending rule.

The Department is responsible for providing fire protection on 6.3 million acres of state and private forest lands in Idaho pursuant to Title 38, Chapters 1 and 4 and IDAPA 20.04.01 (“Forest Fire Protection Rules”). The Department is seeking to amend fire protection standards for specific forest operations.

During the 2015 fire season, the Department worked with forest landowners, logging contractors, forest industry representatives, and others to develop and implement additional voluntary fire protection practices to lessen the risk of fire starts from forest operations on forest lands. Post-fire season reviews were conducted to discuss the effectiveness of these additional fire protection best practices and the need to update specific standards in these rules.

After further discussion in 2016 and 2017 with interested stakeholders, the Department determined there was a need to enter negotiated rulemaking. The Land Board gave approval for IDL to proceed at its regular meeting on March 21, 2017. Nine negotiated rulemaking meetings were conducted in Coeur d’Alene, Orofino, and McCall during the periods of October/November of 2017 and June of 2018, and we had broad participation at all the meetings. We also had a toll free number for stakeholders to call into at each meeting for those who were unable to attend in person.

The Department received extensive comments during the rulemaking meetings, leading to rule language revisions. Following is a summary of the key concerns expressed by stakeholders and how the Department addressed these concerns:

Stakeholders expressed concern with the Department’s 14-day decision response period for authorizing a variance request. A variance may be requested if conditions or activities require practices that differ from those described in the rules. The Operator must obtain a variance



prior to employing those differing practices. The Department and stakeholders agreed to a decision response period of 5 business days.

Stakeholders expressed concern about the financial impact to small-scale operations on non-industrial forest lands if required to have a 200 gallon water supply with delivery system. The Department incorporated language into the rules exempting small forest operations that don't create a fire hazard. In addition, water handling requirements would only apply to cable logging systems and metal-tracked harvesters from July 1st through September 30th each year — the period of highest risk for this type of equipment to start a fire.

Stakeholders expressed concern with the ability of small-scale forest operations to incorporate an extended fire watch service during Stage 2 Restrictions to detect and successfully suppress fire ignitions. The Department incorporated language exempting forest operations that have a low risk of starting fires.

During negotiated rulemaking, questions were also asked about whether an operator would be liable or not for a fire start if they followed these rules. While an operator may follow the forest protection rules, liability for fire suppression costs remains should a fire investigation determine the start or existence of the fire is the result of a willful or negligent act. For example, this could include operating equipment beyond manufacturer maintenance or operating specifications. Therefore, the Department is unable to incorporate a provision absolving an operator of complete liability from fires resulting from their operation.

During proposed rulemaking, the Department conducted 3 public hearings in early August 2018. Testimony and comments received were supportive for advancing the proposed rule as written.

During the Orofino public hearing, Rich McMillan, Clearwater District Forester with Potlatch-Deltic, commented: "From a company perspective and from that of a large landowner in the state of Idaho, we're fully supportive moving forward with the rule package as it's shown in its final draft."

I'd also like to share with you that, in a written comment, Riley Stegner and Associates commended the Department: "for working with Idaho landowners, mills, and loggers to draft a rule that will reduce fires at logging operations without creating undue burdens for our forest workers."



The Land Board gave approval for IDL to adopt the proposed rule as pending on October 16, 2018. The rule changes provide needed clarification and improvement to fire protection requirements:

- Page 127-128. Incorporation by Reference: Spark arrester standards.
- Page 128-129. Incorporation of New Definitions.
- Page 129. New Rule Section: Granting of variances.
- Page 130-131. Revisions of Existing Rule Sections: Adjusting the amount and type of hand tools needed; eliminating fire extinguisher/ fire tool requirements for motorcycles and trailbikes; and updating language about fire crews.
- Page 132-133. New Rule Sections: Defining water handling requirements on a forest operation involving cable logging and the use of metal tracked harvesters; providing for a fire watch service after forest operations have been completed or suspended for a shift when Stage 2 Fire Restrictions are in place; and operating area fire prevention requirements for cable or cable assisted operations during the high risk period of July 1st to September 30th.

These rule revisions, developed over the last 3 years, involved extensive participation from affected interests including family forest landowners, industrial landowners, logging contractors, and forest industry representatives. IDL appreciates the active participation from these interests, and we believe the pending rules before you are much improved due to this extensive and inclusive process.

The Department requests approval of this pending rule. Thank you again for the opportunity to provide testimony and I will be happy to stand for any questions.

**AMENDED AGENDA #1**  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**  
**1:30 P.M.**  
**Room WW55**  
**Monday, February 11, 2019**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<b>Gubernatorial Appointment VOTE</b>	Appointment of <b>GARY SPACKMAN</b> of Eagle as Director of the Idaho Department of Water Resources to serve a term commencing January 7, 2019, and will serve at the pleasure of the Governor.	Chairman Heider
<a href="#"><u>RS26790</u></a>	<b>ARTESIAN WELLS</b> plugging and repairing wells, cost-sharing	Vice-Chairman Brackett
<a href="#"><u>RS26761</u></a>	<b>RECREATION</b> Amendment to add a civil remedy to address violations of intentional access obstruction	Brian Brooks, Idaho Wildlife Federation
<a href="#"><u>RS26717</u></a>	<b>IRRIGATION</b> Amendment to clarify protections and obligations of water delivery rights of way	Paul Arrington Idaho Water Users Association
<a href="#"><u>RS26718</u></a>	<b>IRRIGATION</b> Amendment or repeal of certain reporting requirements in Idaho Code	Paul Arrington Idaho Water Users Association
<a href="#"><u>RS26719</u></a>	<b>IRRIGATION</b> Amendment of language to align time-frames and to conform with decisions from the Idaho Fourth Judicial District	Paul Arrington Idaho Water Users Association
<a href="#"><u>RS26720</u></a>	<b>IRRIGATION</b> Amendment to clarify that rights extend to the ability to remove vegetation from easements	Paul Arrington Idaho Water Users Association
<a href="#"><u>RS26812</u></a>	Veteran Services; Elk Tags	Vice Chairman Brackett
<a href="#"><u>RS26838</u></a>	Water Rights	Vice Chairman Brackett

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

COMMITTEE MEMBERS

Chairman Heider

Vice Chairman Brackett

Sen Bair

Sen Johnson

Sen Mortimer

Sen Patrick

Sen Guthrie

Sen Stennett

Sen Jordan

COMMITTEE SECRETARY

Jamie Skrypkun

Room: WW37

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MINUTES  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**

**DATE:** Monday, February 11, 2019  
**TIME:** 1:30 P.M.  
**PLACE:** Room WW55  
**MEMBERS PRESENT:** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer, Patrick, and Guthrie.  
**ABSENT/ EXCUSED:** Senators Stennett and Jordan  
**CONVENED:** **Chairman Heider** called the Senate Resources and Environment Committee (Committee) at 1:31 p.m.  
**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.  
**GUBERNATORIAL APPOINTMENT:** **Chairman Heider** stated that the first item on the agenda was the consideration of Gary Spakman as the Director of the Idaho Department of Water Resources to serve a term commencing January 7, 2019, and will serve at the pleasure of the Governor.  
**MOTION:** **Vice Chairman Brackett** moved to send the Gubernatorial appointment of Gary Spackman as the Director of the Idaho Department of Water Resources to the floor with recommendation that he be confirmed by the Senate. **Senator Mortimer** seconded the motion and the motion carried by a **voice vote**.  
**UNANIMOUS CONSENT REQUESTS:** **Senator Bair** asked for unanimous consent to send **RS 26790, RS 26761, RS 26717, RS 26718, RS 26719, RS 26720, RS 26812, and RS 26838** to print. There were no objections.  
**ADJOURNED:** There being no further business at this time, **Chairman Heider** adjourned the meeting at 1:34 p.m.

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Senator Heider  
Chair

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Tyler Brock  
Secretary

AGENDA  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**  
**1:30 P.M.**  
**Room WW55**  
**Wednesday, February 13, 2019**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>H 26</u></a>	Environment, Energy, and Technology Committee—Amendment regarding Underground Storage Tanks	Representative John Vander Woude Suzanne Budge, SBS Associates
<a href="#"><u>HCR 7</u></a>	Concurrent Resolution to Reject a certain rule of the Idaho Department of Fish and Game	Representative Terry Gestrin
<a href="#"><u>H 44</u></a>	Amendment revising Section 38-134 of Idaho Code, Idaho Forest Practices Act Administration, Funding and Assessments	Deputy Director David Groeschl
<b>Gubernatorial Appointment Hearing:</b>	Re-appointment of <b>FORD ELSAESSER</b> of Sandpoint, ID to the Lake Pend Oreille Basin Commission to serve a term commencing July 24, 2018 and expiring July 24th, 2021.	Ford Elsaesser
	Appointment of <b>LOUIS FATKIN</b> of Idaho Falls to the Parks and Recreation Board to serve a term commencing March 1, 2018 and expiring June 30th, 2023.	Louis Fatkin
<b>Presentation:</b>	<b>CSG WEST</b>	Edgar Ruiz, Director, The Council of State Government West

***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 Heider	Sen Patrick
Vice Chairman Brackett	Sen Guthrie
Sen Bair	Sen Stennett
Sen Johnson	Sen Jordan
Sen Mortimer	

COMMITTEE SECRETARY

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

MINUTES  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**

**DATE:** Wednesday, February 13, 2019

**TIME:** 1:30 P.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer, Patrick, Guthrie, 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 Heider** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m.

**HONORING OF PAGE:** **Chairman Heider** stated that the Senate pages will be leaving Friday and a new group of pages will be coming in. He asked Drew Bingham, the page for the Committee to come forward and be honored. Chairman Heider presented Mr. Bingham with a letter of appreciation signed by the Committee, a letter of recommendation signed by the Chairman, and a watch. **Mr. Bingham** thanked the committee and discussed his future plans of playing Rugby at Utah State University where he hopes to study Sports Medicine after he completes his mission with the Church of Jesus Christ of Latter Day Saints.

**H 26** **Representative Vander Woude** explained that **H 26** establishes October 8th, 2021 as the date to be compliant with the new federal requirements for underground storage tanks. If the storage tanks are not up to standard, then the underground storage tanks' insurance policy won't cover in case of a spill.

**TESTIMONY:** **Chyla Wilson** of Idaho Farm Bureau, **Suzanne Budge** of SBS Associates and **Charlie Jones**, Chief Executive Officer of Stinker Stores all spoke in support of **H 26**, as it ensures the Idaho legislation comes into compliance with the federal code.

**Rick Jarvis**, former employee of the Idaho Department of Environmental Quality, spoke in opposition to the bill because delaying the implementation of this particular rule is not going to be significantly helpful to the State of Idaho and environmental standards as a whole.

**MOTION:** **Senator Guthrie** moved to send **H 26** to the floor with a **do pass** recommendation. **Senator Bair** seconded the motion, the motion carried by **voice vote**.

**HCR 7** **Representative Gestrin** discussed **HCR 7**, a concurrent resolution that concerns the rejection of Fish and Game Rule **Docket No.13-0110-1801**.

**MOTION:** **Senator Brackett** moved to send **HCR 7** to the floor with a **do pass** recommendation. **Senator Bair** seconded the motion, and the motion carried by **voice vote**.

**H 44** **Deputy Director David Groeschl** explained **H 44** as a bill that addresses funding for the administration of the Forest Practices Act. The Forest Practices Act and sets standards for logging, road building, reforestation, and other forest activities. These standards ensure the continuous growing and harvesting of forest trees while protecting and sustaining Idaho's for soil clean water wildlife and aquatic habitat. The assessment cap increase is needed to maintain services to all forest land owners in Idaho and to help protect these resources.

**MOTION:** **Senator Johnson** moved to send **H 44** to the floor with a do pass recommendation. **Senator Bair** seconded the motion, and the motion was carried by **voice vote**.

**GUBERNATORIAL APPOINTMENT:** **Chairman Heider** welcomed Ford Elsaesser of Sandpoint, Idaho who was re-appointed to the Lake Pend Oreille Basin Commission (Commission) to serve a term commencing July 24, 2018 and expiring July 24th, 2021.

**Mr. Elsaesser** stated that the Commission is an advisory group that monitors Lake Coeur d'Alene and Lake Pend Orielle by maximizing both water quality and quantity.

**Mr. Elaesser** said they also work closely with the Idaho Department of Lands Idaho Fish and Game. In recent years the previous executive directors, the current director, and former Congressional Representative Eric Cantor have been some of the key leaders when it comes to invasive species. The Commission wants to prevent a potential mussel infestation in Idaho and to avoid that which has happened in Toronto, Canada on Lake Ontario. According to **Mr. Elaesser**, mussels have just about destroyed the lakefront in Toronto and it's absolutely critical that the Commission keeps them out of Idaho.

**DISCUSSION:** **Senator Patrick** felt that an important piece of Mr. Elsaesser's resume was left out, which was that Mr. Elsaesser has been sitting on the board of the Intermountain Community Bank and Columbia Bank Board. In addition, **Senator Patrick** asked if mussels are still a problem for the Commission. **Mr. Elsaesser** stated that different methodologies have been tried, but diving and ripping them out seems to be the best process. For the other invasive vegetation, they have been working with the universities and Idaho Fish and Game to deal with these matters on a constant basis. The next goal that the commission has is to stop the erosion of the Clark Fork River Delta in Clark Fork, Idaho.

**GUBERNATORIAL APPOINTMENT:** **David Langhorst** Director of the Department of Parks and Recreation (DPR) gave a brief introduction of how the DPR functions and introduced Louis Fatkin, appointee to the Parks and Recreation Board to serve a term commencing March 1, 2018 and expiring June 30th, 2023.

**Mr. Fatkin** introduced himself by first stating that he is from Idaho Falls and works in hospital management. **Mr. Fatkin** further deliberated about how much he loves the outdoors and state and national parks.

**DISCUSSION:** **Vice Chairman Brackett** asked Mr. Fatkin about the biggest challenges facing the park systems in Idaho. **Mr. Fatkin** responded by stating that the biggest problem that they have is sustaining the quality park employees available, because it's very important to keep their expertise. **Senator Stennett** wanted to know how the Idaho State Parks and Recreation Board is encouraging more citizens to volunteer. **Mr. Fatkin** responded by stating that they have been trying to implement the Grand Teton volunteer system into the State System. Grand Teton National Park has a dedicated ranger that oversees all the volunteers, which gives the volunteers the ability to help make decisions that best impact the parks. **Mr. Fatkin** was also very impressed with the model that Henry's Lake has, and he would also like to see that system implemented in Idaho.

**PRESENTATION:** **Chairman Heider** welcomed Edgar Ruiz, the Director of the Council of State Governments West (CSG). **Mr. Ruiz** stated that CSG is a nonprofit nonpartisan organization that serves Western state legislatures. They facilitate regional cooperation, exchange of information, foster strengthened legislative institutions through their different programs and services. CSG also focuses on water management issues along the Columbia and Snake River basins. **Mr Ruiz** further stated that CSG is currently working a coalition to draft a document outlining some potential reforms to section 401 of the Clean Water Act and the water quality certification program that would improve processes and efficiencies. But preserving states authority under that Act. **Mr. Ruiz** also stated that the U.S. State Department and Canada are continuing negotiations to modernize the Columbia River Basin treaty. Key objectives of the negotiations include continued management of flood risk, sharing a reliable and economic power supply and improving the ecosystem in a modernized treaty. In addition, the treaty can be terminated provided that either Canada or the U.S. provides a 10 year written notice. Finally, **Mr. Ruiz** reported on some recent developments regarding invasive species in the Western United States. In a report released by the Montana Department of Natural Resources and Conservation in cooperation with the Montana Invasive Species Council, the Flathead Lake Biology station, and the National Invasive Species Council determined the worst case scenario for a mussel invasion would cost the state of Montana and an estimated 234 million a year in damages to the state's economy. Montana currently funds aquatic evasive species effort at nearly seven million dollars a year. In 2016, invasive mussel larvae were detected in the Tiber Reservoir, which is fed by the Marias River that eventually drains into the Missouri River. **Mr. Ruiz** said that there was another confirmed case in the Canyon Ferry Reservoir, and both of these cases were caused by unclean watercraft that were then docked into the two reservoirs.

**ADJOURNED:** There being no further business at this time, **Chairman Heider** adjourned the meeting at 2:58 p.m.

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Senator Heider  
Chair

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Tyler Brock  
Secretary

**AMENDED AGENDA #1**  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**  
**1:30 P.M.**  
**Room WW55**  
**Monday, February 18, 2019**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<b>Page Introduction</b>	Paige Evans	Chairman Heider
<b>Vote on Gubernatorial Appointments</b>	Ford Elsaesser appointed to serve the Lake Pend Orielle Basin Commission to serve term commencing July 24, 2018 and expiring July 24th, 2021. Louis Fatkin appointed to the Parks and Recreation Board to serve a term commencing March 1, 2018 and expiring June 30th, 2023.	
<a href="#"><u>S 1083</u></a>	Relating to Irrigation Encroachments	Paul Arrington, Idaho Water Users Association
<a href="#"><u>S 1084</u></a>	Relating to Irrigation Water Rights	Paul Arrington
<a href="#"><u>S 1085</u></a>	Relating to Irrigation Districts Board Meetings	Paul Arrington
<a href="#"><u>S 1086</u></a>	Relating to Irrigation Right-of-Way	Paul Arrington
<a href="#"><u>S 1056</u></a>	Relating to Ground Water Districts Mitigation	Lynn Tominaga, Idaho Ground Water Association
<a href="#"><u>S 1050</u></a>	Relating to Water Rights Diversion	Senator Brackett
<a href="#"><u>S 1087</u></a>	Relating to Artesian wells Cost-Sharing	Senator Brackett

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

COMMITTEE MEMBERS

Chairman Heider	Sen Patrick
Vice Chairman Brackett	Sen Guthrie
Sen Bair	Sen Stennett
Sen Johnson	Sen Jordan
Sen Mortimer	

COMMITTEE SECRETARY

Tyler Brock  
Room: WW37  
Phone: 332-1323  
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MINUTES  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**

**DATE:** Monday, February 18, 2019

**TIME:** 1:30 P.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer, Patrick, Guthrie, 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 Heider** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m.

**PAGE INTRODUCTION:** **Chairman Heider** introduced Paige Evans as the new Committee page. **Ms. Evans** is from Eagle, Idaho and stated that she loves to ski, run, and read. **Senator Mortimer** wanted to know more about her and her family, her future plans, and the types of classes she is currently taking. **Ms. Evans** responded that she is the youngest in her family, has two older brothers, has taken 21 concurrent credits throughout high school, and she wants to go to college to become an interior designer.

**VOTE ON GUBERNATORIAL APPOINTMENT:** **Chairman Heider** stated that the next item of business was the consideration of Ford Elsaesser, appointed to serve the Lake Pend Orielle Basin Commission to serve a term commencing July 24, 2018 and expiring July 24th, 2021.

**MOTION:** **Senator Patrick** moved to send the Gubernatorial appointment of Ford Elsaesser to the Lake Pend Orielle Basin Commission to the floor with recommendation that he be confirmed by the Senate. **Senator Bair** seconded the motion. The motion carried by **voice vote**.

**VOTE ON GUBERNATORIAL APPOINTMENT:** The next item under consideration was Louis Fatkin, appointed to the Parks and Recreation Board to serve a term commencing March 1, 2018 and expiring June 30th, 2023.

**MOTION:** **Senator Mortimer** moved to send the Gubernatorial appointment of Louis Fatkin to the Parks and Recreation Board to the floor with recommendation that he be confirmed by the Senate. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

**S 1083** **Paul Arrington**, of the Idaho Water Users Association, stated **S 1083** clarifies that operators of irrigation facilities share the same rights and obligations as owners.

**DISCUSSION:** **Senator Stennett** inquired how canal companies deal with private land owners to ensure that the canals and ditches remain clear of debris, and if there was a buffer that canal companies own off of ditches. **Mr. Arrington** responded the answer is not the same for every region, but the owners of the canal companies either have regular communication on how the canals and ditches should be maintained, or they have open agreements where the canal company can come by and clear the ditches when it's needed. **Mr. Arrington** responded to the latter question by referring to **S 1083** itself; the bill gives the canal companies the room they need to work with.

**Senator Jordan** asked how the bill avoids conflicts between the owners and operators of the canal companies. **Mr. Arrington** stated there is an extra need for open communication between the two parties and that there are agreements in most, but not all cases.

**Senators Johnson and Stennett** asked about the significance of "and" instead of "or" in the bill in reference to conflicts with the other provisions and potential obligations with insurance costs. **Mr. Arrington** responded that he doesn't have the perfect answer, but the language is there to reiterate that the obligation between the two parties exists. He further stated that the particular provision with "and" doesn't speak to any of the permissions that might be required to access or to interfere with an easement, or to bury a pipeline.

**Senator Mortimer** asked if the owners or the operators would be sued if a canal flooded and caused property damage to the surrounding neighbors. **Mr. Arrington** replied that the delivery entities have insurance that covers those instances.

**MOTION:** **Senator Johnson** moved to send **S 1083** to the floor with a **do pass** recommendation. **Senator Mortimer** seconded the motion. The motion carried by **voice vote**.

**S 1084** **Morgan Howard**, legislative intern with the Idaho Water Users Association, presented on behalf of Mr. Arrington and stated **S 1084** repeals a number of statutes that were vetted by the Idaho Department of Water Resources (IDWR).

**DISCUSSION:** **Senator Stennett** requested some examples of statutes that are being repealed in this legislation. **Ms. Howard** responded with a statute that required canal companies to report any tolls, water chargers, or new assessments to the IDWR, who would hold a hearing on those changes. However, the statute was never implemented and is being repealed to avoid double reporting.

**Vice Chairman Brackett** asked for brief explanations of sections 2, 5, 8, and 26 of **S 1084**. **Ms. Howard** stated that section 2 refers to a mandatory filing of a statement for any planned liens on canals. Section 2 also mandates that the county reporter keeps a record of all the statements required in the statute. Section 5 allows judicial review of the director's decision. Section 8 keeps IDWR up to date on the place and use of all the relevant water rights in **S 1084**. Finally, Section 26 refers to the reports that are made to the county recorder and to the IDWR, and the information is kept with irrigation districts, canal companies, and the IDWR.

**MOTION:** **Senator Stennett** moved to send **S 1084** to the floor with a **do pass** recommendation. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

**S 1085** **Paul Arrington** of the Idaho Water Users Association explained **S 1085** amends Idaho Code § 43-303 to align meeting notice requirements with Idaho's open meeting law. The bill clarifies that Idaho Water Resources Board decisions require a majority of board members to be present and it also codifies prior case law holding that the sole method to review irrigation districts is stated in Idaho Code § 43-325.

**DISCUSSION:** **Senator Patrick** requested clarification on the definitions of irrigation districts and canal companies. **Mr. Arrington** responded that irrigation districts are a quasi governmental entity formed under Title 43 of Idaho Code, whereas a canal company is a non-profit private corporation. The term "water users" is used for irrigation districts, and canal companies refer to people as "shareholders."

**MOTION:** **Senator Guthrie** moved to send **S 1085** to the floor with a **do pass** recommendation. **Senator Mortimer** seconded the motion. The motion was carried by **voice vote**.

**S 1086** **Mr. Arrington** reported **S 1086** amends code to specify the right to remove vegetation from irrigation facilities and place that vegetation on the canal/ditch banks.

**TESTIMONY:** **Bryce Ferris**, an attorney with Sawtooth Law, representing the Nampa Meridian Irrigation District, spoke in favor of **S 1086**. **Mr. Ferris** stated the biggest question that arises concerns situations where a maintenance crew works with chain-saws and the landowner begins to question their authority to remove vegetation.

**DISCUSSION:** **Senator Stennett** asked whose responsibility it is to remove gardens, trees, or debris that are in the way of the canal. **Mr. Ferris** responded by stating that the legislation is only about new vegetation that encroaches the easement, which shall be removed at the expense of the person or landowner causing the encroachment.

**TESTIMONY:** **Greg Curtis**, Water Superintendant of Nampa Meridian Irrigation District, spoke in favor of this bill. The irrigation district operates and maintains hundreds of miles of irrigation canals and drained ditches. The issue that **S 1086** addresses is a recurring problem in Idaho; this bill will simply provide the clarity irrigation districts need to protect their easements, which are vital to the continued delivery of water.

**Roger Batt**, of the Treasure Valley Water Users Association also spoke in favor of the bill and indicated his support was for the same reasons given by Mr. Curtis.

**MOTION:** **Senator Patrick** moved to send **S 1086** to the floor with a **do pass** recommendation. **Senator Bair** seconded the motion. The motion carried by **voice vote**.

**S 1056** **Lynn Tominaga** and **TJ Budge** of the Idaho Ground Water Association presented **S 1056**, which discusses the process for a non-compliant patron within groundwater districts. **Mr. Budge** discussed the bill's importance in sustaining the Snake River Aquifer settlement. **Mr. Budge** also stated that **S 1056** gives the same enforcement authority for the diversion reduction as presently exists for assessments. It allows a groundwater district to report to the Director of the IDWR when a member is not complying with their diversion reduction. The Director may then curtail that member's well for noncompliance with an approved mitigation plan.

**DISCUSSION:** **Senator Patrick** wanted clarification on the number of people complying to the agreement, whether it was primarily farmers or water users that were out of compliance. **Mr. Tominaga** responded it depends on the district, but most cases are dealing with people with a small number of acres.

**Senator Johnson** asked why the secondary planning and implementation fund gets utilized for these enforcement actions instead of the General Fund. **Mr. Tominaga** referred to Gary Spackman, Director of Water Resources, to answer this question. **Mr. Spackman** stated that the secondary aquifer fund was for dedicated projects, and the Idaho Water Resources Board was given a fiduciary duty to spend the money solely for projects.

- TESTIMONY:** **Mr. Spackman** spoke in favor of this legislation because of the litigation prior to the Snake River Aquifer settlement agreement. **Mr. Spackman** stated the Director of IDWR's authority includes making a list of people who were not paying their assessments, and would not receive the benefits of any approved mitigation plan. Finally, **Mr. Spackman** indicated that **S 1056** would have a fiscal impact, but did not know what the impact would be.
- DISCUSSION:** **Senator Stennett** asked Mr. Spackman questions relating to the fiscal note. **Mr. Spackman** responded that the earmarked \$126,000 amount is for the IDWR to deal with legal complications from the non-abiding water users. **Senators Guthrie, Mortimer, and Patrick** had a lengthy discussion about how **S 1056** relates to another piece of legislation, **S 1041**, as well as the financial mechanisms for paying for the legislation, and the fiscal note of **S 1056**.
- TESTIMONY:** **TJ Budge** and **Lynn Tominaga** of the Idaho Ground Water Association testified in favor of **S 1056** and summarized their presentation of the bill once again. According to **Mr. Tominaga**, he was told by the IDWR if they are dealing 20 or 30 individuals or patrons who are out of compliance and would like to challenge this, then the \$126,000 amount comes in for litigation.
- MOTION:** **Senator Johnson** moved to hold **S 1056** until next the business day. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.
- ADJOURNED:** There being no further business at this time, **Chairman Heider** adjourned the meeting at 3:10 p.m.

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Senator Heider  
Chair

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Tyler Brock  
Secretary

AGENDA  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**  
1:30 P.M.  
Room WW55  
Wednesday, February 20, 2019

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<b>Introduction</b>	Committee Members	Chairman Heider
<a href="#"><u>S 1056</u></a>	Relating to Ground Water Districts Mitigation	Lynn Tominaga, Idaho Ground Water Association
<a href="#"><u>S 1050</u></a>	Relating to Water Rights Diversion	Senator Brackett
<a href="#"><u>S 1087</u></a>	Relating to Artesian Wells Cost-Sharing	Senator Brackett
<a href="#"><u>S 1088</u></a>	Relating to Free Permits Veteran Tags	Senator Brackett
<a href="#"><u>H 67</u></a>	Relating to Low Temperature Geothermal	Representative Gestrin
<a href="#"><u>H 80</u></a>	Relating to Fish and Game Damage Compensation	Representative Wood

***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 Heider	Sen Patrick
Vice Chairman Brackett	Sen Guthrie
Sen Bair	Sen Stennett
Sen Johnson	Sen Jordan
Sen Mortimer	

COMMITTEE SECRETARY

Tyler Brock  
Room: WW37  
Phone: 332-1323  
email: sres@senate.idaho.gov

MINUTES  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**

**DATE:** Wednesday, February 20, 2019

**TIME:** 1:30 P.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Vice Chairman Brackett, Senators Bair, Johnson, Mortimer, Patrick, Guthrie, Stennett, and Jordan

**ABSENT/ EXCUSED:** Chairman Heider

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

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

**S 1056** **TJ Budge**, attorney, presented on behalf of the Idaho Ground Water Association and stated two concerns that were raised from the last Committee hearing. The first concern was the bill's potential impact to the General Fund if the Idaho Department of Water Resources (IDWR) is required to add staff or increase their workload to implement **S 1056**. Since the last meeting, the IDWR and Ground Water districts signed a Memorandum of Understanding (MOU) that would allow IDWR to charge additional enforcement costs to the ground water districts. The second issue that has been discussed is a concern about IDWR's authority to curtail pumpers who don't pay their assessments.

**DISCUSSION:** **Senator Patrick** asked Mr. Budge the process of shutting off water for delinquent users and if meters are required. **Mr. Budge** replied that meters are required and IDWR can't use the power company to shut off the wells; instead, the IDWR uses manual mechanisms. **Senator Guthrie** asked if **S 1056** takes the Director of IDWR's authority away outside of water districts. **Mr. Budge** responded that within a water district, the water master does the curtailing, and outside of a water district the Director of IDWR does the curtailing.

**TESTIMONY:** **Lynn Carlquist**, Chairman of the North Snake Groundwater District; **Dean Stevenson**, Chairman of the Magic Valley Groundwater District; **John Simpson**, attorney for the Surface Water Coalition; **Gary Spackman**, Director of the Idaho Department of Water Resources; and **Lynn Tominaga**, Idaho Ground Water Association, all spoke in favor of **S 1056**.

**DISCUSSION:** **Senator Guthrie** asked Director Spackman if he had ever shut any user off for a non-payment of assessment. **Mr. Spackman** responded that he does not recall ever curtailing anyone for refusal to pay assessment to a groundwater district and does not believe he has the authority to shut off someone for nonpayment; he can only shut off for failure to curtail water rights. However, there is an opportunity for the water master to come in and shut people off. **Senator Mortimer** asked what happens to water users that have either paid their assessment, or curtailed their water in the past. **Mr. Spackman** responded that if they have not participated in the mitigation plan, they would still be subject to curtailment.

**Senator Stennett** asked Director Spackman if he had any recommendations about the situation of being forced to curtail somebody who is out of compliance, but not because there is a lack of water. **Mr. Spackman** responded that they have struggled with this and tried to find language that would pass legal muster. **Senator Guthrie's** asked Mr. Tominaga a question about the fiscal note. **Mr. Tominaga** stated that whether it's an MOU or a contract, the Groundwater Association and the IDWR will come in and provide those resources to clarify the fiscal note if necessary.

**MOTION:** **Senator Bair** moved to hold **S 1056** to a date certain of Monday, February the 25th. **Senator Jordan** seconded the motion. The motion carried by **voice vote**.

To make better use of time for the Representatives and Senators who had other committee obligations, **Vice Chairman Brackett** announced that **H 67** and **S 1088** would be heard before the other legislation on the agenda.

**H 67** **Representative Terry Gestrin**, District 8, presented **H 67** and stated this legislation has to do with geothermal wells and water rights. **Representative Gestrin** stated that the first time the State entered this particular piece of code was in 1990. The purpose was to protect the value of geothermal water and protect the rights of those who are using geothermal water. This bill intends to prevent a situation when someone drills a well and hits 85 degrees Fahrenheit, they do not have to cap the well as long as it doesn't affect adjacent water rights.

**TESTIMONY:** **Lynn Tominaga** of the Ground Water Users Association spoke in favor of **H 67** because these exemptions will save homeowners money if they are planning on using these wells for domestic purposes. Furthermore, the two believed that these amendments will improve the IDWR's ability to review applications for use of low temperature geothermal water while still protecting those existing users and the heat value of the low temperature geothermal water.

**MOTION:** **Senator Johnson** moved to send **H 67** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

**PASSED THE GAVEL:** Vice Chairman Brackett passed the gavel to Senator Bair.

**S 1088** **Vice Chairman Brackett** stated that the purpose of this bill is to ensure that the most deserving disabled veterans receive the big game tags under the Idaho Division of Veterans Services (IDVS). IDVS is directed to screen applications for the five big game tags allocated to disabled veterans to ensure that the most deserving are prioritized. Under the terms of the bill, two of the five tags will be allocated to a hunt designed by IDVS, while the remaining three tags will be designated by the Idaho Fish and Game Commission.

**DISCUSSION:** **Senator Jordan** asked about the criteria for determining the "most deserving" veterans. **Vice Chairman Brackett** responded with a brief answer that both the IDVS and Idaho Department of Fish and Game will be making these determinations.

**TESTIMONY:** **Sharon Kiefer**, Idaho Department of Fish and Game, and **Bill Mulder**, Treetop Ranchers, testified in favor of **S 1088**. Both **Ms. Kiefer** and **Mr. Mulder** gave background information about the success of these hunts in the past, and what this new legislation would do for disabled veterans going forward.

**MOTION:** **Senator Patrick** moved to send **S 1088** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion was carried by **voice vote**.

**ADJOURNED:** There being no further business at this time, **Senator Bair** adjourned the meeting at 3:01 p.m.

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Senator Heider  
Chair

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Tyler Brock  
Secretary

**AMENDED AGENDA #1**  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**  
**1:30 P.M.**  
**Room WW55**  
**Monday, February 25, 2019**

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<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
Minutes	Approval of Minutes - February 11th, 2019	Senator Bair
Minutes	Approval of Minutes - February 13th, 2019	Senator Guthrie
<a href="#"><u>S 1056</u></a>	Relating to Ground Water Districts Mitigation	Lynn Tominaga, Idaho Ground Water Association
<a href="#"><u>H 80</u></a>	Relating to Fish and Game Damage Compensation	Representative Wood
<a href="#"><u>S 1050</u></a>	Relating to Water Rights Diversion	Senator Brackett
<a href="#"><u>S 1087</u></a>	Relating to Artesian Wells Cost-Sharing	Senator Brackett
<a href="#"><u>S 1089</u></a>	Relating to Fish and Game Interference	Brian Brooks, Idaho Wildlife Federation

***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 Heider	Sen Patrick
Vice Chairman Brackett	Sen Guthrie
Sen Bair	Sen Stennett
Sen Johnson	Sen Jordan
Sen Mortimer	

COMMITTEE SECRETARY

Jamie Skrypkun  
Room: WW37  
Phone: 332-1323  
email: sres@senate.idaho.gov

MINUTES  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**

**DATE:** Monday, February 25, 2019

**TIME:** 1:30 P.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer, Patrick, Guthrie, 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 Heider** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m.

**MINUTES APPROVAL:** **Senator Bair** moved to approve the Minutes of February 11th, 2019. **Senator Mortimer** seconded the motion. The motion carried by **voice vote**.

**Senator Guthrie** moved to approve the Minutes of February 13th, 2019. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

**S 1056** **Lynn Tominaga**, Idaho Groundwater Association, presented **S 1056** that gives the Director of the Idaho Department of Water Resources (IDWR) the ability to curtail groundwater for failure to pay assessments or participate in an approved mitigation plan.

**DISCUSSION:** **Senators Mortimer, Stennett and Jordan** asked if there was a written agreement between IGWA and the IDWR in respect to **S 1056's** new fiscal note. **Mr. Tominaga** responded that they currently do not have anything written as a contract or Memorandum of Understanding (MOU). The two parties just have a verbal agreement to determine the litigation costs. **Mr. Tominaga** further stated the ground water districts have the ability to asses their users if they know the costs. **Senator Guthrie** asked what happens to wells outside of ground water districts and asked for a description of the "clawback" method. **Mr. Tominaga** referred to TJ Budge, the attorney for IGWA, to answer this question. **Mr. Budge** responded this legislation only governs groundwater districts, only affects groundwater district members, and has no effect on a well located outside of a groundwater district.

**TESTIMONY:** **TJ Bingham**, a farmer from Blackfoot, Idaho, spoke in opposition to **S 1056**.

**DISCUSSION:** **Vice Chairman Brackett** asked Mr. Bingham if he had any suggestions on improving this legislation. **Mr. Bingham** responded that he believes the law should be left the way it is and that the water districts have the tools they need to go after the money that they think they're owed.

**Senator Patrick** asked Mr. Bingham if his issues are with his ground water district and not the State of Idaho. **Mr. Bingham** responded that his problem is with his water district and not the State of Idaho, and he wants to keep the relationship that way.

**Senator Mortimer** asked about the mitigation process in Mr. Bingham's district, how that process works, and whether or not Mr. Bingham felt that he was given proper notice to mitigate. **Mr. Bingham** responded that the process has changed over the years. The water district used to have a tiered assessment system for priority dates. Currently in Mr. Bingham's district, the tier was 10 percent for irrigated acres for senior water rights, 12 percent for middle water rights, and 14 percent for junior water rights. For the last question, **Mr. Bingham** answered that he did not feel that he was given proper notice to mitigate his water levels.

**TESTIMONY:** **Paul Arrington**, Idaho Water Users Association, spoke in favor of **S 1056**.

**DISCUSSION:** **Senator Mortimer** asked what protections there are for people who disagree with IDWR or ground water district decisions. To answer this question, Mr. Arrington referred to TJ Budge of IGWA. **Mr. Budge** responded that a district member can challenge the decision of a board where they felt the board was exceeding its authority. With respect to this legislation, there is some oversight by the Director of the IDWR. If a district elects to report a member to IDWR for enforcement, that report must contain information about the nonmembers or about the member's non-compliance. IDWR will review that report and the director must determine whether the allocation of mitigation obligations has been done in a reasonable way.

**Senator Stennett** asked Gary Spackman, Director of the IDWR, about the director's ability to curtail water when they have a outlier that is not under the safe harbor or settlement plan, would the director still be able to curtail a user that has a senior right rather than curtailing somebody with junior right who is part of the settlement plan. **Mr. Spackman** responded he would curtail if there was not a mitigation plan in place, and that he would curtail everyone back to 1957 water rights. With the mitigation plan in place, those participants in the existing mitigation plan would have a safe harbor. The director does not have the authority to curtail his 1952 water rights if he is only curtailing back to 1957.

**Senator Stennett** asked what would happen to Mr. Bingham if this law is passed. **Mr. Spackman** responded that Mr. Bingham is not participating in the mitigation plan. As a result of his non-participation, he would be subject to curtailment for that non-participation either in the assessments or in reducing the amount of water this diverted.

**Senator Guthrie** stated he was uncomfortable in general with water shutoffs during wet years. He felt there is a lot of latitude given to the Director of IDWR already, and feels that the IDWR is not even using powers they already have.

**Senator Patrick** stated the Committee should do everything it can to keep these enforcements in place. He spoke about the long process of recharging the aquifer and if this agreement falls apart, the State will be spending millions of dollars every year on attorney fees and the State's economy will suffer.

**MOTION:** **Vice Chairman Brackett** moved to send **S 1056** to the floor with a **do pass** recommendation. **Senator Patrick** seconded the motion.

**SUBSTITUTE MOTION:** **Senator Guthrie** moved to send **S 1056** to the 14th Order of Business for possible amendment. **Senator Johnson** seconded the motion.

**SUBSTITUTE MOTION ROLL CALL VOTE:** **Chairman Heider** called for a roll call vote on the substitute motion. **Senators Guthrie, Johnson, Jordan, and Stennett** voted aye. **Chairman Heider, Vice Chairman Brackett, and Senators Patrick and Bair** voted nay. A majority having failed to vote in the affirmative, the motion failed.

**ORIGINAL MOTION ROLL CALL VOTE:** **Chairman Heider** called for a roll call vote on the original motion. **Chairman Heider, Vice Chairman Brackett, and Senators Patrick and Bair** voted aye. **Senators Guthrie, Johnson, Jordan, and Stennett** voted nay. A majority having failed to vote in the affirmative, the motion failed.

**H 80**                    **Senator Kelly Anthon**, District 27, presented **H 80** regarding damages to irrigation systems and particularly farmer's prepared seedbeds. In addition, farmers cannot double dip in this legislation, meaning they cannot get compensated by both the State and their insurance company for damages.

**DISCUSSION:**        **Senator Stennett** asked what other kind of industry equipment falls under this compensation. **Senator Anthon** responded this statute only refers to crop damage, not irrigation damage and the preparation needed to irrigate.

**Senator Guthrie** asked who, in a potential event who has the primary and secondary insurance claims. **Senator Anthon** responded that personal farm insurance would be the primary carrier in these events.

**Senator Johnson** asked how one determines the condition of equipment when it comes to damage compensation. **Senator Anthon** stated the process that Idaho Department of Fish and Game uses is a lot like an adjuster, and the process is all determined by that adjustment process.

**TESTIMONY:**        **Sharon Kiefer**, Deputy Director of the Idaho Department of Fish and Game and **DeLon Lee**, Idaho Farm Bureau, spoke in favor of **H 80**.

**MOTION:**            **Senator Bair** moved to send **H 80** to the floor with a **do pass** recommendation. **Senator Patrick** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:**        There being no further business at this time, **Chairman Heider** adjourned the meeting at 2:56 p.m.

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Senator Heider  
Chair

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Tyler Brock  
Secretary

JOINT AGENDA  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**  
**AND**  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**  
**1:30 P.M.**  
**Lincoln Auditorium**  
**Wednesday, February 27, 2019**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
Presentation	The Health of Idaho Forests	Tom Schultz, Vice President of Government Affairs, Idaho Forest Group
Presentation	Idaho Department of Lands' Agency Overview	Dustin Miller, Director, Idaho Department of Lands
Presentation	Idaho's Good Neighbor Authority and Shared Stewardship Efforts	David Groeschl, Deputy Director, Idaho Department of Lands
Presentation	Status of Oil and Gas in Idaho	Mick Thomas, Oil and Gas Administrator, Idaho Department of 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 Heider	Sen Patrick
Vice Chairman Brackett	Sen Guthrie
Sen Bair	Sen Stennett
Sen Johnson	Sen Jordan
Sen Mortimer	

COMMITTEE SECRETARY

Tyler Brock  
Room: WW37  
Phone: 332-1323  
email: sres@senate.idaho.gov

MINUTES  
JOINT MEETING

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

**DATE:** Wednesday, February 27, 2019

**TIME:** 1:30 P.M.

**PLACE:** Lincoln Auditorium

**MEMBERS PRESENT:** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer, Patrick, Guthrie, Stennett, and Jordan.

Chairman Gibbs, Vice Chairman Gestrin, Representatives Shepherd, Boyle, Vander Woude, Mendive, Kauffman, Blanksma, Addis, Lickley, Moon, Raybould, Erpelding, Toone, and Mason.

**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** Heider convened the Joint committees of Resources & Environment and Resources & Conservation (Committees) at 1:30 p.m.

**PRESENTATION:** **The Health of Idaho Forests, Tom Schultz**, Vice President of Government Affairs, Idaho Forest Group (IFG), explained that the IFG was primarily focused on Idaho but would cover Montana as a comparison. IFG currently operates six sawmills and one finger joint plant, with operations in north Idaho. **Mr. Schultz** explained compounding ecological circumstances affecting Idaho's forested lands, with an emphasis on dense, overstocked forests. Certain forests in Idaho's boundaries are emitting, as opposed to sequestering carbon, due to the amount of disease and beetle infected trees. Overstocked stands may render large areas of land susceptible to disease and catastrophic wildfires; trees in certain forests are dying at a rate that exceeds growth, creating more fuel. He stated that the preponderance of the insect and disease infestations are on federal lands and he argued that mortality was indicative for forest health. He stated they observed a decrease in growth since the logging industry's peak in 1991, and an increase in mortality as harvest levels dropped. Compounding issues have increased the amount of tree mortality in Idaho's forests. Since 1991, harvested board feet declined by 80 percent and there is a correlation with increased wildfires since that time. In the past, the National Forests issued allowable sale quantities of 12 billion board feet. Two billion board feet are currently harvested, nationally. It is the IFG's goal, along with the United States Department of Agriculture (USDA), to have the Forest Service allow the harvest of over three billion board feet in the short term. Their ultimate goal is to allow the harvest of six billion board feet on federal lands across the nation as lack of management leaves the forests vulnerable. **Mr. Schultz** emphasized that this issue threatens industrial, private, and public assets, as well as rural economies. He hopes that a conglomerate will form between the many management agencies, businesses, and contractors who aspire to secure the future of Idaho's forests. The Good Neighbor Authority (GNA) is a tool they will utilize to accomplish this unity. Collaborative groups are forming with the goal of Full Plan Implementation (FPI), completing the entire agenda on the Forest. There are ten different collaborative groups in Idaho, Clearwater Basin Collaborative (CBC) being the longest servicing group. They received federal funding over the

last 10 years. CBC efforts have tripled the timber volume offered for sale since 2008 and their target for 2023 is to put for sale 131 million board feet, roughly 95 million more than they signed in 2008. **Mr. Schultz** informed the Committees that there are 14 GNA projects underway in Idaho and 17 in Montana, and projects underway in Idaho are not directly related to commercial timber harvest. Shared Stewardship (SS), an effort guided by the Forest Service, is the latest form of management he had seen. SS works across private, state and federal lands to achieve common goals, the majority dealing with forest health improvement. **Mr. Schultz** summarized in conclusion that their goal was to double the commercial acres treated as well as reduce hazardous fuel deposits; to expect a significant cost to treat the land; greater collaboration between agencies; and ultimately a measurable increase in the pace and scale of treatment on public lands.

**PRESENTATION: Idaho Department of Lands' Agency Overview, Dustin Miller**, Director, Idaho Department of Lands (IDL), shared his appreciation for Tom Schultz, the previous Director of the IDL, and explained the history of the IDL. Congress granted six million acres of land to Idaho in order to help fund specific beneficiaries, namely Idaho public schools. The IDL operates under a constitutional mandate to maximize the long term financial return to the beneficiaries. The sale of timber, leases for grazing, farming, conservation, commercial uses, mining, and earnings from invested funds are utilized to generate returns. The Endowment Fund Investment Board manages the invested revenues from the endowment lands and provides assistance to Idahoans to use, protect, and sustain their resources through programs. **Mr. Miller** indicated that 4.6 percent of land based in Idaho belongs to the Endowment Beneficiaries. He explained that IDL's activities are guided by the State Board of Land Commissioners (Land Board), comprised of the Governor, Attorney General, State Controller, Secretary of State, and the Superintendent of Public Instruction. The Land Board provides the direction to the IDL in managing the endowment to meet the constitutional mandate as well as oversee the regulatory and assistance duties in managing Idaho's public trust lands. He outlined each department inside the IDL and their functions. **Mr. Miller** argued that it was vital to manage Idaho's forests in a sustainable way to remain healthy, productive, and resilient. The IDL was updating their Forest Asset Management Plan and recalculating their timber land's sustained yield. He said that it would translate into increased harvests. Within the IDL, the Good Neighbor Bureau will set standards for the GNA projects. A partnership between the Forest Service will increase the pace and scale of restoration on Federal Lands. Timber sales will offset the costs of additional management activities. He said they currently have one employee dedicated to working with the Bureau of Land Management (BLM), and other partners to increase land restoration in Idaho. **Mr. Miller** discussed fire management and their responsibility to protect 6.3 million acres of endowment land. The IDL administers many protective laws which regulate actions like mining, waterways, and private land management.

**PRESENTATION: Idaho's Good Neighbor Authority and Shared Stewardship Efforts, David Groeschl**, Deputy Director, IDL, informed the Committees that the 2014 Farm Bill inspired their research in assessing Idaho's timber production. They found that Idaho contains 20 million acres of National Forest System Lands, 12.6 million of which are suitable for some level of management. Of that 12.6 million acres, 8.8 million acres are at high risk, and of that area, 6.1 million acres are designated under the Healthy Forest Restoration Act. The GNA authorizes the State to sign a cooperative agreement between Federal Agencies and allows the IDL to use their contracting mechanisms in these cooperations. National Environment and Policy Act (NEPA) **Mr. Groeschl** described the funding relationships between different industrial, State and Federal entities. Among these entity contributions, Idaho's general fund provides \$250,000, a year to kick start fuel reduction projects across the State with the intent that the projects' timber sales will create a self-sustaining

revenue flow in the future. Receipts will eventually help fund contracted services such as road maintenance, bridge replacement, and fish passages. He exclaimed that Idaho was the first in the Nation to have a Shared Stewardship agreement. Their goal was to create plans for State Endowment lands and carry out management activity; to assist private land owners with management through Private Forestry Specialists. They are building relationships with their Federal partners who manage the vast majority of land in the United States; tying the treatment plans together from different State, Federal and Private entities. They will scale the amount of timber sales and hazardous treatment of Federal land in Idaho.

**PRESENTATION: Status of Oil and Gas in Idaho, Mick Thomas**, Oil and Gas Administrator, IDL, explained the finite nature of the industry and the commodity price drop for both fuel types. He anticipated the price to rise and an increase in production in following years. Despite the decrease in revenue, the IDL was able to stabilize the revenue stream by changing the point of sale and paying severance tax to the State. He described the Kaufman Complaint, regarding the sharing and disclosure of information; the Oil and Gas Commission (OGC) ruled to decline to adopt the Hearing Officer's recommended order. The OGC, after an Executive Session, decided not to appeal the ruling from Judge Windmill in a related lawsuit. On another issue, the IDL is conducting an internal allocation investigation to ensure that the volumes produced in Idaho match State records, sold and transported; OGC's priority was the allocation investigation. **Mr. Thomas** said a Class 2 well was submitted by the operator and was currently in a process of evaluation by the Environmental Protection Agency (EPA), and described the relationships of High Mesa Holdings and their move away from Idaho. Future development is primarily in western Idaho, with pipe and well connections underway.

**DISCUSSION: Mr. Thomas** fielded questions on the potential for gas and oil resources to rebound. There are significant gas and liquid resources in the state proven to be economically viable. **Senator Stennant** asked Mr. Groeschl to expand on what they are working on for non federal lands. **Mr. Groeschl** explained that thinning and hazardous fuel treatments are prescribed regularly to endowment and private lands through their Forestry Assistance Bureau. They help private land owners set up a stewardship plan, and provide financial guidance and assistance, cost share funds, or stewardship funds. They are working to widen the GNA because there is potential to use generated funds to help accomplish work on private lands. An application was submitted to the joint Chiefs of the Department of the Interior and the Department of Agriculture, which would provide funding to help restore private land affected during the 2015 Clearwater Complex wildfire. They were evaluating the tools, funds, and authorities to help manage those lands.

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

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Senator Heider  
Chair

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Tyler Brock  
Secretary

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Bryce DeLay  
Assistant to the Secretary

AGENDA  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**  
**1:30 P.M.**  
**Room WW55**  
**Monday, March 04, 2019**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
Minutes	Approval of Minutes - January 21st, 2019	Senator Mortimer
<a href="#">S 1056</a>	Relating to Ground Water Districts Mitigation	Lynn Tominaga, Idaho Ground Water Association
<a href="#">S 1050</a>	Relating to Water Rights Diversion	Senator Brackett
<a href="#">S 1087</a>	Relating to Artesian Wells Cost-Sharing	Senator Brackett
<a href="#">S 1089</a>	Relating to Fish and Game Interference	Brian Brooks, Idaho Wildlife Federation

***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 Heider	Sen Patrick
Vice Chairman Brackett	Sen Guthrie
Sen Bair	Sen Stennett
Sen Johnson	Sen Jordan
Sen Mortimer	

COMMITTEE SECRETARY

Tyler Brock  
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MINUTES  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**

**DATE:** Monday, March 04, 2019

**TIME:** 1:30 P.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer, Patrick, Guthrie, 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 Heider** called the Senate Resources and Environment Committee (Committee) meeting to order at 1:30 p.m.

**MINUTES APPROVAL:** **Senator Mortimer** moved to approve the Minutes of January 21st, 2019. **Vice Chairman Brackett** seconded the motion. The motion carried by **voice vote**.

**S 1056** **Vice Chairman Brackett** moved to reconsider **S 1056**. **Senator Bair** seconded the motion. The motion was carried by **voice vote**.

**MOTION:** **Senator Bair** moved to send **S 1056** to the 14th Order of Business for possible amendment. **Vice Chairman Brackett** seconded the motion. The motion carried by **voice vote**.

**S 1050** **Vice Chairman Brackett** stated **S 1050** clarifies Idaho Code in relation to the exemption requirement to obtain a water right for the use of groundwater for the purposes of firefighting. **Vice Chairman Brackett** ensured that this legislation provides clarity and protection of persons and property is the foremost priority in situations involving damaging fires.

**DISCUSSION:** **Senator Mortimer** asked if there were any examples where groundwater use has been used to fight fires or if this is a preemptive measure. **Vice Chairman Brackett** responded that he does not have a good answer for this question, but he believes **S 1050** clarifies that all of this is permissible.

**Senator Stennett** asked who needs permission to divert groundwater off of their land. **Vice Chairman Brackett** stated that there is not a clear answer, but this bill speaks to fight fires on public lands via private property. To further answer the question, **Vice Chairman Brackett** yielded his microphone to Brian Patton of the Idaho Department of Water Resources (IDWR). **Mr. Patton** stated that this bill is silent on permission and access. In case of fires, it allows firefighters to pull water out of a well just like they can pull water out of a surface water stream.

**MOTION:** **Senator Mortimer** moved to send **S 1050** to the floor with a **do pass** recommendation. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

**S 1087** **Vice Chairman Brackett** stated that **S 1087** removes outdated language in Idaho Code § 42-607, while maintaining the option for the Director of the IDWR to implement a cost share program. The statute will continue to recognize that owners of artesian wells have the responsibility for repairing and plugging their wells.

**TESTIMONY:** **Braden Jensen** of the Idaho Farm Bureau testified in favor of **S 1087**, particularly for the collaboration between the parties that helped draft this legislation.

- MOTION:** **Senator Guthrie** moved to send **S 1087** to the floor with a **do pass** recommendation. **Senator Bair** seconded the motion. The motion carried by **voice vote**.
- S 1089** **Senator Martin** and **Brian Brooks**, Idaho Wildlife Federation, presented **S 1089**. **Senator Martin** started out his presentation by discussing the volume of Facebook traffic he receives on stories about people blocking public roads and trails. He also noted an error within the bill itself, and wished for a recommendation to send the bill to the 14th Order for revision. **Mr. Brooks** stated the intent of this legislation is to allow a civil suit remedy for people who intentionally block public land access. This legislation offers civil remedies to conduct that which is already illegal, and this legislation does not contain any constitutional concerns or new right of entry claims on private lands.
- DISCUSSION:** **Senator Stennett** asked how many times Idaho Code § 36-1603(b) had been cited and wished to know of all the stakeholders that worked on this legislation. **Mr. Brooks** responded that they found one instance of a successful conviction and that conviction only came after a sting operation. **Mr. Brooks** further stated that they worked with real estate and road lawyers, motorized groups, hunting and angling groups, rock climbers, kayakers, and with farmers and ranchers.
- Senator Mortimer** asked about the process of tripled damages and asked for the distinction between any prosecution or litigation in this portion of statute versus civil code. **Mr. Brooks** responded the bill allows for a swifter justice by allowing the general public to take these complaints like they have with private property trespass.
- Vice Chairman Brackett** addressed concerns he had with the legislation and asked Mr. Brooks if there was more information he could provide. **Mr. Brooks** stated the intent of this legislation is to go after flagrant access violations. However, **Mr. Brooks** understands that there are rock outcrops and marshes that fences cannot build around.
- TESTIMONY:** **Michael Gibson**, Idaho Trout Unlimited; **Forrest Goodrum**, Legislative Director of the Idaho Wildlife Federation; and **Larry Callester** spoke in favor of **S 1089**.
- Sharon Kiefer**, Idaho Department of Fish and Game (IDFG), stated their neutrality, and that they were simply there to monitor **S 1089**.
- DISCUSSION:** **Senator Bair** asked if IDFG was a stakeholder in the drafting process for this legislation. **Ms. Kiefer** stated she was not aware of IDFG being contacted during the drafting of **S 1089**.
- TESTIMONY:** **Russ Hendricks**, Idaho Farm Bureau; **Wyatt Prescott**, Idaho Cattle Association; and **Gary Allen**, attorney for DF Development, spoke in opposition to **S 1089**.
- MOTION:** **Senator Jordan** moved to send **S 1089** to the 14th Order of Business for possible amendment. **Senator Stennett** seconded the motion. The motion failed.
- MOTION:** **Senator Bair** moved to hold **S 1089** in Committee. **Vice Chairman Brackett** seconded the motion. The motion carried by **voice vote**.
- ADJOURNED:** There being no further business at this time, **Chairman Heider** adjourned the meeting at 3:03.

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Senator Heider  
Chair

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Tyler Brock  
Secretary

AGENDA  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**  
1:30 P.M.  
Room WW55  
Wednesday, March 06, 2019

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<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>HJM 4</u></a>	Relating to Boise River Reclamation Dams	Representative Blanksma
<a href="#"><u>HCR 10</u></a>	Relating to E. Snake Plain Aquifer Settlement	Speaker Bedke
<a href="#"><u>HCR 12</u></a>	Relating to Natural Resources Committee	Representative Gibbs
<a href="#"><u>HCR 15</u></a>	Relating to The Honoring of Tom Cade	Representative Ellis
<a href="#"><u>HJM 8</u></a>	Relating to Wilderness Study Areas	Representative Giddings
<a href="#"><u>HJM 9</u></a>	Relating to Steelhead Fishing Season	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 Heider	Sen Patrick
Vice Chairman Brackett	Sen Guthrie
Sen Bair	Sen Stennett
Sen Johnson	Sen Jordan
Sen Mortimer	

COMMITTEE SECRETARY

Tyler Brock  
Room: WW37  
Phone: 332-1323  
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MINUTES  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**

**DATE:** Wednesday, March 06, 2019

**TIME:** 1:30 P.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer, Patrick, Guthrie, 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 Heider** convened the Senate Resources and Environment Committee (Committee) at 1:29 p.m.

**HJM 4** **Representative Blanksma**, District 23, stated **HJM 4** focuses on the raising of Anderson Ranch Dam by 6 feet, which would provide an additional 29,000 acre-feet of water storage on the Boise River. **Representative Blanksma** further stated that Anderson Ranch Dam's two primary purposes are to provide irrigation water and to generate hydro-electric power.

**DISCUSSION:** **Senator Stennett** asked which lands will be submerged if the reservoir is raised. **Representative Blanksma** responded that the Senator's question will be answered when the feasibility study is done by next June. This Joint Memorial is for additional water storage capacity and there has not been a water right issued.

**TESTIMONY:** **Paul Arrington**, Idaho Water Users Association and **Braden Jensen**, Idaho Farm Bureau spoke in favor of **HJM 4**.

**DISCUSSION:** **Vice Chairman Brackett** asked if flood protection will become a primary purpose in addition to providing irrigation water and generating electricity. **Mr. Arrington** responded that the feasibility study will determine the primary purposes, but having additional capacity to store water does help with flood control.

**TESTIMONY:** **Michael Gibson**, Idaho Trout Unlimited and **Marie Calloway Kelner**, Idaho Conservation League stated their neutrality towards **HJM 4**.

**DISCUSSION:** **Senator Stennett** asked what benefits **HJM 4** would bring to fisheries and hatcheries. **Mr. Gibson** stated that it all depends on the feasibility study; however, there are challenges to storing water in the highest reservoir and Idaho Trout Unlimited wants to ensure that flow regimes are still beneficial to the fish.

**MOTION:** **Senator Bair** moved to send **HJM 4** to the floor with a **do pass** recommendation. **Vice Chairman Brackett** seconded the motion. The motion carried by **voice vote**.

**HCR 10** **Speaker Bedke** presented **HCR 10**. This concurrent resolution expresses support for the settlement agreement between the cities, the surface water coalition, and the members of the Idaho Ground Water Appropriators. The resolution supports the continued efficient management of water supplies within the Eastern Snake Plain Aquifer. **HCR 10** further supports state management to ensure that water supply issues are addressed and declining water levels are stabilized and reversed.

**TESTIMONY:** **Paul Arrington**, Idaho Water Users Association, spoke in favor of **HCR 10**.

- MOTION:** **Vice Chairman Brackett** moved to send **HCR 10** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.
- Chairman Heider** announced that **HCR 12** would be delayed until a presenter was available.
- HCR 15** **Representative Ellis** stated this proposed legislation would recognize the late Dr. Tom Cade for his efforts in raptor conservation affecting Idaho, the United States, and the world.
- MOTION:** **Senator Stennett** moved to send **HCR 15** to the floor with a **do pass** recommendation. **Senator Mortimer** seconded the motion. The motion carried by **voice vote**.
- HJM 8** **Representative Giddings** stated this memorial enables the Idaho Legislature to request that Congress releases all wilderness study area acreage which has already been listed as "not suitable for wilderness" by the Bureau of Land Management (BLM) and relayed to President George H.W. Bush in 1992, in order to return the lands to public use.
- DISCUSSION:** **Senator Stennett** asked for clarification on what lands are not suitable for public use. **Representative Giddings** stated wilderness is an area where the earth and its community of life are untrammled by man or man himself is a visitor who does not remain in an area of wilderness.
- Senator Jordan** asked if all the wilderness areas on the map (see attachment 1) prohibit any kind of motorized travel and whether Representative Giddings knew which areas were exempted. **Representative Giddings** stated all of the areas are considered unsuitable per the 1991 list that the BLM submitted and there are several that allow motorized travel. For the latter question, **Representative Giddings** was unable to answer.
- Vice Chairman Brackett** made a comment on determining what is a wilderness area and what isn't and asked what year Representative Giddings' map showed. **Representative Giddings** stated that the map was from 2014.
- TESTIMONY:** **Jonathan Oppenheimer** and **John Robinson** of the Idaho Conservation League spoke against **HJM 8**.
- Russ Hendricks**, Idaho Farm Bureau, spoke in favor of **HJM 8**.
- MOTION:** **Senator Jordan** moved to hold **HJM 8** in Committee. **Senator Stennett** seconded the motion. The motion failed.
- MOTION:** **Senator Guthrie** moved to send **HJM 8** to the floor with a **do pass** recommendation. **Senator Mortimer** seconded the motion. The motion carried by **voice vote**. **Senators Jordan and Stennett** requested that they be recorded as voting nay.
- HCR 12** **Senator Bair** presented on behalf of Representative Gibbs and stated this legislation would authorize the Legislative Council to continue an interim committee to undertake studies of natural resource issues, particularly the water resources of the state.
- MOTION:** **Senator Bair** moved to send **HCR 12** to the floor with a **do pass** recommendation. **Senator Johnson** seconded the motion. The motion carried by **voice vote**.
- HJM 9** **Senator Johnson** presented on behalf of Representative Moyle and stated **HJM 9** urges the National Oceanic and Atmospheric Administration (NOAA), specifically the National Marine Fisheries Service (NMFS), to complete Idaho's incidental take permit. It also urges NOAA to review and process future plans and permits.

**MOTION:** **Senator Johnson** moved to send **HJM 9** to the floor with a **do pass** recommendation. **Senator Mortimer** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:** There being no further business at this time, **Chairman Heider** adjourned the meeting at 2:37 p.m.

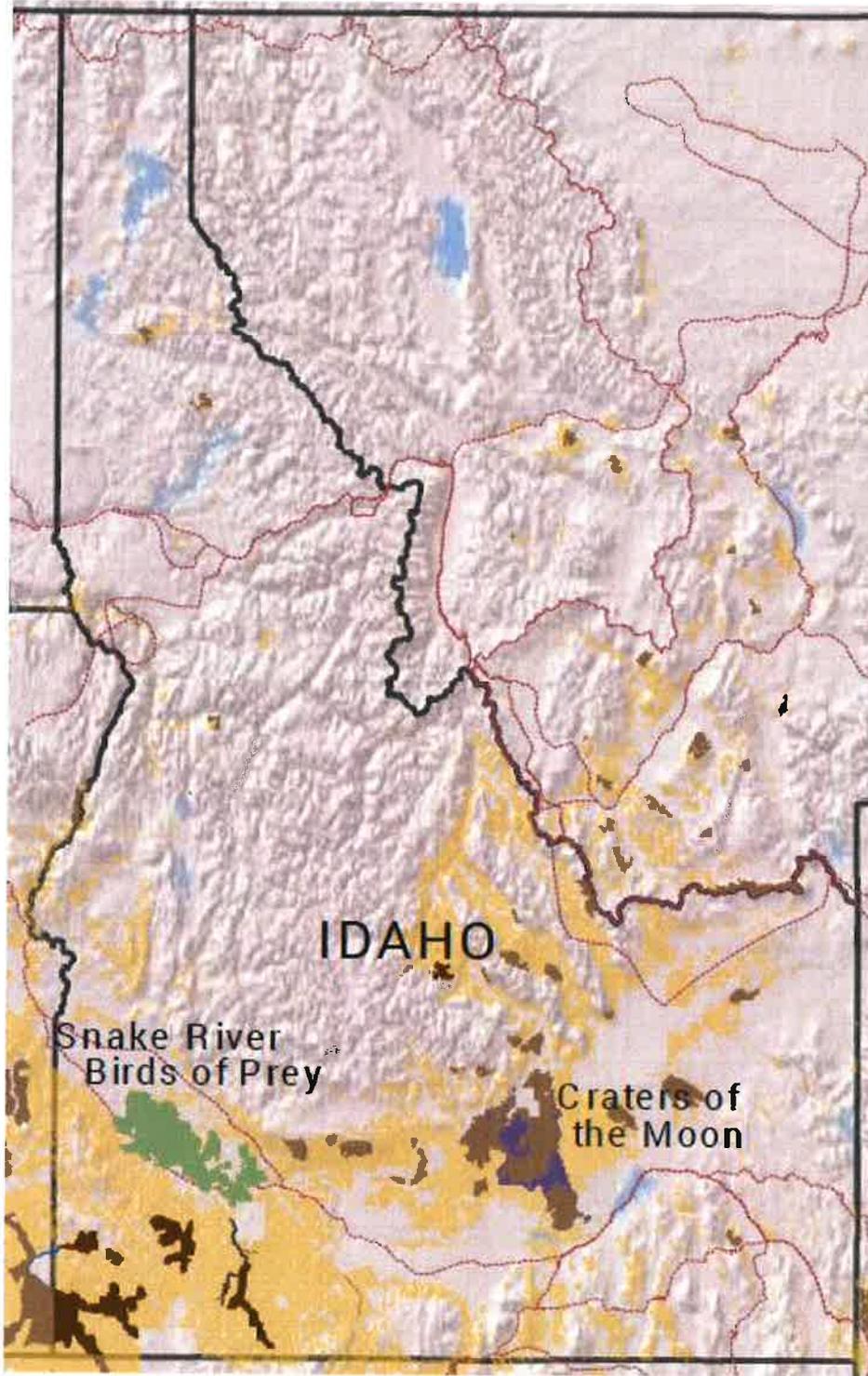
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Senator Heider  
Chair

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Tyler Brock  
Secretary

## House Joint Memorial 8 – Wilderness Study Areas



**AMENDED AGENDA #3**  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**  
**1:00 P.M.**  
**Lincoln Auditorium**  
**Monday, March 11, 2019**

Change in meeting time and location; meeting from 1:00 to 2:00 p.m.

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<b>Minutes</b>	Approval of Minutes January 16th, 2019	<b>Vice Chairman Brackett</b>
	Approval of Minutes January 23rd, 2019	
	Approval of Minutes January 28th, 2019	
	Approval of Minutes January 30th, 2019	
	Approval of Minutes February 18th, 2019	
	Approval of Minutes February 20th, 2019	
<a href="#"><u>S 1151</u></a>	Relating to Fish and Game Depredation Payments	<b>Vice Chairman Brackett</b>
<a href="#"><u>H 97</u></a>	Relating to Land Owner Duties and Liability	<b>Representative Addis</b>
<a href="#"><u>HCR 9</u></a>	Relating to Hydropower Dams	<b>Representative Ehardt</b>
<a href="#"><u>H 162</u></a>	Relating to Idaho Council on Federal Lands	<b>Representative Boyle</b>
<a href="#"><u>HJM 5</u></a>	Relating to Federal Lands Selling	<b>Representative Gestrin</b>

***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 Heider	Sen Patrick
Vice Chairman Brackett	Sen Guthrie
Sen Bair	Sen Stennett
Sen Johnson	Sen Jordan
Sen Mortimer	

COMMITTEE SECRETARY

Tyler Brock  
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MINUTES  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**

**DATE:** Monday, March 11, 2019

**TIME:** 1:00 P.M.

**PLACE:** Lincoln Auditorium

**MEMBERS PRESENT:** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer, Patrick, Guthrie, 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 Heider** called the Senate Resources and Environment Committee (Committee) to order at 1:02 p.m.

**MINUTES APPROVAL:** Before approving the Minutes from January 16th, 23rd, 28th, 30th and February 18th and the 20th, **Vice Chairman Brackett** clarified that the Columbia River Treaty would have to go through the Foreign Relations Committee, which U.S. Senator Jim Risch chairs, and even though Senator Martin was told that wasn't always the case, Senator Risch believes that it is.

**Vice Chairman Brackett** moved to approve the Minutes from January 16th, 23rd, 28th, 30th and February 18th and 20th. **Senator Jordan** seconded the motion. The motion carried by **voice vote**.

**S 1151** **Vice Chairman Brackett** stated that H 230 (2017) added significant financial resources to prevent wildlife/crop deprecations. In 2018, the Idaho Fish and Game Department (IDFG) received a claim from a single agriculture producer for specialty, organic crops that equalled or exceeded the total amount of the other 43 claims received from all agriculture producers combined. Using current fiscal year 2019 appropriations for the Expendable Big Game Depredation Trust Account, the State would likely be prorating at less than fifty cents on the dollar. The purpose of this legislation is to place a cap on the amount paid on any single claim to not exceed 10% of the annual Expendable Big Game Depredation Trust Account appropriation for that fiscal year.

**TESTIMONY:** **Sharon Kiefer**, Deputy Director of IDFG, spoke in favor of **S 1151** because it creates a solution by providing a legislative safeguard to avoid exceptionally large claims, which strains the depredation compensation account.

**DISCUSSION:** **Senator Patrick** asked what happens if 500 elk cause enough damage to exceed the depredation fund. **Ms. Kiefer** responded they don't have a sense of how often Senator Patrick's scenario will happen, but IDFG is seeing some changes in agricultural practices where it may happen more often than not.

**Senator Johnson** commented that perhaps next session, the Committee could look at any carry over to **S 1151** claims to see if there's any reason to continue with the legislation. Or, the committee can find some more creative solutions to fund the depredation fund so that the State can be equitable.

**MOTION:** **Senator Patrick** moved to send **S 1151** to the floor with a **do pass** recommendation. **Senator Jordan** seconded the motion. The motion carried by **voice vote**.

Because Representative Addis or Emily McClure were not available at the time to present **H 97**, the Committee decided to introduce **HCR 9** in its place.

- HCR 9** **Representative Ehardt**, District 33, stated the purpose of this resolution is to recognize that Idaho's hydroelectric power is clean, reliable, and renewable, and is key to our energy portfolio moving forward.
- TESTIMONY:** **Will Hart**, Executive Director of the Idaho Consumer Owned Utilities Association spoke in favor of **HCR 9**.
- MOTION:** **Senator Bair** moved to send **HCR 9** to the floor with a **do pass** recommendation. **Senator Johnson** seconded the motion. The motion carried by **voice vote**.
- H 97** **Emily McClure**, Riley Stegner and Associates, presented on behalf of Representative Addis, and stated under some programs, landowners may receive nominal compensation from a government entity or other third party to offset costs associated with opening their private property to the public. In 2018, the legislature amended the recreational immunity statute to align with Supreme Court holdings and clarify that these protections apply to government entities entering into such agreements. **Ms. McClure** concluded **H 97** would further clarify that such protections also apply to private landowners.
- MOTION:** **Senator Mortimer** moved to send **H 97** to the floor with a **do pass** recommendation. **Senator Patrick** seconded the motion. The motion carried by **voice vote**.
- H 162** **Senator Harris** presented on behalf of Representative Boyle, and stated this legislation will provide for a legislative council on federal lands issues. Approximately 62 percent of the state is federally managed land. Currently, the legislature does not have a seat at the table when it comes to dealing with federal lands issues and this legislation will give the Legislature that opportunity. **Senator Harris** provided an example of the type of work the council would do, which includes expanding upon the good neighbor authority, a shared agreement between the Forest Service and the Department of Lands to prevent catastrophic fires and develop methods for rejuvenation of forests and watersheds. **Senator Harris** noted the need for ease grazing permits, as he can personally attest to firefighters discussing that one of the best forms of fire prevention is cattle grazing, because cattle eat up the excess grass that adds fuel and creates game trails that act as natural barriers against fires.
- DISCUSSION:** **Senator Stennett** asked for Senator Harris to comment on the "shall" mandate from the legislation that states the council shall "monitor and review policies and issues" associated with federal lands and the State of Idaho. **Senator Harris** responded the purpose of the council is to have a say in the way federal land is managed. **Senator Harris** stated another goal of the legislation is to help Idahoans with their federal partners to facilitate grazing permits, mining permits, and outfitter and guide permits for service.
- Senator Stennett** referenced an opinion she received from the Attorney General's office and asked if **H 162** uses State resources in order for this council to exist or if the council is going to be hiring outside individuals for their legal counsel. **Senator Stennett** also asked a question about the fiscal note. **Senator Harris** responded the Attorney General opinion also states the exercise of such legislative functions do not conflict with any existing authorities of the other State agencies. **Senator Harris** stated there is an attorney on retainer through the legislature and the Legislative Defense Fund. Finally, **Senator Harris** noted that the \$10,000 to \$15,000 is what it costs to run an interim committee with the attorney.
- Senator Jordan** asked for clarification on the council's ability to facilitate contracts between the federal government and individuals at the state or local levels and other agencies as deemed warranted. **Senator Harris** responded the term "facilitate" means to make it easier to help bring about, thus when deemed warranted by the council it can offer to consult with federal and local State agencies and individuals in order to assist the parties in reaching agreements, including cattle grazing permits.

**Vice Chairman Brackett** stated he wished it was clear that the council would be subservient to the legislature at all times, and be limited to investigating and advising the legislature. He further stated that the sage grouse state plan should serve as a model for the Idaho Council on Federal Lands. Finally, **Vice Chairman Brackett** believes the legislature should select issues for the council with the council making recommendations.

**TESTIMONY:** **Jim Caswell, Ted Eisele, Don Kemper, and John Segan** all spoke on their own behalf, and they spoke in opposition to **H 162**.

**Fred Birnbaum**, Vice President of the Idaho Freedom Foundation and **Darrel Ford**, on his own behalf, spoke in favor of **H 162**.

**DISCUSSION:** **Senator Jordan** asked if Mr. Birnbaum could show in the statute where this committee would only be a "temporary" one. **Mr. Birnbaum** stated that he stood corrected, and then **Senator Jordan** read the section of **H 162** that sets out how many times the interim meeting would be meeting per year, and indicated that there was no language that gave a sunset provision to **H 162**.

**TESTIMONY:** **Merrill Beyeler**, on his own behalf, stated that **H 162** should be sent to the 14th Order for revision.

**MOTION:** **Vice Chairman Brackett** moved to send **H 162** to the 14th Order of Business for possible amendment. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

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

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Senator Heider  
Chair

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Tyler Brock  
Secretary

AGENDA  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**  
1:00 P.M.  
Room WW55  
Wednesday, March 13, 2019

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<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>H 192</u></a>	Relating to Outfitters and Guides	Jeremy Pisca, Idaho Outfitters and Guides Association
<a href="#"><u>H 207</u></a>	Relating to Wetlands Compensatory Mitigation	Norm Semanko, Valencia Wetlands Trust
<a href="#"><u>H 141</u></a>	Relating to Mines Financial Assurance	Benjamin Davenport, Idaho Mining Association

***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 Heider	Sen Patrick
Vice Chairman Brackett	Sen Guthrie
Sen Bair	Sen Stennett
Sen Johnson	Sen Jordan
Sen Mortimer	

COMMITTEE SECRETARY

Tyler Brock  
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MINUTES  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**

**DATE:** Wednesday, March 13, 2019

**TIME:** 1:00 P.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer, Patrick, Stennett, and Jordan

**ABSENT/ EXCUSED:** Senator Guthrie

**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 Heider** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:00 p.m.

**H 192** **Jeremy Pisca**, Idaho Outfitters and Guides Association, stated this legislation updates statutes governing the nonresident set-aside and tag allocation system administered by the Idaho Department of Fish and Game (IDFG) in conjunction with the Idaho Outfitters and Guides Licensing Board (Board), such that it accurately and fully captures actual outfitted use, reflects current trends in hunter demand, and provides more dependable access for the public to outfitted tags. This legislation directs the IDFG Commission to establish the number of nonresident elk and deer tags to set aside for outfitter use when setting big game seasons and implement a new formula for determining an outfitter's historic use. This legislation also directs the Board to designate the tags set aside in capped or controlled zones in a more fair and equitable manner and to report these designations to IDFG for distribution.

**TESTIMONY:** **Sharon Kiefer**, Deputy Director of IDFG, indicated their neutrality towards **H 192** and stated IDFG's intention was to monitor the bill.

**DISCUSSION:** **Chairman Heider** asked if it was the responsibility of the outfitter to notify IDFG if someone uses their own tag versus letting IDFG know how many tags they didn't receive that were used by individuals. **Ms. Kiefer** responded that the technicality part is something IDFG needs to know, as the individual and the specific tag that is used is something the outfitter needs to be able to properly record. For outfitters, IDFG sets aside allocated tags and requires that they don't sell that tag until someone shows up at their door with the outfit or voucher.

**Senator Bair** asked how IDFG knows where to collect the \$20 administrative tag fee, where it is assessed, and who collects it. **Ms. Kiefer** responded that the fee is an assessment on the back end. When the outfitter brings IDFG the report and says they need these tags recorded against their use, the person then pays the fee because the outfitters charge that individual the fee up front as part of their outfit or contract.

**Senator Stennett** asked if IDFG has the resources they need to adhere to **H 192**. **Ms. Kiefer** responded that IDFG believes they have the resources in place even though they do not have the funds from the new administrative fee revenue.

**MOTION:** **Vice Chairman Brackett** moved to send **H 192** to the floor with a **do pass** recommendation. **Senator Bair** seconded the motion. The motion carried by **voice vote**.

Because Vice Chairman Brackett and Benjamin Davenport had to present legislation in front of the House Conservation and Resources committee, **H 141** was moved ahead of **H 207**.

## **H 141**

**Benjamin Davenport**, Idaho Mining Association (Association), stated the Surface Mining Act was enacted in 1971 with the purpose of protecting taxpayers and Idaho lands by providing for reclamation activities and reclamation bonds for lands disturbed by surface mining activities in the state. **H 141** proposes changes that more accurately reflect current industry and regulatory practices. The legislation also includes updating financial assurance methods, requiring financial assurance for reclamation and long-term post closure management activities, requiring reclamation plan and financial assurance reviews, and ensuring that there will be no duplication in financial assurances between government agencies. Finally, the legislation includes the ability for the Department of Lands to require reasonable fees to pay for any additional workload associated with the proposed changes.

## **DISCUSSION:**

**Senator Jordan** asked why the Association changed the language from, "he shall" to "he may" notify the board about mine closures. **Mr. Davenport** responded that they have given the discretion to the operator when they want to apply for release of their bonds.

**Senator Jordan** asked if the word "substantially" was changed for the same reasons. **Mr. Davenport** referred to Alan Prouty, President of the Association to answer this question. **Mr. Prouty** responded that if a mine operator has "substantially completed reclamation", at that point the operator can make an application to the Department of Lands for release of those bonds. The word substantial is to imply that work needs to be either complete or near completion.

**Senator Jordan** asked how the State guarantees that there are not other beneficiaries that might have a place in front of the State. **Mr. Prouty** responded the State Board of Land Commissioners has the final say for what the financial assurance mechanisms are and what that financial assurance package looks like.

**Senator Johnson** asked if the corporate guarantees adjust for inflation. **Mr. Davenport** responded the dollar amount is for the full financial assurance package and that will be determined by actual cost estimates. **Mr. Davenport** provided an example in Nevada where they have a tool that measures actual cost estimates, and that is something the industry is very comfortable with. **Mr. Davenport** further stated the conservation and regulatory communities are very comfortable with the changes made in **H 141** and they are comfortable with the changes when it comes to the percentages of the financial insurance packages that are attributed to a corporate guarantee.

**Senator Johnson** asked what happens to the corporate guarantees when the company goes bankrupt. **Mr. Davenport** stated currently, when a company goes bankrupt and they have a corporate guarantee in place the promise that the person received is the promise that will enter the bankruptcy process. **Mr. Davenport** stated the Association wants to make sure that there are sideboards in place that do not allow people to supply a corporate guarantee. The Association also proposes that they do not allow corporate guarantees on post closure projects, only on active reclamation projects.

**Senator Stennett** asked what happens to mines when they file bankruptcy, and what the recourse is for those locations and sites. **Mr. Davenport** responded it's important to recognize that the landlord still has discretion on whether or not they accept a corporate guarantee. **Mr. Davenport** believes it's important to recognize that twenty other states allow for corporate guarantees and the Environmental Protection Agency and the Idaho Department of Environment Quality allow for corporate guarantees.

**TESTIMONY:** **Michael Gibson**, Idaho Trout Unlimited, spoke against **H 141** due to the statute's corporate guarantees.

**Jon Oppenheimer**, Idaho Conservation League, spoke against **H 41** due to the corporate guarantees and wished for the bill to go to the amending order.

**Senator Johnson** asked Kevin Beaton, attorney for the Association, on why the word "foreseeable" was left in line 19 of the bill and not line 24. **Mr. Beaton** stated these changes to remove the references to the source were made just to describe the management of water and to protect the quality of both surface and groundwater. **Mr. Beaton** stated in some respects this is one of the significant pieces of the bill because it expands the impacts that the mining industry is required to provide financial assurance for. **Mr. Beaton** believes the reason that deletion of the second foreseeable was because it was not necessary, as it was addressed in the previous subsection.

**MOTION:** **Senator Mortimer** moved to send **H 141** to the floor with a **do pass** recommendation. **Senator Bair** seconded the motion. The motion carried by **voice vote**.

**H 207** **Norm Semanko**, Valencia Wetlands Trust, stated this legislation adds a new chapter, Chapter 93, to Title 67 of Idaho Code to promote the availability of all types of compensatory mitigation for project impacts to wetlands, consistent with the federal 2008 Mitigation Rule.

**MOTION:** **Senator Johnson** moved to send **H 207** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:** There being no further business at this time, **Chairman Heider** adjourned the meeting at 2:04 p.m.

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Senator Heider  
Chair

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Tyler Brock  
Secretary

AGENDA  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**  
8:00 A.M.  
Room WW55  
Friday, March 15, 2019

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
Gubernatorial Appointment Hearing	Scott Pugrud was appointed Administrator to the Office of Species Conservation to serve a term commencing January 7, 2019 and will serve at the pleasure of the Governor.	
Gubernatorial Appointment Hearing	Jeffery Allen was appointed to the Northwest Power and Conservation Council for a term commencing February 19, 2019 and will expire February 19, 2022.	
Gubernatorial Appointment Hearing	Betty Coppersmith was appointed to the Oil & Gas Conservation Commission to serve a term commencing March 8, 2019 and will expire July 1, 2020.	

***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 Heider	Sen Patrick
Vice Chairman Brackett	Sen Guthrie
Sen Bair	Sen Stennett
Sen Johnson	Sen Jordan
Sen Mortimer	

COMMITTEE SECRETARY

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MINUTES  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**

**DATE:** Friday, March 15, 2019

**TIME:** 8:00 A.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman Heider, Vice Chairman Brackett, Senators Patrick, Guthrie, and Jordan

**ABSENT/ EXCUSED:** Senators Bair, Johnson, Mortimer, and 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 Heider** convened the Senate Resources and Environment Committee (Committee) at 8:00 a.m.

**GUBERNATORIAL APPOINTMENT HEARING:** Scott Pugrud was appointed Administrator to the Office of Species Conservation (OSC) to serve a term commencing January 7, 2019 and will serve at the pleasure of the Governor.

**DISCUSSION:** **Mr. Pugrud** stated for the past six years, he has spent his time at the Office of Energy and Mineral Resources (OEM) and was acquainted with the OSC through their collaboration with OEM on stabilizing sage grouse populations. **Mr. Pugrud** has been pleased to be working with OSC during his time at OEM and he has always admired the collaborative approach between the two State agencies.

**Chairman Heider** commented that the Committee is very passionate about sage grouse and is very appreciative of Mr. Pugrud's desires to maintain the sage grouse population as well.

**Vice Chairman Brackett** asked what are the biggest challenges OSC will be facing in the next several years. **Mr. Pugrud** responded that they are currently working on grizzly bear and potentially wolverine delistings. **Mr. Pugrud** also stated the next landscape issue is monarch butterflies. The Western Governors Association is working on a plan right now preserve monarch butterfly populations by making sure their primary food source, milkweed, remains intact.

**Senator Guthrie** asked for Mr. Pugrud's resume. **Mr. Pugrud** gave a brief overview of his work history and stated he would e-mail a copy of a resume to everyone after the meeting.

**GUBERNATORIAL APPOINTMENT HEARING:** Jeffrey Allen was appointed to the Northwest Power and Conservation Council (NPCC) for a term commencing February 19, 2019 and will expire February 19, 2022.

**DISCUSSION:** **Mr. Allen** gave a brief description of the NPCC. The missions that the NPCC was given are to ensure that the region had an adequate, reliable economic supply of energy and to ensure mitigation for the impacts of power generation on fish and wildlife species. **Mr. Allen** also stated that NPCC keeps the public informed of all of their decisions and deliberations. The council is made up of eight members, two each from Idaho, Montana, Oregon and Washington, and they are appointed by their governors who serve for a term of three years. **Mr. Allen** also went into detail about his resume, particularly his time working for Governors Kempthorne and Risch, and his time working for U.S. Representative Crapo, now U.S. Senator Crapo.

**Chairman Heider** asked Mr. Allen if he enjoyed his time in Washington D.C. **Mr. Allen** stated that Washington D.C. was great for all its history, particularly its proximity to Civil War battlefields. However, **Mr. Allen** did not enjoy the D.C. metro's recreation opportunities compared to Idaho, which is one of the major reasons he moved back to the state.

**Senator Patrick** asked how the Columbia River Treaty could affect Idaho's energy output. **Mr. Allen** stated that the treaty could have a pretty dramatic impact. The Canadian government wishes to change the primary purpose of their dams on the Columbia River from flood control to electric production, and that could make North Idaho's reservoirs that are connected to the Columbia River Aquifer be primarily used for flood control instead of electricity.

**Chairman Heider** asked if Mr. Allen had any guesses on the Treaty's time line of getting ratified. **Mr. Allen** stated that he believed the process would take years and from his time discussing with U.S. State Department officials. According to Mr. Allen, U.S. State Department officials sometimes have an easier time negotiating with the North Korean or Iranian governments than the do with the Canadian government.

**GUBERNATORIAL  
APPOINTMENT  
HEARING:**

Betty Coppersmith was appointed to the Oil & Gas Conservation Commission (OGCC) to serve a term commencing March 8, 2019 and will expire July 1, 2020.

**DISCUSSION:**

**Ms. Coppersmith** stated that her degree is in petroleum engineering and she has about 30 years of experience, including exploration, drilling, and production. The second half of Ms. Coppersmith's career was spent in the regulatory arena, particularly in rural areas where she worked with regulatory agencies and where they produced rules and regulations that accomplish their mission.

**Chairman Heider** asked what the future for oil and gas production is in Idaho. **Ms. Coppersmith** stated that the industry has potential and so much of oil and gas here is driven by economics. **Ms. Coppersmith** further stated that technology is changing in the industry, and many years ago the industry would have never thought about producing from shale gas. **Ms. Coppersmith** stated with advances like that, who knows what is around the corner for oil and gas production in Idaho.

**Senator Jordan** asked how Ms. Coppersmith will approach working for a public commission versus private enterprise and other regulatory agencies. **Ms. Coppersmith** stated that she is meeting with Mick Thomas, the Administrator of the OGCC, and his staff to help get her adjusted with public service.

**Senator Jordan** asked if Ms. Coppersmith's oil and gas stocks were managed individually or with a 401k. **Ms. Coppersmith** stated that her stocks are managed by a 401k and she does not manage that account.

**ADJOURNED:**

There being no further business at this time, **Chairman Heider** adjourned the meeting at 8:25 a.m.

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Senator Heider  
Chair

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Tyler Brock  
Secretary

**AMENDED AGENDA #3**  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**  
**1:00 P.M.**  
**Room WW55**  
**Monday, March 18, 2019**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
Minutes Approval	Approval of Minutes - January 30th, 2019	Senator Stennett
Minutes Approval	Approval of Minutes - February 4th, 2019	Senator Bair
Minutes Approval	Approval of Minutes - February 25th, 2019	Senator Jordan
Minutes Approval	Approval of Minutes - March 4th, 2019	Senator Patrick
Vote on Gubernatorial Appointments	Scott Pugrud was appointed Administrator to the Office of Species Conservation to serve a term commencing January 7, 2019 and will serve at the pleasure of the Governor.	
Vote on Gubernatorial Appointments	Jeffery Allen was appointed to the Northwest Power and Conservation Council for a term commencing February 19, 2019 and will expire February 19, 2022.	
Vote on Gubernatorial Appointments	Betty Coppersmith was appointed to the Oil & Gas Conservation Commission to serve a term commencing March 8, 2019 and will expire July 1, 2020.	
Gubernatorial Appointment Hearing	Dustin Miller was appointed as the Director of the Idaho Department of Lands to serve a term commencing October 1st, 2018.	
Gubernatorial Appointment Hearing	Dustin Miller was appointed to the Oil & Gas Conservation Commission to serve a term commencing October 1, 2018 and will serve by virtue of his position as the Director of the Department of Lands	
Gubernatorial Appointment Hearing	Linda Mitchell was re-appointed to the Lake Pend Oreille Basin Commission to serve a term commencing July 24, 2018 and Expiring July 1, 2021.	
<a href="#">HJM 5</a>	Federal Lands Selling	Representative 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 Heider

Vice Chairman Brackett

Sen Bair

Sen Johnson

Sen Mortimer

Sen Patrick

Sen Guthrie

Sen Stennett

Sen Jordan

COMMITTEE SECRETARY

Tyler Brock

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MINUTES  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**

**DATE:** Monday, March 18, 2019

**TIME:** 1:00 P.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman Heider, Vice Chairman Brackett, Senators Bair, Mortimer, Patrick, Guthrie, 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 Heider** called the meeting of the Senate Resources & Environment Committee (Committee) to order at 1:00 p.m.

**MINUTES APPROVAL:** **Senator Stennett** moved to approve the Minutes of January 30th, 2019. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

**Senator Bair** moved to approve the Minutes of February 4th and 25th, 2019 and March 4th, 2019. **Senator Patrick** seconded the motion. The motion carried by **voice vote**.

**VOTE ON GUBERNATORIAL APPOINTMENT:** **Vice Chairman Brackett** moved to send the Gubernatorial appointment of Scott Pugrud as the Administrator of the Office of Species Conservation to the floor with recommendation that he be confirmed by the Senate. **Senator Bair** seconded the motion. The motion carried by **voice vote**. Vice Chairman Brackett will be the floor sponsor.

**VOTE ON GUBERNATORIAL APPOINTMENT:** **Senator Patrick** moved to send the Gubernatorial appointment of Jeffrey Allen to the Northwest Power and Conservation Council to the floor with recommendation that he be confirmed by the Senate. **Senator Mortimer** seconded the motion. The motion carried by **voice vote**. Chairman Heider will be the floor sponsor.

**VOTE ON GUBERNATORIAL APPOINTMENT:** **Senator Patrick** moved to send the Gubernatorial appointment of Betty Coppersmith to the Oil & Gas Conservation Commission to the floor with recommendation that she be confirmed by the Senate. **Senator Mortimer** seconded the motion. The motion carried by **voice vote**. Senator Bair will be the floor sponsor.

**GUBERNATORIAL APPOINTMENT HEARING:** **The appointment of Dustin Miller as the Director of the Idaho Department of Lands (IDL) to serve a term commencing October 1st, 2018 and his appointment to the Oil & Gas Conservation Commission (OGCC), commencing October 1st, 2018 and serving by virtue of his position as the Director of the IDL. Mr. Miller** described his six months of working as Director of IDL, and his time before being appointed as the Director of IDL, where he spent his time as the administrator for the Office of Species Conservation for six years, primarily working on projects dealing with the endangered sage grouse, grizzly bear, and steelhead populations in the state. **Mr. Miller** further went into detail about his previous employment, including his time as the natural resources field coordinator for the U.S. Senate. **Mr. Miller** also described the two major functions of the IDL: the endowment function, which generates revenue on endowment lands from timber management, grazing, and various other leasing activities; and acting as a regulatory and resource protection agency where IDL works closely with citizens and private land owners on efforts to sustain

and protect natural resources and ensure their productivity. **Mr. Miller** stated that the primary focus of OGCC is to ensure there is no waste of oil and gas resources in the state. **Mr. Miller** stated the other goal of OGCC is to ensure that groundwater wells are environmentally protected.

**DISCUSSION:** **Senator Bair** asked what was the biggest surprise Mr. Miller learned or discovered while on the job. **Mr. Miller** answered what surprised him the most about the IDL was the magnitude of the functions and the issues that the agency deals with. **Mr. Miller** further explained the sheer volume of issues and level of detail that the IDL digs into to manage 2.5 million acres and another 3.3 million acres of mineral estates.

**GUBERNATORIAL APPOINTMENT HEARING:** **The re-appointment of Linda Mitchell to the Lake Pend Oreille Basin Commission (Commission) to serve a term commencing July 24, 2018 and Expiring July 1, 2021.** **Ms. Mitchell** stated that she has served on the Commission since its creation in 2003 and all five of the citizen commissioners are the original ones. The Commission is based in Sandpoint and was created as an advisory board to the State of Idaho on water quality and quantity issues in North Idaho. **Ms. Mitchell** further stated the commission is charged with studying, investigating, and selecting ways and means of controlling the water quality and water quantity as they relate to waters of the Lake Pend Oreille Basin. **Ms. Mitchell** stated that she and her husband have been owners and operators of a cruise company for the past 23 years. She has personally spent thousands of hours cruising North Idaho's waterways and she has seen the waters go from being completely free of invasive aquatic weeds to having areas that are choked with Eurasian watermilfoil, curly-leaf pondweed, and flowering rush.

**HJM 5** **Seth Grigg**, Idaho Association of Counties (Association), presented on behalf of Representative Gestrin, District 8, and stated **HJM 5** calls on Congress to enact federal legislation to require that when private lands are exchanged, purchased, or transferred to the federal government, that other federal lands within the county be sold. **Mr. Grigg** further stated in Idaho, roughly 63 percent of land is managed by the federal government and Custer County has as much as 97 percent of its land under federal management.

**DISCUSSION:** **Senator Stennett** asked if the Association members voted on supporting **HJM 5**. **Mr. Grigg** described the process of drafting the legislation and said there were some county commissioners who did not support **HJM 5**.

**TESTIMONY:** **Wayne Butts**, Chairman of the Idaho Association of Counties and Custer County Commissioner, spoke in great detail about the goals, objectives, drafting, and background for **HJM 5**. **Mr. Butts** provided an example where Custer County lost out on tax revenue on 6,000 acres of land when a conservation group based in Portland, Oregon purchased a local ranch and then sold the property to the Forest Service.

**DISCUSSION:** **Senator Jordan** raised concerns that **HJM 5** did not receive enough input from stakeholders. **Mr. Butts** responded that the drafting process lasted for more than two years, and he explained the rationales for creating **HJM 5**.

**Senator Gurthrie** asked what the total loss of private acreage in Idaho was for the past ten years. **Mr. Butts** did not have an answer to the Senator's question, but noted that loss of private lands is something that is affecting all 13 western states.

**Senator Stennett** asked how many counties were present at the Association's last meeting where they discussed **HJM 5**, and noted her concern with the memorial's conflict with land owner rights. **Mr. Butts** stated 37 counties were present during that meeting and one of **HJM 5**'s main goals is to determine the areas of the acreage that are in trespass. **Mr. Butts** noted currently, there are ranchers and farmers that are irrigating and taking crops off of BLM land that doesn't get taxed.

**Senator Brackett** asked how this memorial avoids being disruptive to grazing allotments and he commented that it may have unintended consequences.

**Mr. Butts** responded that he hopes there are enough BLM lands surrounding ranches in areas that are not in grazing today so grazing allotments don't get interrupted.

**TESTIMONY:**

**Arlynn Hacker**, Back Country Horsemen, and **Will Whelan**, Idaho Coalition of Land Trusts, spoke against **HJM 5** due to concerns of the legislation limiting public lands and land owner rights.

**Lin Hintze**, former Custer County Commissioner, and **Russ Hendricks**, Idaho Farm Bureau, spoke in favor of **HJM 5** due to its ability to generate much needed tax revenue.

**DISCUSSION:**

**Senator Stennett** asked Mr. Hendricks how the Idaho Farm Bureau reconciles the private land owner concerns with this memorial. **Mr. Hendricks** responded that in their view, the way **HJM 5** works is the federal land management agencies would have a prioritized list of properties in counties where those agencies can determine if additional land was added either through a sale, purchase or transfer. **Mr. Hendricks** stated after those determinations, they would then have an idea of what land would be the best to reallocate.

**Senator Jordan** asked how the State communicates the willingness to be more flexible in determining land reallocation projects with US Congress when **HJM 5** requires specific land reallocation requests. **Mr. Hendricks** responded he does not believe that Congress is going to say they are only going to consider this land reallocation and not the other in **HJM 5**.

**MOTION:**

**HJM 5** was held in Committee for a lack of a motion.

**ADJOURNED:**

There being no further business at this time, **Chairman Heider** adjourned the meeting at 2:07 p.m.

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Senator Heider  
Chair

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Tyler Brock  
Secretary

AGENDA  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**  
**1:00 P.M.**  
**Room WW55**  
**Wednesday, March 20, 2019**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
Honoring of Page	Paige Evans	Chairman Heider
Minutes Approval	Approval of Minutes - February 6, 2019	Senator Jordan
Minutes Approval	Approval of Minutes - February 27, 2019	Senator Johnson
Vote on Gubernatorial Appointments	Dustin Miller, Director, Idaho Department of Lands to serve a term commencing October 1, 2018	Chairman Heider
Vote on Gubernatorial Appointments	Dustin Miller, Director, Idaho Department of Lands, Oil & Gas Conservation Commission to serve a term commencing October 1, 2018	Chairman Heider
Vote on Gubernatorial Appointments	Linda Mitchell, Lake Pend Oreille Basin Commission to serve a term commencing July 24, 2018 and Expiring July 1, 2021	Chairman Heider
Presentation	Soil & Water Conservation Agency Annual Report	Terry Hoebelheinrich, Loan Officer, Idaho Soil & Water Conservation Commission

***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 Heider	Sen Patrick
Vice Chairman Brackett	Sen Guthrie
Sen Bair	Sen Stennett
Sen Johnson	Sen Jordan
Sen Mortimer	

COMMITTEE SECRETARY

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MINUTES  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**

**DATE:** Wednesday, March 20, 2019

**TIME:** 1:00 P.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman Heider, Vice Chairman Brackett, Senators Bair, Mortimer, Patrick, Guthrie, 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 Heider** called the Senate Resources and Environment Committee (Committee) meeting to order at 1:00 p.m.

**HONORING OF PAGE:** **Chairman Heider** asked Paige Evans, the Committee page to come forward and be honored. **Chairman Heider** presented Ms. Evans with a letter of appreciation signed by the Committee, a letter of recommendation signed by the Chairman, a watch, and a necklace. **Ms. Evans** stated she learned a lot about the legislative process and really appreciated how the Committee listened to the citizens who testify. **Ms. Evans** stated her plans after high school were to take her 21 concurrent credits and attend LDS Business College with a degree in interior design.

**MINUTES APPROVAL:** **Senator Mortimer** moved to approve the Minutes of February 6 and 27, 2019. **Senator Bair** seconded the motion. The motion carried by **voice vote**.

**VOTE ON GUBERNATORIAL APPOINTMENT:** **Senator Bair** moved to send the Gubernatorial appointment of Dustin Miller as the Director to the Idaho Department of Lands to the floor with recommendations that he be confirmed by the Senate. **Senator Mortimer** seconded the motion. The motion carried by **voice vote**. Senator Bair will be the floor sponsor.

**VOTE ON GUBERNATORIAL APPOINTMENT:** **Senator Bair** moved to send the Gubernatorial appointment of Dustin Miller to the Oil and Gas Conservation Commission to the floor with recommendations that he be confirmed by the Senate. **Senator Mortimer** seconded the motion. The motion carried by **voice vote**. Senator Bair will be the floor sponsor.

**VOTE ON GUBERNATORIAL APPOINTMENT:** **Senator Mortimer** moved to send the Gubernatorial appointment of Linda Mitchell to the Lake Pend Oreille Basin Commission to the floor with recommendations that she be confirmed by the Senate. **Senator Bair** seconded the motion. The motion carried by **voice vote**. Senator Woodward will be the floor sponsor.

**PRESENTATION:** **Terry Hoebelheinrich**, Loan Officer, Idaho Soil & Water Conservation Commission (Commission), stated Conservation the Idaho Way (CTIW) is a voluntary agricultural stewardship program that sets to improve water and soil quality, while also restoring streams, rivers, forests, ranges, and croplands. **Mr. Hoebelheinrich** stated CTIW balances socioeconomic health with natural resources and the three core functions of CTIW are to provide financial and technical assistance to conservation districts, to provide incentive-based conservation programs, and to educate people about voluntary conservation. Furthermore, **Mr. Hoebelheinrich** discussed their proposed rule change that would make the Resource Conservation and Rangeland Development Program more attractive to potential borrowers. **Mr. Hoebelheinrich** noted the rule passed unanimously through the House Agricultural Affairs Committee, and the Senate equivalent is working on a resolution to the rule. **Mr. Hoebelheinrich** stated their goals of reducing consumptive ground water use in the Eastern Snake Plain Aquifer were met.

**RECORDING LINK:** To hear Mr. Hoebelheinrich's presentation in full, go to:  
<https://legislature.idaho.gov/sessioninfo/2019/standingcommittees/SRE/>.

**ADJOURNED:** There being no further business at this time, **Chairman Heider** adjourned the meeting at 1:27 p.m.

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Senator Heider  
Chair

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Tyler Brock  
Secretary

**AMENDED AGENDA #1**  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**  
**8:00 A.M.**  
**Room WW54**  
**Friday, March 22, 2019**

**Meeting time and room changed.**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">H 189aa</a>	Fish and Game Search and Inspections	Representative Scott

***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 Heider	Sen Patrick
Vice Chairman Brackett	Sen Guthrie
Sen Bair	Sen Stennett
Sen Johnson	Sen Jordan
Sen Mortimer	

COMMITTEE SECRETARY

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MINUTES  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**

**DATE:** Friday, March 22, 2019

**TIME:** 8:00 A.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Heider, Vice Chairman Brackett, Senators Bair, Mortimer, Patrick, Guthrie, and Jordan

**ABSENT/ EXCUSED:** Senators Johnson and 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 Heider** called the Senate Resources and Environment Committee (Committee) meeting to order at 8:00 a.m.

**H 189aa** **Senator Lakey**, District 12, spoke on behalf of Representative Scott and stated **H 189aa** amends Idaho Code § 36-1803. That statute says there is a duty for a Fish and Game officer to search cars, old storage rooms, cold storage rooms, restaurants, hotels, and packages. The statute also states that there is a right to conduct a search with or without a warrant, including tents, wagons, automobiles, boats, camps, and baggage, if there is probable cause to believe that a person or those areas contain evidence of unlawful possession of wildlife. **Senator Lakey** stated **H 189aa** requires Fish and Game officers to obtain a warrant to search any particular area, unless the search meets certain Constitutional exceptions that police officers are subjected to. **Senator Lakey** summarized this legislation as one that ensures that both Fish and Game officers and police officers have the same scope when it comes to warrantless searches and seizures.

**MOTION:** **Senator Mortimer** moved to send **H 189aa** to the floor with a **do pass** recommendation. **Senator Bair** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:** There being no further business at this time, **Chairman Heider** adjourned the meeting at 8:09 a.m.

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Senator Heider  
Chair

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Tyler Brock  
Secretary



**IDAHO DEPARTMENT OF FISH AND GAME**

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

Brad Little / Governor  
Ed Schriever / Director

March 22, 2019

To: The Senate Resources and Environment Committee

Testimony of Greg Wooten, Chief of Enforcement, Idaho Department of Fish and Game

House Bill 189 As Amended

Chairman Heider and Committee:

The amended version of House Bill 189 repeals Idaho Code Section 36-1303, which deals with search authority for Title 36 enforcement.

A repeal would end confusion. A repeal would confirm that the same search standards and constitutional framework apply to both wildlife crimes under Title 36 and crimes elsewhere in Idaho Code.

Certified peace officers, whether they are Fish and Game conservation officers, or other state or local peace officers, have enforcement authority for wildlife crimes under Title 36, general crimes under Title 18, and other crimes listed elsewhere in Idaho Code. A repeal makes sense.

The Fish and Game Commission supports House Bill 189, as amended.