

MINUTES
HOUSE RESOURCES & CONSERVATION COMMITTEE

- DATE:** Tuesday, January 21, 2020
- TIME:** 1:30 P.M.
- PLACE:** Room EW40
- MEMBERS:** Chairman Gibbs, Vice Chairman Gestrin, Representatives Moyle, Shepherd, Wood, Boyle, Vander Woude, Mendive, Kauffman, Blanksma, Addis, Lickley, Moon, Raybould, Rubel, Toone, Mason, Necochea
- ABSENT/
EXCUSED:** Representative(s) Blanksma, Rubel
- GUESTS:** Jennifer Okerlund, Idaho Forest Products Commission; Eric Wilson, Andrew Smyth, Todd Drage, David Groeschl, Idaho Department of Lands; Jonathan Oppenheimer, Idaho Conservation League; Kennon McClinton, private landowner; Jim Riley, Riley Stegner and Associates; Mary Anne Nelson, John Tippets, and Jess Byrne, DEQ; Dennis Becker, University of Idaho; Dennis Stevenson, DFM
- Chairman Gibbs** called the meeting to order at 1:30pm.
- MOTION:** **Rep. Kauffman** made a motion to approve the minutes of the January 9, 2020 and January 13, 2020 meetings. **Motion carried by voice vote.**
- Chairman Gibbs** turned the gavel over to **Vice Chairman Gestrin.**
- Chairman Gestrin** made a unanimous consent request to rearrange the order of the agenda. There being no objection, the request was granted.
- DOCKET NO. 15-0300-1900F:** **Jennifer Okerlund**, Director, Idaho Forest Products Commission, stated the approach the Commission took to meet **Governor Brad Little's** Red Tape Reduction Act in the two and a half page omnibus fee rule was to remove duplicative language and eliminate redundancy.
- MOTION:** **Rep. Lickley** made a motion to approve **Docket No. 15-0300-1900F. Motion carried by voice vote.**
- DOCKET NO. 20-0303-1901:** **Mick Thomas**, Division Administrator of Oil, Gas, and Minerals, Idaho Department of Lands, stated the Department administers Idaho's Reclamation Fund, which is a type of state bond pool created in 2002 to provide an alternative form of performance bond or financial assurance as required by Idaho mining regulations. This Reclamation Fund is used by the Department to complete reclamation in the event an operator is unable to do so. He explained because the Fund has been in existence for 15 years, negotiated rulemaking became necessary to address definition and terminology changes, account for inflation to bring the reclamation liability up to 2019 reclamation costs, remove mandatory requirements that all eligible operators participate in the Fund, expand the acreage and reclamation cost liability to allow more operations to use the Fund as a means of providing financial assurance, and finally to comply with **Governor Brad Little's** Red Tap Reduction Act. He concluded by stating these rule changes align with current industry and regulatory practices while reducing unnecessary burdensome regulations.
- MOTION:** **Rep. Raybould** made a motion to approve **Docket No. 20-0303-1901. Motion carried by voice vote.**

**DOCKET NO.
20-0304-1901:**

Mick Thomas, Division Administrator of Oil, Gas, and Minerals, Idaho Department of Lands, stated the Department regulates encroachments such as docks and marinas on navigable lakes. He explained funding for this program comes from fees and rent charged by the Department for use of those lands along navigable waterways. At the end of FY 2019, approximately 10,745 permits and 172 leases were active. The Department conducted a review and found the application fees for single family docks, two family docks, water intake lines, and permit assignments did not cover the costs to process these applications. As a result, this pending rule would increase the encroachment permit application fee for single and two family docks and water intake lines from \$300 to \$425, for an approximate annual increase of \$23,000, and an increase to the permit assignments from \$150 to \$300, for an approximate annual increase of \$21,000. Additionally, if approved this pending rule would require the Department to provide notice of encroachment permit applications for noncommercial and navigational encroachments within the line of navigability to adjacent littoral owners. He explained this change would simplify the process for applicants and provide assurance that neighbors receive proper notice of the application.

MOTION:

Rep. Wood made a motion to approve **Docket No. 20-0304-1901. Motion carried by voice vote.**

**DOCKET NO.
20-0000-1900:**

David Groeschl, Deputy Director, Idaho Department of Lands, stated the work conducted by the Department was in line with **Governor Brad Little's** Red Tape Reduction Act to identify and eliminate sections that were outdated or unnecessary. There are three chapters within the non-fee omnibus rule, each previously reviewed and approved by the Legislature. Through the Department's work six pages were eliminated that were duplicative with statute. He stated the largest clean-up was to sections that duplicated or were replaced by the Administrative Procedures Act, as well as removing definitions already contained in Idaho Code, and outdated practices or procedures before the Land Board.

Mr. Groeschl explained the Department held public hearings on the Rules Pertaining to the Idaho Forest Practices Act Chapter, specifically the 2014 tree retention requirements along Class 1 fish-bearing streams, referred to as the Shade Rule. He stated while some small forest landowners commented that the Shade Rule was too complex and limited their ability to capture value from harvesting trees within these stream buffers, the majority of the comments supported reauthorizing the rules without amendments. Mr. Groeschl further explained the Department collaborated with Idaho Department of Environmental Quality and the University of Idaho to implement a Shade Effectiveness Study to compare modeled and actual measured changes in shade across different forest types. After seeing the results, the Department would like to simplify the Shade Rule and will work with the Forest Practices Advisory Committee and interested stakeholders over the upcoming months, then after that initiate negotiated rulemaking.

Jonathan Oppenheimer, External Relations Director, Idaho Conservation League, stated they are **in support** of **Docket No. 20-0000-1900**, in particular the Shade Rule.

MOTION:

Rep. Lickley made a motion to approve **Docket No. 20-0000-1900. Motion carried by voice vote. Reps. Shepherd and Moon** requested they be recorded as voting **NAY**.

DOCKET NO. 20-0000-1900F: **David Groeschl**, Deputy Director, Idaho Department of Lands, stated there are 16 chapters within this omnibus fee rule, each previously reviewed and approved by the Legislature. He stated the largest clean up to the rules was eliminating five pages from the Rules Governing Conservation of Oil and Natural Gas Chapter, by allowing sections to expire that had been superseded by **Idaho Code §47.3**. Additionally, the Department made edits throughout the rules to make them shorter by eliminating definitions if the defined term was not used in the rule or was already in Idaho Code. The Department held public hearings on the Rules Governing Dredge and Placer Mining Operations in Idaho Chapter and the majority of the comments received were actually directed at other state and federal agencies. As a result, the Department did not identify any rule changes needed.

MOTION: **Rep. Kauffman** made a motion to approve **Docket No. 20-0000-1900F. Motion carried by voice vote.**

DOCKET NO. 20-0302-1902: **Mick Thomas**, Division Administrator of Oil, Gas, and Minerals, Idaho Department of Lands, stated the Department is seeking approval to extend the effective date of this temporary rule. He explained the Department is responsible for providing regulatory oversight of mining activities on state, federal, and private lands in Idaho pursuant to the Mined Land Reclamation Act, **Idaho Code §47.15**. He explained during the 2019 Legislative Session, the Legislature passed **H 141**, which significantly updated Idaho's mining regulations. **H 141** required the Department to implement a temporary rule that incorporated major changes to the Act by August 1, 2019. After the negotiated rulemaking process was complete, the Idaho Land Board adopted the temporary rule, effective July 16, 2019, which included the following changes: Underground mines are now required to obtain reclamation plans for their surface impacts, the Department can now collect reasonable fees for reclamation plans, reclamation plans are now required to include post-closure activities such as water treatment, reclamation plans will now provide requirements for performing all reclamation tasks described in a plan and for submitting financial assurances that covers all tasks within the plan, actual cost estimation of reclamation activities will now be used to determine financial assurances, operators will now be given the flexibility needed for long-term post-closure activities through additional types of financial assurances, and the Department is now required to review every plan at least once every five years.

MOTION: **Rep. Addis** made a motion to approve **Docket No. 20-0302-1902. Motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:07pm.

Representative Gestrin
Chair

Tracey McDonnell
Secretary