

AGENDA  
**HOUSE ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE**  
**1:30 P.M.**  
**Room EW41**  
**Wednesday, January 08, 2020**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
	Organizational Meeting	

***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 Vander Woude	Rep Scott	Rep Raybould
Vice Chairman Amador	Rep Ehardt	Rep Young
Rep Anderson	Rep Armstrong	Rep Smith
Rep Anderst	Rep Furniss	Rep Chew
Rep Horman	Rep Hartgen	Rep Ellis
Rep Moon	Rep Lickley	Rep Mason(Nash)

COMMITTEE SECRETARY

Maggie Price  
Room: EW16  
Phone: 332-1128  
email: [henv@house.idaho.gov](mailto:henv@house.idaho.gov)

MINUTES

## HOUSE ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE

**DATE:** Wednesday, January 08, 2020

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

**PLACE:** Room EW41

**MEMBERS:** Chairman Vander Woude, Vice Chairman Amador, Representatives Anderson, Anderst, Horman, Moon, Scott, Ehardt, Armstrong, Furniss, Hartgen, Lickley, Raybould, Young, Smith, Chew, Ellis, Mason (Nash)

**ABSENT/  
EXCUSED:** None

**GUESTS:** None

**Chairman Vander Woude** called the meeting to order at 1:31 p.m.

**Chairman Vander Woude** welcomed the committee and introduced the new Page, **Matthew DeMordaunt**, and the Committee Secretary, **Maggie Price**.

**Chairman Vander Woude** informed the committee that the Administrative Rules would be reviewed by the committee as a whole. He said there will be another docket transferred from the Health and Welfare Committee that was not originally listed under this committee. He stated that the last day to introduce a Routing Slip (RS) into the committee will be February 10, 2020.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 1:42 p.m.

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Representative Vander Woude  
Chair

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Maggie Price  
Secretary

AGENDA  
**HOUSE ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE**  
**1:30 P.M.**  
**Room EW41**  
**Tuesday, January 14, 2020**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>58-0105-1901</u></a>	Rules and Standards for Hazardous Waste: Update Federal Regulations Incorporated by Reference	Michael McCurdy, Waste Management and Remediation Division Administrator, Department of Environmental Quality (DEQ)
<a href="#"><u>58-0101-1903</u></a>	Rules for the Control of Air Pollution in Idaho Red Tape Reduction	Tiffany Floyd, Air Quality Division Administrator, DEQ
<a href="#"><u>58-0101-1905</u></a>	Rules for the Control of Air Pollution in Idaho Update Federal Regulations Incorporated By Reference	Tiffany Floyd
<a href="#"><u>58-0102-1901</u></a>	Water Quality Standards Revisions for Consistency with EPA Action Regarding Site-Specific Selenium Criterion Effective for Clean Water Act Purposes	Mary Anne Nelson, Surface and Wastewater Division Administrator, DEQ

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Vice Chairman Amador(Malek)

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# HOUSE ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE

**DATE:** Tuesday, January 14, 2020

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

**PLACE:** Room EW41

**MEMBERS:** Chairman Vander Woude, Vice Chairman Amador (Malek), Representatives Anderson, Anderst, Horman, Moon, Scott, Armstrong, Furniss, Hartgen, Lickley, Raybould, Young, Smith, Chew, Ellis, Mason

**ABSENT/  
EXCUSED:** Rep Ehardt

**GUESTS:** Carl Brown, Michael McCurdy, Chraine Moores, Natalie Creed, Jess Byrne, Darika Barnes, and John Tippetts, DEQ; Lisa Carlson, DEQ/AG; Eliza Walton, CVI; Liz Hatter, Veritas Advisors, LLP; Hollie Lawrence, LSO

**Chairman Vander Woude** called the meeting to order at 1:31 p.m.

**DOCKET NO. 58-0105-1901:** **Michael McCurdy**, Waste Management and Remediation Division Administrator, Department of Environmental Quality (DEQ), presented **Docket No. 58-0105-1901**. Its purpose is to ensure that the state rules remain consistent with federal regulations.

**MOTION:** **Rep. Anderst** made a motion to approve **Docket No. 58-0105-1901**.  
For the record, no one indicated their desire to testify.

**VOTE ON MOTION:** **Chairman Vander Woude** called for a vote on the motion to approve **Docket No. 58-0105-1901**. **Motion carried by voice vote.**

**DOCKET NO. 58-0101-1903:** **Tiffany Floyd**, Air Quality Division Administrator, DEQ, presented **Docket No. 58-0101-1903**. This is in response to the Red Tape Reduction Act. Upon review of its existing rules, DEQ has determined that certain rules are outdated and/or unnecessary. Sections 590-591, 845-848, and 855-859 have been identified for deletion.  
Committee members expressed concern about where all the rules were, if so many were deleted. **Ms. Floyd** explained that they were deleted because they were redundant with federal regulations. Further concern was expressed regarding only enforcing federal code and not putting rules in place for Idaho.

**MOTION:** **Rep. Moon** made a motion to approve **Docket No. 58-0101-1903**.  
For the record, no one indicated their desire to testify.

**VOTE ON MOTION:** **Chairman Vander Woude** called for a vote on the motion to approve **Docket No. 58-0101-1903**. **Motion carried by voice vote.**

**DOCKET NO. 58-0101-1905:** **Tiffany Floyd**, Air Quality Division Administrator, DEQ, presented **Docket No. 58-0101-1905**. Its purpose is to ensure that the state rules remain consistent with federal regulations. The Rules for the Control of Air Pollution in Idaho are updated annually to maintain consistency with federal regulations implementing the Clean Air Act. **Chairman Vander Woude** asked if the committee is needlessly incorporating federal rules that will add regulations to Idaho. Ms. Floyd said DEQs rules are an effort to implement federal rules.

**MOTION:** **Rep. Lickley** made a motion to approve **Docket No. 58-0101-1905**.  
For the record, no one indicated their desire to testify.

**VOTE ON MOTION:** **Chairman Vander Woude** called for a vote on the motion to approve **Docket No. 58-0101-1905. Motion carried by voice vote.**

**DOCKET NO. 58-0102-1901:** **Mary Anne Nelson**, Surface and Wastewater Division Administrator, DEQ, presented **Docket No. 58-0102-1901**. This revises Subsection 287.03 for consistency with recent EPA review and action regarding site-specific selenium criterion effective for Clean Water Act purposes. In 2019 the EPA disapproved the application of the site-specific criterion to North Fork Sage Creek, Pole Canyon Creek, and their tributaries. This pending rule deletes the text and notations that are now obsolete due to the EPA's action.

**MOTION:** **Rep. Anderst** made a motion to approve **Docket No. 58-0102-1901**.  
For the record, no one indicated their desire to testify.

**VOTE ON MOTION:** **Chairman Vander Woude** called for a vote on the motion to approve **Docket No. 58-0102-1901. Motion carried by voice vote.**

**ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 1:59 p.m.

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Representative Vander Woude  
Chair

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Maggie Price  
Secretary

AGENDA  
**HOUSE ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE**  
**1:30 P.M.**  
**Room EW41**  
**Thursday, January 16, 2020**

SUBJECT	DESCRIPTION	PRESENTER
<a href="#"><u>24-0501-1900F</u></a>	Bureau of Occupational Licenses	Rob McQuade, Legal Counsel for the Idaho Bureau of Occupational Licenses
<a href="#"><u>58-0000-1900F</u></a>	Department of Environmental Quality	John Tippetts, Director of the Department of Environmental Quality (DEQ)
<a href="#"><u>58-0000-1900</u></a>	Department of Environmental Quality	John Tippetts
<a href="#"><u>58-0101-1904</u></a>	Rules for the Control of Air Pollution in Idaho	Tiffany Floyd, Air Quality Division Administrator, DEQ
<a href="#"><u>58-0111-1901</u></a>	Ground Water Quality Rule	Jerri Henry, Drinking Water Protection and Finance Division Administrator, DEQ
<a href="#"><u>58-0109-1901</u></a>	Rules Regulating Swine Facilities	Mary Anne Nelson, Surface and Wastewater Division Administrator, DEQ
<a href="#"><u>58-0103-1902</u></a>	Individual/Subsurface Sewage Disposal Rules	Mary Anne Nelson
<a href="#"><u>58-0117-1901</u></a>	Recycled Water Rules	Mary Anne Nelson

***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

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Vice Chairman Amador(Malek)	Rep Ehardt	Rep Young
Rep Anderson	Rep Armstrong	Rep Smith
Rep Anderst	Rep Furniss	Rep Chew
Rep Horman	Rep Hartgen	Rep Ellis
Rep Moon	Rep Lickley	Rep Mason

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## HOUSE ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE

**DATE:** Thursday, January 16, 2020

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

**PLACE:** Room EW41

**MEMBERS:** Chairman Vander Woude, Vice Chairman Amador (Malek), Anderst, Horman, Moon, Scott, Ehardt, Armstrong, Furniss, Hartgen, Lickley, Young, Smith, Chew, Ellis, Mason

**ABSENT/  
EXCUSED:** Representatives Raybould and Anderson

**GUESTS:** Lisa Carlson, DEQ/AG; Tiffany Floyd, Michael McCurdy, Carl Brown, Jerri Henry, Mary Anne Nelson, Ed Hagan, John Tippetts, Jess Byrne, Paula Wilson, DEQ; Alex Erickson, Meridian PW; John Lee, Jane Kreller, Suez; Michael Reno, CAH; Darika Barnes; Shelley Roberts, IRWA; Johanna Bell, AIC; Lizzie Kuhla, Rob McQuade, IBOL; Liz Hatter, Veritas Advisors

**Chairman Vander Woude** called the meeting to order at 2:03 p.m.

**MOTION:** **Rep. Hartgen** made a motion to approve the minutes of the January 8, 2020 meeting. **Motion carried by voice vote.**

**DOCKET NO. 24-0501-1900F:** **Rob McQuade**, Legal Counsel for the Idaho Bureau of Occupational Licenses, presented **Docket No. 24-0501-1900F**. This pending omnibus fee rule removes redundant language and rules.

**MOTION:** **Rep. Lickley** made a motion to approve **Docket No. 24-0501-1900F**. **Motion carried by voice vote.**

**DOCKET NO. 58-0000-1900F:** **John Tippetts**, Director of the Department of Environmental Quality (DEQ), presented **Docket No. 58-0000-1900F**. He explained what has changed with this docket including: certain sections were revised, simplified and updated, and some sections had been identified for deletion.

In answer to committee questions regarding under ground storage and the process for violations, **Mr. Tippetts** said that DEQ will work with owners to clean up leaks, but if the owner doesn't comply they can apply fines. **Michael McCurdy**, Waste Management and Remediation Division Administrator, responded saying there are mandatory underground training programs online.

**MOTION:** **Rep. Ellis** made a motion to approve **Docket No. 58-0000-1900F**.

In further answer to questions, **Mr. Tippetts** said that no more restrictions have been added that weren't there previously.

**VOTE ON MOTION:** **Chairman Vander Woude** called for a vote on the motion to approve **Docket No. 58-0000-1900F**. **Motion carried by voice vote.**

**DOCKET NO. 58-0000-1900:** **John Tippetts**, Director of the Department of Environmental Quality (DEQ), presented **Docket No. 58-0000-1900**. He explained that under 58.01.02 Water Quality standards, due to concerns from stakeholders and committee members last year, DEQ requested that committees reject subsection 251.02. Because neither the House nor Senate rejected this subsection last year, DEQ kept it in the docket, but have talked to stake holders and will not implement this section. In answer to committee questions, Mr. Tippetts preferred this portion of the rule not be rejected yet. The cities are comfortable with DEQ leaving it there but not currently enforcing it while further discussions are held.

**MOTION:** **Rep. Anderst** made a motion to approve **Docket No. 58-0000-1900. Motion carried by voice vote.**

**Mr. Tippets** introduced the next dockets, saying Idaho Code 39-107D states that any rule recommended by the department that is broader in scope, more stringent or more regulated than the federal government, must provide additional scientific data to be recommended. DEQ has met those requirements for every rule since this code was implemented in 2003. However, since all the rules expired, rules that were in place before 2003 needed to be reviewed. DEQ's lawyers did an extensive review to make certain these requirements were met. These rules were not included in the omnibus reauthorization docket because DEQ had not concluded their analysis. It can legitimately be stated that these rules are based on the best available science at the time these rules were adopted, and DEQ believes the intent has been met.

**DOCKET NO. 58-0101-1904:** **Tiffany Floyd**, Air Quality Division Administrator of DEQ, presented **Docket No. 58-0101-1904**. This pending fee rule adopts and re-publishes existing and previously approved chapters. There are some rules that are broader in scope than federal laws, and have met the 39-107D requirements except for the pre-2003 rules that did not fall under this law previously. These rules were based on current standards in other states and based on sound peer reviewed science, grounded on an appropriate risk basis and do currently meet those standards required by 39-107D.

**MOTION:** **Rep. Horman** made a motion to approve **Docket No. 58-0101-1904. Motion carried by voice vote.**

**DOCKET NO. 58-0111-1901:** **Jerri Henry**, Drinking Water Protection and Finance Division Administrator of DEQ, presented **Docket No. 58-0111-1901**. She stated that the rule has been adopted as initially proposed. The rule was adopted because of laws passed requiring it. The rules pre-dated the 39-107D requirements so they are being presented now. Since existing peer review science was used to make these standards no new data was collected.

**MOTION:** **Rep. Moon** made a motion to approve **Docket No. 58-0111-1901. Motion carried by voice vote.**

**DOCKET NO. 58-0109-1901:** **Mary Anne Nelson**, Surface and Wastewater Division Administrator of DEQ, presented **Docket No. 58-0109-1901**. Currently there are no swine facilities that fall under these rules, and in answering questions, Ms. Nelson said DEQ doesn't know the implications of removing this chapter, so it was left in the rules.

**MOTION:** **Rep. Smith** made a motion to approve **Docket No. 58-0109-1901. Motion carried by voice vote.**

**DOCKET NO. 58-0103-1902:** **Mary Anne Nelson**, Surface and Wastewater Division Administrator of DEQ, presented **Docket No. 58-0103-1902**. This is two rules combined into one, which were directly copied from one rule to the other for a combined rule. There were no substantive changes. The federal government does not include individual septic tanks in their regulations, so these rules are broader in scope to cover that concern. These rules are unchanged and based on current science, but are before the committee because they fall under 39-107D.

In answer to committee questions regarding addressing required service providers for complex alternate systems not always being in close proximity to those that need their services, and the substantial increase in costs, **Ms. Nelson** said the intention with the required service providers was to open it up to more providers and decrease costs. But that expectation did not happen and costs have risen. She explained requirements are based on the manufacturers recommendations.

**MOTION:** Rep. Lickley made a motion to approve **Docket No. 58-0103-1902. Motion carried by voice vote.**

**DOCKET NO. 58-0117-1901:** **Mary Anne Nelson**, Surface and Wastewater Division Administrator of DEQ, presented **Docket No. 58-0117-1901.** These recycle water rules are to promote and regulate the use of recycled water and protect ground water.

**MOTION:** **Rep. Chew** made a motion to approve **Docket No. 58-0117-1901. Motion carried by voice vote.**

**ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 3:48 p.m.

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Representative Vander Woude  
Chair

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Maggie Price  
Secretary

AGENDA  
**HOUSE ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE**  
**1:30 P.M.**  
**Room EW41**  
**Tuesday, January 28, 2020**

SUBJECT	DESCRIPTION	PRESENTER
<b>Presentation:</b>	Introduction to Avista Corporation	K. Collins Sprague. Senior Director of Government Relations, Avista Corporation
<a href="#"><u>S 1216</u></a>	Cyanidation Facilities	Michael McCurdy, Waste Management and Remediation Division Administrator, Department of Environmental Quality

***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.***

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MINUTES

## HOUSE ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE

**DATE:** Tuesday, January 28, 2020

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

**PLACE:** Room EW41

**MEMBERS:** Chairman Vander Woude, Vice Chairman Amador, Representatives Anderson, Anderst, Horman, Moon, Scott, Ehardt, Armstrong, Furniss, Hartgen, Lickley, Raybould, Young, Smith, Chew, Mason

**ABSENT/  
EXCUSED:** Representatives Ellis

**GUESTS:** John Tippetts, Michael McCurdy, DEQ; John Chatburn, QEMR; Eliza Watte, CVI; Teresa Molitor, Collins Sprague, Avista Corp; Eric Wilson, IDC; Ben Davenport, IMA; Mark Cecchini-Beaver, OAG/DEQ; Jason Hudson, AFL-CIO

**Chairman Vander Woude** called the meeting to order at 1:32 p.m.

**UNANIMOUS  
CONSENT  
REQUEST:** **Chairman Vander Woude** made a unanimous consent request to move **S 1216** to the top of the agenda. There being no objection, the request of granted.

**MOTION:** **Rep. Hartgen** made a motion to approve the minutes of January 14 and January 16, 2020 meetings. **Motion carried by voice vote.**

**S 1216:** **Michael McCurdy**, Waste Management and Remediation Division Administrator, Department of Environmental Quality presented **S 1216**, Cyanidation Facilities. This legislation amends existing law to require permanent closure plans for cyanidation facilities prior to the issuance of permits and to prohibit the construction and operation of a cyanidation facility until the permittee submits proof of financial assurance for its permanent closure plan.

**MOTION:** **Rep. Moon** made a motion to send **S 1216** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Moon** will sponsor the bill on the floor.

**Teresa Molitor** introduced **K. Collins Sprague**, Senior Director of Government Relations, Avista Corporation. Mr. Sprague presented information on Avista Corporation to the Committee. Avista Corporation is multi-state electric and natural gas utility serving in Idaho, Washington, Oregon, Montana and Alaska. They are only 1 of 3 companies that began when Washington State was a territory, and are still running. Mr. Sprague notes some improvements Avista has done for Idaho including: bringing power to Silver Valley, building Post Falls Dam and Cabinet Gorge Dam, and acquiring PacifiCorp expanding there presence in Idaho.

**Mr. Sprague** shared how Idaho played a very important role in preserving Avista as an independent utility. Government owned electric utilities tried to shut down Avista, but Idaho passed a bill that prevented the acquisition in **Idaho Code Chapter 61, Section 327**. He discussed some of their struggles with new legislation passed in Washington State, and how those struggles might benefit Idaho power consumers in the long run, with Idaho power consumers selling Renewable Energy Credits to Washington consumers.

In answer to committee questions, **Mr. Sprague** said hydro energy can now be sold as a renewable energy credit. He stated that their cheapest energy source is hydro energy, followed by coal, natural gas, and biomass generation, although solar and wind are now becoming inexpensive because of subsidies. Mr. Sprague stated that because of previous investments in nuclear energy that didn't work out well financially, they are hesitant to invest in small modular reactors (SMR's) until they have proven economically viable. He also answered that they have not found non-wood biomass (trash and tires) to be cost effective at this point.

The committee expressed concerns that some consequences of power production are not being considered, and are externalized and not calculated into the actual costs such as; coal, wind generation poles that are not recyclable, or solar panels that have toxic substances in them and must be disposed of after their 25 year life expectancy. They were concerned that the public may eventually end up bearing the burden of those externalized costs.

Answering concerns of previous failed merges, **Mr. Sprague** explained that although Avista has strengths that attract attention to other companies, the deterrent is that they are an interstate company, and 5 different commissions have to approve the acquisition. Another lesson learned by the company is how the utilities need to be better prepared for natural disasters, as seen by California's fires and the impact it had on utilities. Avista is planning better for such disasters and modernizing their grid to assess quicker when to reroute power and find the cause of power outages.

**ADJOURN:**

There being no further business to come before the committee, the meeting adjourned at 2:45 p.m.

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Representative Vander Woude  
Chair

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Maggie Price  
Secretary

AGENDA  
**HOUSE ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE**  
**1:30 P.M.**  
**Room EW41**  
**Tuesday, February 04, 2020**

SUBJECT	DESCRIPTION	PRESENTER
	2019 Supplemental Agreement between the State of Idaho and U.S. Department of Energy	Brian Wonderlich, Governor Little's General Counsel
	Broadband Task Force Recommendations Overview	Darrell G. Early, Deputy Attorney General Chief
	Leveraging the 1995 Settlement Agreement for Idaho's Benefit	Tom Kealey, Director of the Idaho Department of Commerce
		Mr. Doug Sayer, Chief Business Officer of Premier Technology

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MINUTES

## HOUSE ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE

**DATE:** Tuesday, February 04, 2020

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

**PLACE:** Room EW41

**MEMBERS:** Chairman Vander Woude, Vice Chairman Amador, Representatives Anderson, Horman, Moon, Scott, Ehardt, Armstrong, Furniss, Hartgen, Lickley, Raybould, Smith, Chew, Ellis

**ABSENT/  
EXCUSED:** Representative Anderst, Young, Mason

**GUESTS:** John Tippetts, DEQ; Darrell Early, Attorney General; Tom Kealey, Eric Forsell, DOC; Amanda Watson, AT&T; Ron Williams, W-B; Will Hart, ICUA

**Chairman Vander Woude** called the meeting to order at 1:33 p.m.

**MOTION:** **Rep. Hartgen** made a motion to approve the minutes of the January 28, 2020 meeting.

**MOTION:** **Rep. Smith** made a motion to correct the minutes. She was marked absent, but was in the meeting on January 28, 2020.

**AMMENDED  
MOTION:** **Rep. Hartgen** made an amended motion to approve the minutes of the January 28, 2020 meeting with the following correction: **Rep. Smith** was present in the meeting. **Motion carried by voice vote.**

**Darrell G. Early**, Deputy Attorney General and Chief of the Natural Resources Division, and **Brian Wonderlich**, **Governor Little's** General Counsel, presented recent agreements between the State of Idaho and U.S. Department of Energy. Mr. Early stressed that the most significant provision of the previous settlement agreements is that it led to a prohibition on the receipt of spent nuclear fuel from commercial reactors at INL. DOE was in breach of two central provisions of the 1995 Settlement Agreement which led to the prohibition. They were not able to treat all remaining liquid nuclear high level waste in Idaho by turning it into a safer more manageable solid and were not able to remove transuranic waste from Idaho because of a shut down of the DOE plant in New Mexico. But now because the DOE has agreed in writing how it will cure each of those breaches, the state has agreed to allow the DOE to receive spent nuclear fuel at the INL for research purposes, in the 2019 Supplemental Agreement (see attachment 1). The agreement does not allow the DOE to bring in spent nuclear fuel for any purpose but research, it does not change the requirements from the 1995 Settlement Agreement for handling and removal of spent nuclear fuel, or increase the cap on the amount of nuclear waste that is brought into Idaho. Combined these agreements provide INL a strong future.

**Mr. Wonderlich**, shared information on the new agreement (see attachment 2) that was just announced on the operations of the Advanced Test Reactor (ATR). The new agreement will allow the ATR facility to continue operating its water-filled canal beyond 2023, so long as certain conditions are met. The provisions of the new agreement put timelines on the storage of spent fuel in the canal before placement into dry storage, requirements to remove the fuel from Idaho and create requirements for the DOE to provide the state with an annual account of the fuel in the ATR canal, and applicable timelines for the fuel to be put into dry storage and removed from Idaho. It also lays out remedies should DOE fail to satisfy the agreed-upon requirements. This agreement ensures that the cutting-edge nuclear

energy research at the ATR will continue and be done safely. Combined these agreements build a safe, strong, clean and vibrant future for INL.

The committee expressed appreciation for the work that has been done to support INL and the state of Idaho. In answer to the committees questions, **Mr. Wonderlich** explained that the initial shipment would be about 100 pounds of spent fuel. Whether more fuel comes into Idaho after the initial shipment will be up to the INL and DOE. The agreement demonstrates a desire by DOE and INL to do so.

**Tom Kealey**, Director of the Idaho Department of Commerce, gave an overview of the Broadband Task Force Recommendations. The broadband task force goals were to link rural Idaho to a global marketplace, help all communities increase speeds, give students and families the tools to succeed, connect health care and first responders, identify funding partnership models, and convene partners. The task force met four times throughout the state to take full inventory of the status of broadband across Idaho. They also held committee meetings throughout the process to examine specific topics and recommendations. Their recommendations are as follows: Idaho needs to update broadband plans, establish a state broadband office, consider state funding options, improve deployment efficiency by formalizing dig once and hang once policies, and engage on near term projects. Idaho is currently ranked 44th in the nation in broadband access, up from 48th. The broadband committee hopes in the future to engage Idaho legislators better, establish smaller regional working groups, focus on "high scoring" for federal grants and loans, and focus on a comprehensive "beta" project in under-served North Central Idaho.

In answering committees concerns about data gathering, **Mr. Kealey** stated that local communities and technology networks presented to the committee as they were gathering information. He explained that their objective was to support local communities, but still give them local autonomy to make decisions based on personal community needs. The Broadband Office would help look for shortfalls and with federal and state interfacing. They preferred to be the go between local communities and bigger entities when communities need help. **Mr. Kealey** confirmed that almost all K-12 schools have some form of high speed internet, along with libraries, hospitals and public safety. The short falls are in the rest of the isolated rural communities outside of those entities. They recognize that improvement needs to be made in the communities to help local business, education, telehealth, and citizens.

The committee questioned why the broadband office would be under the Department of Commerce if one of their goals was efficient installation of band lines. They thought it would fit better under the Department of Transportation who has experience coordinating multiple build and dig projects simultaneously. **Mr. Kealey** explained the Department of Transportation does not have the same focus to ensure schools, and hospitals are getting broadband, and they are better served under the Department of Commerce.

**Doug Sayer**, Chief Business Officer and **Guy Girard**, Chief Operating Officer of Premier presented to the committee ideas on how the state of Idaho can leverage the 1995 Settlement Agreement for their benefit. **Mr. Sayers** message today was to predict what the future holds and how to make decisions based on those possibilities. He described how during the Carter Administration it was decided that the United States didn't recycle or reprocess nuclear fuels. That decision was adopted despite the fact that other countries, including Allies, did not adopt the same policy. The challenge leaves is what to do with the fuels. The DOE had hard deadlines to meet with no place to ship the fuels. Premier believes that this next generation of reactors (Small Modular Reactors and Micro Reactors) is going to need fuel, and the assets for that fuel are at the INL with recycled fuels.

**Mr. Girard** is of the opinion that the Governor's settlement agreement is a cornerstone of the way an agreement ought to be done. He has seen bad agreements and states with no agreements and the consequences of both. Because he does not believe there will be a depository to send the waste to in his lifetime, it's important to find another solution. Mr. Girard thinks the state of Idaho should consider the possibility of non-aqueous spent fuel processing. Many of the heavy metals INL/DOE are holding are treated as trash, although they could be used as assets. There are 80,000 metric tons of spent nuclear fuel in this country, some of which is in Idaho.

Some committee members agreed there are unused assets. **Mr. Sayer** did confirm that Idaho has the technology to recycle, and that it could be done safely and cleanly. There are a certain number of fuels at the INL that are candidates for recycling. He suggested that it will be a challenging topic for legislatures to bring up since the original agreement was ratified by the voters, and he hopes this committee and the legislature can pursue recycling spent nuclear fuel in Idaho. In response to Mr. Sayer, a committee member asked to have an interim committee that studies recycling spent nuclear fuel and comes up with an analysis and specific recommendations for the legislature and the governmental role that can be pursued. The committee confirmed with **Mr. Early** that the settlement agreement does not restrict Idaho from reprocessing, but does clarify that if its not processed it has to leave Idaho. The deadline incentivizes the DOE into a path forward.

**ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 3:09 p.m.

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Representative Vander Woude  
Chair

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Maggie Price  
Secretary

**SUPPLEMENTAL AGREEMENT CONCERNING CONDITIONAL WAIVER OF  
SECTIONS D.2.e and K.1 OF 1995 SETTLEMENT AGREEMENT**

This Supplemental Agreement is entered this 6<sup>th</sup> day of November 2019 between the United States Department of Energy (DOE), by and through the Assistant Secretary for Environmental Management and the Assistant Secretary for Nuclear Energy, and the State of Idaho by and through the Governor of the State of Idaho and the Idaho Attorney General (Idaho).

**PURPOSE:**

Consistent with the principles set forth in the Settlement Agreement and Order dated October 13, 1995 in the matter of Public Service Co. of Colorado v. Batt, No. CV 91-0035-S-EJL (D. Id.) and United States v. Batt, No. CV-91-0054-S-EJL (D. Id.) ("1995 Agreement"), this Supplemental Agreement to the 1995 Agreement provides a one-time conditional waiver of Sections D.2.e. and K.1 of the 1995 Agreement relating to receipt for research purposes of 25 spent nuclear fuel (SNF) rods from the Byron Nuclear Generating Station and for the conditional renewal of the January 6, 2011 Memorandum of Agreement Concerning Receipt, Storage, and Handling of Research Quantities of Commercial Spent Nuclear Fuel at the Idaho National Laboratory). DOE and Idaho (collectively "the Parties") agree as follows:

**RECITALS:**

**WHEREAS**, the 1995 Agreement provides in Section F that the Idaho National Laboratory (INL) is designated as the DOE Spent Fuel Lead Laboratory for the "research development and testing of treatment, shipment and disposal technologies for all DOE spent fuel" and provides for the receipt of DOE SNF for research purposes; and

**WHEREAS**, in 2002 the DOE designated the INL as the Nation's lead laboratory for nuclear energy research; and

**WHEREAS**, in furtherance of its research mission, the INL has developed and possesses unique technologies and capabilities which will further the research development and testing of new fuel types and technologies; and

**WHEREAS**, Section D.2.e of the 1995 Agreement restricts the INL from accepting any shipments of "spent fuel from commercial nuclear power plants" (Commercial Power Spent Nuclear Fuel [SNF]); and

**WHEREAS**, on July 1, 2008, the Parties executed the Agreement to Implement the U.S. District Court Order dated May 25, 2006 ("2008 Agreement"), regarding the interpretation of Paragraph B.1 of the 1995 Settlement Agreement; and

**WHEREAS**, on January 6, 2011, the Parties executed a Memorandum of Agreement ("2011 Memorandum of Agreement") allowing INL to accept limited quantities of

Commercial Power SNF so long as DOE was in compliance with other terms and conditions of the 1995 Agreement; and

**WHEREAS**, on January 1, 2013, the DOE failed to meet its obligation under Section E.5 of the 1995 Agreement to have treated all of the Sodium Bearing Liquid High Level Waste (HLW); and

**WHEREAS**, in February 2014, two unrelated events occurred at the Waste Isolation Pilot Plant (WIPP) resulting in a halt of WIPP operations; and

**WHEREAS**, subsequent to re-opening in January 2017, WIPP has been operating at limited throughput capacity pending completion of improvements to its ventilation system; and

**WHEREAS**, as a result of the events and subsequent slowing of shipment volumes to WIPP DOE has failed to meet the requirements of Sections B.1 and B.1.c of the 1995 Agreement, and Section VIII of the 2008 Agreement to Implement U.S. District Court Order Dated May 25, 2006 ("2008 Agreement"); and

**WHEREAS**, DOE remains in non-compliance with the 1995 Agreement, and Section VIII of the 2008 Agreement; and

**WHEREAS**, because DOE is in non-compliance of the 1995 Agreement and Section VIII of the 2008 Agreement the 2011 Memorandum of Agreement is not operative; and

**WHEREAS**, because DOE is in non-compliance with the 1995 Agreement, and Section VIII of the 2008 Agreement, shipments of DOE SNF to INL are suspended pursuant to Section K.1.a.; and

**WHEREAS**, prior to the 2014 closure of WIPP, DOE had shipped 30,089 cubic meters of transuranic waste from Idaho to WIPP; and

**WHEREAS**, since the re-opening of WIPP, DOE has shipped 1,492 cubic meters of transuranic waste from Idaho to WIPP; and

**WHEREAS**, since 2005, DOE has exhumed 5.01 acres and packaged 9,020 cubic meters of buried transuranic waste from the Subsurface Disposal Area pursuant to the 2008 Agreement; and

**WHEREAS**, since 2005, DOE has shipped 13,882 cubic meters of mixed Alpha-low level waste historically managed by DOE as transuranic waste to disposal facilities outside of Idaho.

**WHEREAS**, since December 31, 2014, DOE has shipped over 330,000 pounds of *heavy*

*metal*<sup>1</sup> nuclear material from the state of Idaho; and

**WHEREAS**, since December 31, 2014, DOE has shipped from Idaho a volume of TRIGA SNF equaling 29.3 pounds of *heavy metal*; and

**WHEREAS**, on December 31, 2014, DOE requested permission to receive 25 SNF rods from the Byron Nuclear Generating Station at INL for use in the High Burnup Fuel Testing and Fuel Cycle Research Development and Demonstration Project (research project); and

**WHEREAS**, to date Idaho has not allowed such shipment to proceed due to DOE's non-compliance; and

**WHEREAS**, DOE anticipates future needs to receive SNF in furtherance of INL's SNF and nuclear energy research missions, as recognized by the parties in their 2011 Memorandum of Agreement; and

**WHEREAS**, the Parties agree INL research has significant value to the national security interests of the United States and will provide valuable information regarding nuclear waste reduction and non-proliferation; and

**WHEREAS**, the State of Idaho has determined that acceptance of shipments at the INL for research purposes, subject to the terms and conditions of this Supplemental Agreement, will provide valuable benefit to both Idaho and the nation in the form of increased knowledge concerning the safe and efficient generation of nuclear energy, nuclear waste reduction technology and the nonproliferation of nuclear weapons; and

**WHEREAS**, implementation of this Supplemental Agreement will result in a further net reduction in the amount of SNF stored at the INL; and

**WHEREAS**, Section J.1 of the 1995 Agreement provides that Idaho, in its sole discretion, may waive performance by DOE of any terms, conditions, and obligations contained in the 1995 Agreement; and

**WHEREAS**, Idaho will continue to insist upon the safe management of SNF, HLW, and transuranic waste and disposition of such materials outside of the State of Idaho.

**NOW THEREFORE IT IS HEREBY AGREED:**

Pursuant to the following terms and conditions of this Supplemental Agreement and solely for the purpose of research conducted at the INL, Idaho in its sole and exclusive discretion, hereby grants a one-time waiver of the Section D.2.e prohibition on the

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<sup>1</sup> For purposes of this Supplemental Agreement the Parties agree that the term "heavy metal" refers to all uranium, plutonium, and thorium and trace amounts of additional elements having an atomic number greater than or equal to 90, contained within materials such as SNF. Other SNF materials, such as cladding, alloys and structural materials are not included.

shipment of commercial SNF to INL and a one-time waiver of the State's invocation of Section K.1 arising from the above described non-compliance for the receipt of 25 SNF rods from Byron Nuclear Generating Station. Idaho further agrees that if DOE meets the terms and conditions of this Supplemental Agreement contained in paragraph 7, DOE may resume and plan for future receipts of SNF pursuant to the 2011 Memorandum of Agreement between Idaho and DOE.

1. Prior to receipt at the INL of the Byron Nuclear Generating Station SNF rods for research purposes, DOE shall have achieved radioactive operations of the Integrated Waste Treatment Unit and have provided verified notice to Idaho of attaining such radioactive operation. For purposes of this paragraph "radioactive operations" shall mean the introduction of sodium-bearing HLW to the treatment unit and successful treatment of sodium-bearing HLW resulting in at least one (1) full canister of dry solid sodium-bearing HLW.
2. After the effective date of this Supplemental Agreement and by not later than December 31, 2021, DOE agrees to ship not less than 300 pounds of special nuclear material<sup>2</sup> out of the State of Idaho.
3. DOE agrees to treat all Sodium Bonded EBR II Driver Fuel Pins into product material for High Assay Low Enriched Uranium (HALEU) fuel production as follows:
  - a. DOE shall commence treatment by no later than thirty (30) days after the effective date of this Supplemental Agreement; and
  - b. DOE shall treat at least 165 pounds heavy metal of Sodium Bonded EBR II Driver Fuel Pins per year on a three year rolling average basis; and
  - c. DOE shall complete treatment of all Sodium Bonded EBR II Driver Fuel Pins by December 31, 2028; and
  - d. Except for HLW, DOE shall dispose of any waste materials, including but not limited to fuel pin cladding material generated during treatment outside of the State of Idaho by not later than January 1, 2035; and
  - e. Any HLW generated during treating shall be treated so as to put it into a form suitable for transport to a permanent repository or interim storage facility outside the State of Idaho by a target date of December 31, 2035; and
  - f. If DOE has not put all the treated product material to beneficial use DOE

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<sup>2</sup> For purposes of this Supplemental Agreement the Parties agree that the term "Special Nuclear Material" is defined as plutonium, uranium-233, or uranium enriched in the isotopes uranium-233 or uranium-235, but does not include source material.

will remove all treated product material from the State of Idaho by January 1, 2035.

**4. Transuranic Waste Shipments to WIPP:**

- a. Commencing on the effect date of this Supplemental Agreement, DOE will allocate to and make from the State of Idaho at least fifty-five percent (55%) of all transuranic waste shipments received at WIPP for INL transuranic waste, including retrieved buried waste, each year until shipments from INL are complete. This percentage will be calculated on a three year running average, beginning with Calendar Year 2019 (total number of shipments over any period of three years, divided by three)
- b. In addition to the fifty-five percent (55%) allocation of shipments of INL transuranic waste to WIPP, DOE will give INL transuranic waste priority for shipments to WIPP. Priority means that if a shipment allotted to a generator site other than INL is not made, such shipment allotment will be made available to INL, subject to consideration of national security mission and nonproliferation matters, other DOE legal and site cleanup commitments, WIPP operational concerns, and safety and security operations. In making the determinations above related to national security mission and nonproliferation considerations, the State recognizes the authority of DOE and its sole discretion regarding the same. With respect to decisions on the other considerations listed in this section, the State and DOE reserve their respective rights under section K.1.a. of the 1995 Agreement. In furtherance of this provision DOE agrees as follows:
  - i. DOE shall provide to Idaho on the first of each month the eight week rolling shipment schedule for WIPP.
  - ii. DOE shall maintain at the INL a quantity of packaged WIPP certified waste, and logistical resources sufficient to utilize any shipment allocations that become available to INL.
  - iii. On a quarterly basis, DOE shall provide Idaho with access to DOE shipment tracking records, which document DOE shipment allocations to WIPP, subject to any security requirements limiting the manner of access.

5. Except for buried transuranic waste that has not been exhumed and is governed under the 2008 Agreement, DOE shall have all but 1,200 cubic meters of pre-1995 transuranic waste located at INL treated and packaged for shipment out of the State of Idaho on or by November 1, 2019.

**6. Limits and Material Management – Byron Shipment:**

- a. INL may receive for the purpose of research and examinations conducted

at the INL 25 SNF rods from the Byron Nuclear Generating Station for purposes of the Byron Rods for High Burnup Fuel Testing and Fuel Cycle RD&D Project, the total estimated weight of which is 100 pounds *heavy metal*.

- b. The 25 SNF rods from the Byron Nuclear Generating Station will count as a shipment of DOE SNF for purposes of the annual shipment limits contained in Section D.2.f of the 1995 Agreement.
- c. The amount of SNF from the Byron Nuclear Generating Station, measured in fractions of metric tons *heavy metal* (MTHM), including the equivalent amount contained in any wastes generated during research, remaining on site at the end of each calendar year will count toward the total metric tonnage limits for DOE SNF contained in Section D.2.c of the 1995 Agreement.
- d. The SNF from the Byron Nuclear Generating Station will be stored and managed as SNF until shipped off-site in compliance with the 2035 shipment deadline of the 1995 Agreement.
- e. Any transuranic waste and low-level waste resulting from the research on the SNF from the Byron Nuclear Generating Station may be consolidated with other laboratory waste and managed appropriately.
- f. Nothing in this Supplemental Agreement shall be construed to allow DOE to exceed the 55 MTHM limit for SNF allowed by the 1995 Agreement.

7. Additional Shipments of Research Quantities of SNF under the 2011 Memorandum of Agreement.

- a. DOE may resume the receipt of and plan for additional research quantities of commercial SNF pursuant to the 2011 Memorandum of Agreement, the terms and conditions of which will govern such additional shipments, upon successful production of at least 100 canisters of treated sodium-bearing HLW located at INL and so long as:
  - i. DOE is not in breach of any terms and conditions of the 1995 Agreement, or the 2008 Agreement other than those described in this Supplemental Agreement; and
  - ii. The Integrated Waste Treatment Unit is continuing sustained operations<sup>3</sup> to treat the remaining Sodium Bearing HLW located at

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<sup>3</sup> For purposes of this paragraph only the term "Sustained Operations" shall mean the continuous operation of the Integrated Waste Treatment Unit to treat the remaining Sodium Bearing HLW exclusive of normal operating shutdowns for maintenance and repairs of less than twenty-four (24) months in duration.

INL.

8. This Supplemental Agreement reflects a conditional waiver of Sections D.2.e and K.1 of the 1995 Agreement related to a single shipment of research quantities of Commercial Power SNF to Idaho. This Supplemental Agreement further reflects terms and conditions under which DOE may resume and plan for additional shipments of Commercial SNF pursuant to the Parties 2011 Memorandum of Agreement. This Supplemental Agreement shall not be construed to alter or amend any provisions of the 1995 Agreement, the 2008 Agreement or the 2011 MOA.
9. This Supplemental Agreement shall not relieve the Parties from their obligation to comply with any applicable federal, state, or local law.
10. Nothing in this Supplemental Agreement shall be admissible in any judicial proceeding other than one for the enforcement of this Supplemental Agreement.

DATED this 6<sup>th</sup> day of November, 2019.

SO AGREED:

SIGNED: 

WILLIAM I. WHITE  
SENIOR ADVISOR FOR ENVIRONMENTAL MANAGEMENT  
TO THE UNDER SECRETARY FOR SCIENCE  
U.S. DEPARTMENT OF ENERGY

SIGNED: 

HONORABLE DR. RITA BARANWAL  
ASSISTANT SECRETARY FOR NUCLEAR ENERGY  
U.S. DEPARTMENT OF ENERGY

SIGNED: 

HONORABLE BRAD LITTLE, GOVERNOR  
STATE OF IDAHO

SIGNED: 

HONORABLE LAWRENCE G. WASDEN, ATTORNEY GENERAL  
STATE OF IDAHO



**AGREEMENT CONCERNING HANDLING OF SPENT NUCLEAR FUEL  
GENERATED BY THE ADVANCED TEST REACTOR**

The Parties to this Agreement Concerning Handling of Spent Nuclear Fuel Generated by the Advanced Test Reactor ("Agreement"), the State of Idaho, through the Governor of the State of Idaho and the Idaho Attorney General (Idaho), and the Department of Energy (DOE), hereby agree to the following terms and conditions:

**I. PURPOSE OF AGREEMENT:**

Consistent with the principles set forth in that certain Settlement Agreement and Consent Order in Public Service Co. of Colorado v. Batt, No. CV 91-0035-S-EJL (D. Id.) and United States v. Batt, No. CV-91-0054-S-EJL (D. Id.) ("1995 Agreement"), the purpose of this Agreement is to provide for handling of spent nuclear fuel (SNF) generated during operations of the Advanced Test Reactor (ATR) while continuing to assure that the 1995 Agreement commitment to eliminating wet storage facilities for SNF is met. This Agreement is necessary to provide definition to the Parties' relationship and to assure the ongoing mission of the ATR at the Idaho National Laboratory (INL).

**II. NON-ADMISSION OF APPLICABILITY:**

The Parties to this Agreement do not agree regarding the applicability of Section E.8 of the 1995 Agreement to the ATR operating canal. To resolve the handling of SNF in the ATR operating canal without litigation or controversy and without admitting or conceding whether such activities are or are not subject to the 1995 Agreement requirement to eliminate use of wet SNF storage facilities under Section E.8, the Parties enter into this Agreement.

**III. DEFINITIONS:**

Unless otherwise expressly stated herein all terms used in this Agreement shall be used as defined in the 1995 Agreement.

For purposes of this Agreement, ATR fuel will be considered "spent nuclear fuel" when it has been used in the ATR to the extent that it can no longer effectively sustain a chain reaction, no longer meet quality assurance requirements for continued use, or is deemed no longer useable for future insertion into the reactor pursuant to Technical Safety Requirement (TSR) 186.

**IV. EFFECTIVE DATE AND CONDITION:**

The terms and conditions of this Agreement shall be effective on the date of the last signature to this Agreement. If the DOE is in material breach of any mandatory and applicable provisions of this Agreement, this Agreement shall at the election of the State of Idaho be voidable unless the Court determines that material breach did not occur, or that such material breach was cured within 180 days from written notice by the State to the DOE of the material breach.

## V. TERMS AND CONDITIONS:

- A. Notwithstanding the provisions of paragraph C.1 of the 1995 Agreement, after January 1, 2035, the DOE may maintain a volume of SNF at INL associated with operation (exclusive of test specimen material) of the ATR operating canal for a timeframe reasonably necessary for thermal cooling, but in any event not to exceed six (6) years.
- B. SNF (exclusive of test specimen material) generated as a result of operation of the ATR after January 1, 2018, may be kept in the ATR operating canal, as described below for a timeframe reasonably necessary for thermal cooling before placement into dry storage but in any event not to exceed six (6) years.
- C. After January 1, 2035, all SNF (exclusive of test specimen material) generated from operation of the ATR shall be removed from the State of Idaho within twelve (12) months of placement into dry storage as required by V.B above.
- D. Commencing January 1, 2020, the DOE shall annually provide notice to the State of Idaho of: (1) the total quantity (in metric tons heavy metal<sup>1</sup>) of SNF kept in the ATR canal and (2) the date on which each spent fuel element was determined to be "spent fuel." Annual notice must be provided by May 1 of each calendar year, which provides the above information for the preceding calendar year.
- E. DOE shall perform technical assessments of the existing ATR canal, pursuant to TSR 186. If at any time it is determined that the integrity of the ATR canal is compromised, DOE shall notify the State of Idaho and immediately implement all applicable requirements of TSR 186.

## VI. REMEDIES:

- A. If the DOE fails to satisfy the obligations or requirements of this Agreement, or fails to meet deadlines for satisfying such obligations or requirements, all SNF in the ATR canal will immediately be considered by all parties to this Agreement to be in wet storage within the meaning of Section E.8 of the 1995 Agreement.
- B. The Court may enforce the rights, obligations and requirements assigned by this Agreement pursuant to all legal and equitable remedies available to the courts of the United States, provided, however, that in the event Idaho invokes the remedy specified in paragraph VI.A, the Court's enforcement powers shall be limited to determining whether the substantive obligations or requirements alleged to have been breached have been satisfied.

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<sup>1</sup> For purposes of this Agreement the Parties agree that the term "heavy metal" refers to all uranium, plutonium, thorium, and trace amounts of additional elements having an atomic number greater than or equal to 90, contained within materials such as SNF. Other SNF materials, such as cladding, alloys, and structural materials, are not included.

- C. No provision of this Agreement shall compel any Party to act without due legal authority. Performance by every Party under this Agreement shall be subject to and comply with all applicable federal statutes, regulations and orders, including the Anti-Deficiency Act.
- D. In the event that any Party to this Agreement contends that any other Party has violated any terms of the Agreement, the Parties shall seek to resolve their differences informally before asking for resolution by the Court.

DATED this 4<sup>th</sup> day of February, 2020  
SO AGREED:

SIGNED:   
HON. RITA BARANWAL, ASSISTANT SECRETARY FOR NUCLEAR ENERGY  
U.S. DEPARTMENT OF ENERGY

SIGNED:   
HON. BRAD LITTLE, GOVERNOR  
STATE OF IDAHO

SIGNED:   
HON. LAWRENCE G. WASDEN, ATTORNEY GENERAL  
STATE OF IDAHO

AGENDA  
**HOUSE ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE**  
**1:30 P.M.**  
**Room EW41**  
**Thursday, February 06, 2020**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<b><u>Docket No.</u></b> <b><u>41-0101-1900</u></b>	Panhandle Health District #1	Joe Righello, Environmental and Health Protection Division Administrator of Health District 1 - Panhandle Health District
	Idaho National Laboratory-The New Home to the National Reactor Innovation Center	Mark Peterson, Idaho National Laboratory
<b><u>RS27539</u></b>	Nuclear Power Resolution	Rep. Ehardt, Rep. Horman
<b><u>RS27515C1</u></b>	Idaho Right to Repair Act	Rep. Raybould

***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 Vander Woude	Rep Scott	Rep Raybould
Vice Chairman Amador	Rep Ehardt	Rep Young
Rep Anderson	Rep Armstrong	Rep Smith
Rep Anderst	Rep Furniss	Rep Chew
Rep Horman	Rep Hartgen	Rep Ellis
Rep Moon	Rep Lickley	Rep Mason

COMMITTEE SECRETARY

Maggie Price  
Room: EW16  
Phone: 332-1128  
email: [henv@house.idaho.gov](mailto:henv@house.idaho.gov)

MINUTES

## HOUSE ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE

**DATE:** Thursday, February 06, 2020

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

**PLACE:** Room EW41

**MEMBERS:** Chairman Vander Woude, Vice Chairman Amador, Representatives Anderson, Anderst, Horman, Moon, Scott, Ehardt, Armstrong, Furniss, Hartgen, Raybould, Young, Smith, Ellis, Mason

**ABSENT/  
EXCUSED:** Representative Lickley, Chew

**GUESTS:** Lora Whalen, Joe Righello, Panhandle Health District; Meeghan Sheppard, Office of Governor; Mary Ann Nelson, DEQ; Kevin Howard, Worley Highway Dist.; Jay Shaw, OAR/DFM

**Chairman Vander Woude** called the meeting to order at 1:32 p.m. Chairman Vander Woude turned the gavel over to **Vice Chairman Amador**.

**DOCKET NO. 41-0101-1900:** **Joe Righello**, Environmental and Health Protection Division Administrator for Health District 1, presented **Docket No. 41-0101-1900**, Pan Handle Health District #1. This rule is specific to the Panhandle Health District (PHD) and its Environment Health responsibilities regarding water quality and protection, sewage and wastewater disposal and Critical Materials over the Rathdrum Prairie Aquifer and the Institutional Controls Management of the Bunker Hill Superfund Site. This was reviewed and updated by reducing 22% of the overall words, and 60% of the restrictive wording. While exceeding the Red Tape Reduction Act goals, PHD ensured the updated rule maintains the same level of environmental health protection for Northern Idaho. This rule has already been reviewed by the Board of Environmental Quality and by the Senate Health and Welfare Committee.

Mr. Righello reviewed the rules showing the committee which parts had been removed, including redundant language found under Land Quality Control, Section 300, and permit application information that was outdated under the Superfund Site.

In answering committees concerns, **Mr. Righello** noted that although this health district isn't under DEQ, they work in unison. The health district is managed by the aquifer protection district, made up of representatives from Kootenai County. He was unaware who was the enforcement in the district. Mr. Righello explained this is a sensitive aquifer and requires special rules that are unique only to this area of Idaho.

**Mary Anne Nelson**, Surface and Wastewater Division Administrator for DEQ, explained to the committee that because this aquifer is a special source of water, it has additional constraints to protect the water. This is the only sensitive resource aquifer in Idaho. The process for this categorization was a public process. This is the only district that does not rely on DEQ and the Dept. of Health and Welfare. Some committee members questioned whether this rule should be obsolete and fall back under DEQ's jurisdiction. They voiced that there are too many concerns about who the actual authority should be, and why this is considered such a unique area.

**MOTION:** **Rep. Moon** made a motion to **HOLD Docket No. 41-0101-1900** for time certain, February 10, 2020. **Motion carried by voice vote.**

**Vice Chairman Amador** turned the gavel over to **Chairman Vander Woude**.

**Mark Peters**, Director of Idaho National Laboratory, shared that INL has had a strong fiscal year. 500 new employees will be hired this next year and INL has been evaluated 97 out of 100 by the DOE. INL's budget is growing because their goals align very well with the Administration and what the US Congress is expecting. The supplemental agreements done by the Governor, Attorney General, and DOE will help INL continue strong in the next couple years.

**Ashley Finan**, Director of the National Reactor Innovation Center (NRIC) at INL introduced NRIC, their mission and goals. NRIC provides innovators with necessary support to test and demonstrate their reactor concepts and assess their performance. The mission is to inspire stakeholders, empower innovators to test and demonstrate reactors, and deliver successful outcomes for the nation through the efficient coordination of partners and resources.

The committee expressed their appreciation for **Ms. Finan's** enthusiasm and positive approach to INL's goals and future projects. She was encouraged to work closely with Idaho Power and the integrative resource planning commission. Ms. Finan shared her hope that as she can help Idaho Power to participate in the demonstration phase, but also to start thinking about these advanced reactors as part of the resource planning and as part of the potential to be exporting power to the West. NRIC's current clients are primarily nuclear vendors and INL is also reaching out to utilities. Some are asking for office space in Idaho, but most do not have an Idaho presence yet. DOE is investing federal money into advanced reactor demonstrations. The workforce needs will be significant, and NRIC can be a part of this supply chain, and capture the economic opportunity in the manufacturing process.

The committee asked about previous concerns in recycling nuclear energy. **Ms. Finan**, answered that small scale recycling is happening now. Given the current U.S. policy, there isn't a business case for recycling. France has made a policy decision at the federal level to pursue recycling nuclear energy, the U.S. could do the same. **Mr. Peters** confirmed the federal policy would need to change to manage commercial recycled fuel. The technology is viable, but the question is whether its economically sound.

**RS 27539:** **Rep. Ehardt** and **Rep. Horman** presented **RS 27539**. Rep. Ehardt shared the resolution which recognizes the importance of research taking place at the Idaho National Laboratory in nuclear energy, clean energy technologies and national and homeland seniority as a valuable asset to the state of Idaho and the world. Rep. Horman indicated that INL is the 6th largest private employer in Idaho and has spent \$222 million dollars in Idaho businesses.

**MOTION:** **Rep. Mason** made a motion to introduce **RS 27539** and recommend it be sent directly to the Second Reading Calendar. **Motion carried by voice vote. Rep. Ehardt and Rep. Horman will sponsor the bill on the floor.**

**RS 27515C1** **Rep. Raybould** presented **RS 27515C1** Idaho's Right to Repair Act. This proposed legislation establishes that original equipment manufacturers (OEMs) provide consumers and independent repair businesses with equal access to repair documentation, diagnostics, tools, service parts and firmware as their direct or authorized repair providers. One problem this bill would remedy would be to remove the barrier for farmers whose tractors break down, but are on a waiting list to get an authorized repair provider to make repairs during peak harvest season. This bill does not affect retailers, product warranties, or manufacturer liability. Protection remains for copyrights, patents and trade secrets.

The committee inquired about the Senate's Right to Repair bill. **Rep. Raybould** explained that she had just heard of its existence and did not know how or if the two bills overlapped in legislation.

**MOTION:** Rep. Furniss, made a motion to introduce **RS 27515C1**. **Motion carried by voice vote.**

**Chairman Vander Woude** stated that the next meeting will be February 10, 2020, and the committee will have a final hearing on **Docket No. 41-0101-1900**.

**ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 2:50 p.m.

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Representative Vander Woude  
Chair

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Maggie Price  
Secretary

**AMENDED AGENDA #1**  
**HOUSE ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE**  
**1:30 P.M.**  
**Room EW41**  
**Monday, February 10, 2020**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<b>Docket No.</b> <a href="#"><u>41-0101-1900</u></a>	Panhandle Health District #1	Joe Righello, Environmental and Health Protection Division Administrator of Health District 1 - Panhandle Health District
<a href="#"><u>RS27681</u></a>	Facial Recognition Technology	Rep. Raybould
<a href="#"><u>RS27705</u></a>	Archery/Muzzleloader Permit Fees for Veterans	Rep. Vander Woude

***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 Vander Woude	Rep Scott	Rep Raybould
Vice Chairman Amador	Rep Ehardt	Rep Young
Rep Anderson	Rep Armstrong	Rep Smith
Rep Anderst	Rep Furniss	Rep Chew
Rep Horman(Marshall)	Rep Hartgen	Rep Ellis
Rep Moon	Rep Lickley	Rep Mason

COMMITTEE SECRETARY

Maggie Price  
Room: EW16  
Phone: 332-1128  
email: [henv@house.idaho.gov](mailto:henv@house.idaho.gov)

MINUTES

## HOUSE ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE

**DATE:** Monday, February 10, 2020

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

**PLACE:** Room EW41

**MEMBERS:** Chairman Vander Woude, Vice Chairman Amador, Representatives Anderson, Anderst, Horman (Marshall), Moon, Scott, Ehardt, Armstrong, Furniss, Hartgen, Lickley, Raybould, Young, Smith, Chew, Ellis, Mason

**ABSENT/  
EXCUSED:** None

**GUESTS:** Austin Walkins, Idaho Conservation League; Michael McCurdy, Jerri Henry, Mary Anne Nelson, John Tippets, Idaho DEQ; Lora Whalen, Joe Righello, Panhandle District

**Chairman Vander Woude** called the meeting to order at 1:32 p.m.

**UNANIMOUS  
CONSENT  
REQUEST:** **Chairman Vander Woude** made a unanimous consent request to approve the amended agenda. There being no objection, the request was granted. The agenda was adopted.

**Chairman Vander Woude** turned the gavel over to **Vice Chairman Amador**.

**DOCKET NO.  
41-0101-1900:** **Joe Righello**, Environmental and Health Protection Division Administrator for Health District #1. In answer to some of the committees concerns from the last meeting, Mr. Righello explained Northern Idaho had a special set of rules for two reasons: The Spokane Valley-Rathdrum Prairie Aquifer and the Bunker Hill Superfund Site. Each of these unique situations has the ability to affect the public health of a large population in Idaho.

In answering why these rules are under purview of the Panhandle Health District, **Mr. Righello** said in 1998, **H 594** was enacted for the funding of the Panhandle Health District to administer a program for protection or remediation of the Spokane Valley-Rathdrum Prairie Aquifer. Mr. Righello explained that the reason this area was established as a sensitive resource aquifer was because local interest groups petitioned the EPA, which led to public hearings and research that culminated in the designation as a sensitive resource aquifer. The aquifer has been extensively studied to support the SSA designation. The federal government has designated it as a sole source aquifer, then the state, in 1997, established it as a state special resource aquifer, and at this point those two designations are still in effect.

**MOTION:** **Rep. Likely** made a motion to approve **Docket No. 41-0101-1900**.

In answer to concerns that people out of state have control over this aquifer, **Mr. Righello** answered that Panhandle Health District is only made up of people from the northern counties of Idaho. The aquifer protection district does have some representatives from Washington State, but they are only an advisory committee.

**SUBSTITUTE  
MOTION:** **Rep. Scott** made a substitute motion to reject **Docket No. 41-0101-1900**.

Some committee members had concerns that this is not a unique area. There are 70 identified aquifers in Idaho, 3 other sole source aquifers, yet this one is handled differently. Idaho statute states it is the intent of the legislature that standards and rules related to subsurface sewage systems, waste water treatment, and sewage systems and water quality be consistent state wide. The committee questioned what would happen if these rules went away.

**Mary Anne Nelson**, Surface and Wastewater Division Administrator for DEQ, answered that consistency in providing adequate protection for drinking water, might look different in different areas of Idaho. There is more to this chapter than just the aquifer, if this chapter were to go away with regards solely to ground water quality, there are systems in place, but DEQ cannot answer to overall impact.

**John Tippetts**, Director of the Department of Environmental Quality emphasized that there are issues other than ground water that are addressed in these rules.

**Michael McCurdy**, Waste Management and Remediation Division Administrator for DEQ, responded to question from the committee, that Bunker Hill superfund site cleanup is considered an incomplete remedy. All of the contamination has not been removed. In order to safeguard residence in the area that may come into contact with contaminated soil, an institutional control program has been implemented. The Panhandle Health District is notified anytime any excavation is happening to ensure that contaminated material is appropriately managed. They also provide training for contractors. These rules were put in place with the public expectation this area would be locally managed and not managed by the DEQ.

**Ms. Nelson** explained that DEQ would be the agency that could remove the sensitive source categorization, but there is currently not a policy in place as to the process. In order to begin this inquiry, DEQ would need to be petitioned to remove the designation, and then go through a public process to verify that it is approved by the public and the stakeholders. In answer to questions, Ms. Nelson expressed concerns that DEQ has limited resources of manpower and presence in this area, to duplicate what is already being done. Some committee members communicated apprehensions this area is being treated differently than other areas, and that it has become bloated government.

**Mr. Tippetts** commented that perhaps at some point in time the Health District might want to incorporate these rules into DEQ, but that would need to be a negotiated rules process. His opinion is if a person believes that government is best at the local level, than the Panhandle District should be kept, allowing them to address issues unique to their aquifer, instead of being treated uniformly by DEQ. In comment against the substitute motion, some committee members felt this is a model of local control, with 50 years of local citizens being engaged in the process.

**Mr. Righello**, made clear to the committee that the rules were written by the Panhandle Health District in coordination with DEQ, working hand in hand with them in any ground water studies or surveying of the aquifer. Some committee members expressed concern that these proposed rules lead to extra fees and are a model of regional government made up of unelected officials making decisions for the general public. Some committee members are worried that these rules, similar to ones in Washington state, will lead to the same outcomes which are stopping the drilling of wells and putting in septic tanks. It was stated that the rules aren't in line with the local county comprehensive plan. The committee discussed constituent input and acknowledged that no committee members are aware of any feedback from the community.

**ROLL CALL  
VOTE ON  
SUBSTITUTE  
MOTION:**

**Rep. Scott** requested a roll call vote on **Docket No. 41-0101-1900**. The **Substitute Motion failed by a vote of 6 AYE and 12 NAY**. Voting in favor of the motion: **Reps. Moon, Scott, Ehardt, Armstrong, Young, Vander Woude**. Voting in opposition to the motion: **Reps. Amador, Anderson, Anderst, Horman(Marshall), Furniss, Hartgen, Lickley, Raybould, Smith, Chew, Ellis, Mason**.

Some committee members requested the committee remember that standards and rules related to subsurface sewage systems, waste water treatment, and sewage systems and water quality are to be consistent state wide. The Panhandle is paying more in fees, sometimes double more than other areas, because of the proposed rules.

**ROLL CALL VOTE ON ORIGINAL MOTION:** **Rep. Scott** requested a roll call vote on **Docket No. 41-0101-1900. Motion carried by a vote of 12 AYE and 6 NAY. Voting in favor** of the motion: **Reps. Amador, Anderson, Anderst, Horman(Marshall), Furniss, Hartgen, Lickley, Raybould, Smith, Chew, Ellis, Mason. Voting in opposition** to the motion: **Reps. Moon, Scott, Ehardt, Armstrong, Young, Vander Woude.**

**Vice Chairman Amador** returned the gavel to **Chairman Vander Woude.**

**RS 27681:** **Rep. Raybould** presented **RS 27681**, facial recognition technology. The introduction of facial recognition technology in both the public and private sector creates opportunities to improve security and enhance public safety. However, this technology also carries potential risks for violations of privacy and civil liberties. Through this legislation, proposed safeguards will be implemented to balance the opportunities and the risks. **Rep. Raybould** did note that the fiscal note needs to be adjusted \$900 less.

**MOTION:** **Rep. Anderst** made a motion to introduce **RS 27681.**

In answer to committee questions, **Rep, Raybould** shared that she has been working with Microsoft on this piece of legislation. The Attorney Generals Office would be the primary enforcement mechanism for this law with the state of Idaho. After an assessment of the bill they determined they would need another deputy attorney general and a paralegal to work through any claims that would come in for this law. Committee members had concerns that this legislation could be opening pandora's box encouraging facial recognition, but others commented that facial recognition will be happening whether legislation acknowledges it or not and should be addressed. **Rep. Raybould** shared that in other states that have introduced similar legislation, Facebook has opted not to provide certain applications in those states that require facial recognition.

**VOTE ON MOTION:** **Rep. Anderst** made a motion to introduce **RS 27681. Motion carried by voice vote. Rep. Moon** requested to be recorded as voting **NAY.**

**Chairman Vander Woude** turned the gavel over to **Vice Chairman Amador.**

**RS 27705:** **Rep. Vander Woude** presented **RS 27705**, archery/muzzleloader permit fees for Disabled Veterans. This bill reduces the archery permit fee and the muzzleloader permit fee for Disabled American Veterans in alignment with the current hunting license discounted fee for Disabled American Veterans.

**MOTION:** **Rep. Anderson** made a motion to introduce **RS 27705. Motion carried by voice vote.**

**Vice Chairman Amador** returned the gavel to **Chairman Vander Woude.**

**Chairman Vander Woude** recognized **Matthew DeMordaunt** for all the work he has done for the committee.

**ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 2:42 p.m.

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Representative Amador, Chair

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Maggie Price, Secretary

AGENDA  
**HOUSE ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE**  
**1:30 P.M.**  
**Room EW41**  
**Tuesday, February 18, 2020**

SUBJECT	DESCRIPTION	PRESENTER
	Idaho Flood Management Program	Roger Batt, Treasure Valley Water Users Association Brian Patton, Idaho Department of Water Resources Mike Dimmick, Flood District 10 Brian Olmstead, Twin Falls Canal Company Paul Arrington, Idaho Water Users 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 Vander Woude	Rep Scott	Rep Raybould
Vice Chairman Amador	Rep Ehardt	Rep Young
Rep Anderson	Rep Armstrong	Rep Smith
Rep Anderst	Rep Furniss	Rep Chew
Rep Horman(Marshall)	Rep Hartgen	Rep Ellis
Rep Moon	Rep Lickley	Rep Mason

COMMITTEE SECRETARY

Maggie Price  
Room: EW16  
Phone: 332-1128  
email: [henv@house.idaho.gov](mailto:henv@house.idaho.gov)

MINUTES

## HOUSE ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE

**DATE:** Tuesday, February 18, 2020

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

**PLACE:** Room EW41

**MEMBERS:** Chairman Vander Woude, Vice Chairman Amador, Representatives Anderson, Anderst, Horman, Moon, Scott, Ehardt, Armstrong, Furniss, Hartgen, Young, Smith, Chew, Mason

**ABSENT/  
EXCUSED:** Representatives Lickley, Raybould, Ellis

**GUESTS:** Roger Batt, Treasure Valley Water Uses Assoc.; Matthew McBride; Brian Patton, IDWR; Mike Dimmick, Flood District #10; Paul Arrington

**Chairman Vander Woude** called the meeting to order at 1:32 p.m.

**MOTION:** **Rep. Hartgen** made a motion to approve the minutes of February 4, 6, and 10, 2020 meetings. **Motion carried by voice vote.**

**Chairman Vander Woude** introduced the committees new page **Ashlyn Young**.

**Roger Batt**, Treasure Valley Water Users Association introduced those who would present the Idaho's Flood Management Program. Mr. Batt thanked the legislature for the last two years of funding that has helped develop projects to prevent flooding in the future. The purpose of the presentation is to show what has been done with the grant money.

**Dan Steenson**, attorney with Sawtooth Law Offices, representing Flood Control District #10 and several other water agencies in the valley, reminded the committee that 2018 was the first year the legislature funded the Flood Management Program. Flooding is a recurring phenomenon, that needs to be addressed in an ongoing basis to prevent. During flooding years the concerns are: possible channel damage, overland flooding, damage to public infrastructure and private property. These concerns emphasize the need for flood risk reduction. Flood management require coordination and funding among local, state and federal agencies. There is no state flood management agency, and the few flood control districts in Idaho have inadequate funding.

**Brian Patton**, Idaho Department of Water Resources discussed how the Water Resource Board is managing program funds. In 2018 and 2019 one-time appropriations were made to encourage statewide competitive grants for flood-damaged stream channel repair, stream channel improvement, flood risk reduction, and flood prevention projects. There were 14 funded grant programs in 2018, and 10 funded in 2019. These were all 50% match required. Over those 2 years, 1.8 million dollars in grants lead to \$5.6 million dollars in flood management and flood prevention projects.

**John Simpson**, an attorney that represents Twin Falls Canal Company, discussed flood management in the Magic Valley. As a result of 2017 flooding, there is now the East Perrine Pone/Wetland Project, which mitigates flooding risk and damage. The project cost almost \$600,000, \$85,340 of it was grant money. The objective of this project was to retain and moderate flood flows, reduce flood damage to properties and remove 3,000 tons of sediment and nutrients from discharge to the Snake River. There are no flood control districts in the Magic Valley, the irrigation entities maintain flood control.

**Mike Dimmick**, from Flood District 10, emphasized concerns and work done by Flood District 10, which extends from Garden City to the freeway at Caldwell. Total money spent for flood prevention was almost \$1.6 million, of which almost \$540,000 was grant money. After the 2017 Duck Alley Pit Capture, it was realized that Flood District 10 needed to put more money into prevention. Components of District 10's plan includes data acquisition, processing and reporting, model development, documentation, a Boise River Management Plan, deployment and training. Mr. Dimmick described how 2-D hydraulic modeling is being used for the Boise River management, it is a significant tool in helping to plan for future flood prevention.

**Paul Arrington**, Idaho Water Users Association, shared how the IWRB Flood Management Grant Program has enabled local communities to meet long-standing flood management needs, has benefited State lands and water resources, and has provided multiple water management benefits. The legislature has funded the program with "one-time" appropriations. The 2018 and 2019 program accomplishments provide strong justification for continued legislative funding, preferably through "on-going" appropriation in IDWR's budget for IWRB.

In answer to committee questions, **Mr. Dimmick**, explained the process of working with FEMA. It has been complicated because FEMA has only been using 1-D mapping, and makes decisions based on those maps. FEMA is beginning to recognize the need to add 2-D modeling and using come 2-D modeling to support decisions.

**Mr. Steinsen** responded to committee questions that the hope is to have 2-D modeling in areas of concern, to show FEMA areas that do not need to be designated as flood plains. Another complicating factor is that FEMA has taken the position that when irrigation districts clean drains they need to get flood development permits. This includes conditions where material that is removed from the drains cannot be put on the banks, but needs to be hauled away. The districts are hoping that 2-D modeling will allow for that to be changed. The state is not providing funding for this, it is paid for by the flood districts and irrigation entities.

In response to committee concerns that there will be a repeat of 2017 flooding issues, **Mr. Steinsen** recognized that flooding will occur again, usually coming every 10 years. The intent of the modeling and the purpose of this funding program is to be better prepared to respond during flood events, to recover from them, to predict what will happen, and to design projects to mitigate flooding. In answer to future needs, Mr. Steinsen felt more money could be used to help prevention and future planning. These grants give access to money and encourages outside investments to be pro-active in flood prevention measures. The need for channel maintenance has been largely neglected in Idaho's history. **Mr. Arrington** specified the goal of IDWR is to have flood prevention funding incorporated into the Department of Water Resources Budget.

**Mr. Simpson** pointed out the 2017 flooding in the Magic Valley was caused by a rain on snow event. Funding created a greater awareness within this district that irrigation entities can do more. **Mr. Batt** did confirm the Joint Finance and Appropriations Committee has been asked for \$1 million to continue flood mitigation funding.

**ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 2:28 p.m.

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Representative Vander Woude  
Chair

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Maggie Price  
Secretary

**AMENDED AGENDA #1**  
**HOUSE ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE**  
**1:30 P.M.**  
**Room EW41**  
**Thursday, February 20, 2020**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>H 492</u></a>	Facial Recognition Technology	Rep. Britt Raybould
<a href="#"><u>H 452</u></a>	Right to Repair	Rep. Britt Raybould

***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 Vander Woude	Rep Scott	Rep Raybould
Vice Chairman Amador	Rep Ehardt	Rep Young
Rep Anderson	Rep Armstrong	Rep Smith
Rep Anderst	Rep Furniss	Rep Chew
Rep Horman	Rep Hartgen	Rep Ellis
Rep Moon	Rep Lickley	Rep Mason

COMMITTEE SECRETARY

Maggie Price  
Room: EW16  
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email: [henv@house.idaho.gov](mailto:henv@house.idaho.gov)

MINUTES

# HOUSE ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE

**DATE:** Thursday, February 20, 2020

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

**PLACE:** Room EW41

**MEMBERS:** Chairman Vander Woude, Vice Chairman Amador, Representatives Anderson, Anderst, Horman, Moon, Scott, Ehardt, Armstrong, Furniss, Hartgen, Lickley, Raybould, Young, Smith, Chew, Ellis, Mason

**ABSENT/  
EXCUSED:** None

**GUESTS:** Roger Batt, Eric Wareham, Western Equip. Dealers Assoc.; Jason Behrand, State Equip.; Amy Lombardo, Tesla Motors; Michael Swore, Swore Farms; Richard Durrant, Ag Producer; Pam Eaton, ID Retailers Assn.; David Taylor, Taylor Chevrolet; Caleb Pirc, ID Farm Bureau; Melinda Merrill, NW Grocery Assoc.; John Eaton, IACI; Ron Williams, ID Cable Broadband; Grant Petersen, Bronco Motors; Ken Ludwell, Tom Greene, Larry H Miller; Jason Kreizenbeck, Lobby Idaho

**Chairman Vander Woude** called the meeting to order at 1:34 p.m.

**H 492:** **Rep. Britt Raybould**, presented **H 492**. This legislation provides protection against the use of facial recognition technology in both the private and public sector. If a private entity uses this technology where the public can physically visit, they must obtain consent from an individual prior to enrolling a facial template in their service. For security purposes, it does not require consent, but there is an avenue to apply for redress. This bill also offers provisions for public feedback if the technology is adopted by the public sector, and requires a search warrant for ongoing facial recognition surveillance by public agencies.

**Rep. Raybould** clarified mall security cannot share data with other stores, just law enforcement, unless an agreement is already in place to provide for sharing. This bill was inspired by legislation from Washington State, supported by Microsoft. Minors are excluded from this process because they cannot provide consent. Rep. Raybould shared that existing algorithms are not able to differentiate some ethnicities and gender, this factor is recognized in the bill. She explained that prematurely banning facial recognition took away reasonable deployment of this technology for security purposes, but emphasized there needs to be a policy in place to protect the public. This bill does not capture businesses on the internet.

Some on the committee expressed concern that citizens visiting from other parts of the state will not have input in accountability when they visit more urban areas of Idaho. It was also worried there isn't enough data to justify 11 pages of new code.

Those speaking **in opposition** were **Pam Eaton**, President of the Idaho Retailers Association, and **Melinda Merrill**, Representative of the Northwest Grocery Assoc. They were of the opinion that the issue is too complicated to be introduced without input from the public. Some of the concerns were: 'appropriate notice' and 'consent from an individual', and how soon retailers must move data to a separate database were not defined well. They also worried it infringed on retailers ability to have the best security available. It was voiced that retailers supported the concept of protecting peoples rights to privacy, but felt this bill was legislating against an unknown threat. In answer to committee questions, facial recognition technology is not being used much in Idaho currently, and those opposed are willing to work with the bill sponsor to strengthen the wording in this bill.

**MOTION:** **Rep. Young** made a motion to **HOLD H 492** in committee.

The committee commended **Rep. Raybould** for bringing this bill forward and being proactive, and encouraged her to meet with concerned stakeholders to build a future bill. It was also asked that more data be gathered, including meeting with law enforcement for input.

**VOTE ON MOTION:** **Chairman Vander Woude** called for a vote on the motion to **HOLD H 492** in committee. **Motion carried by voice vote.**

**H 452:** **Rep. Britt Raybould**, presented **H 452**, which establishes manufacturers (OEMs) provide consumers and independent repair businesses equal access to repair documentation, diagnostics, tools, and service parts as the authorized repair providers. Protections remain for copyrights, patents, and trade secrets, including no alteration or pirating of intellectual property. The federal copyright office has exemptions that allow consumers to access much of the information that is made available in this bill, but must be renewed every 3 years. It addresses approved activities by owners, but does not resolve access to the tools and information to do so. It was explained that there are some manufacturers who provide access to tools and information on their own volition, but both the access from copyright exemptions and manufacturer access can be changed or ended at any time. This legislation will end that uncertainty.

**Rep. Lickley** declared **Rule 80**.

In answer to committee concerns **Rep. Raybould** explained that there are concerns about intellectual property, and also concerns about creating a patchwork effect with different laws in different states. She reflected that ideally this would be a national law, the hope is if states enact these kinds of laws, it will be addressed at the national level. **Rep. Raybould** responded to the committee, that the market has more specificity between different manufacturers, and more custom tools needed to work on a product, which is locking consumers out of taking care of their own property.

Those speaking **in support** were **Michael Swore**, farmer; **Richard Durrant**, Producer in Ada County, Farm Bureau; **Caleb Pirc**, Idaho Farm Bureau. They emphasized that legislation has always been about the right to repair, and not the right to modify. Leaving producers sitting, while equipment is backed up in authorized shops is seriously hurting production. Their desire is solely for information and parts readily available for producers to do small repairs during peak seasons of production. The copyright exemptions if expired, leave farmers potentially facing prosecution for infringing on intellectual property rights if they attempt to fix their own equipment. They believed that the price component must be included in the bill so that manufacturers don't effectively price property owners out of the ability to afford to repair their own equipment.

Some points they expressly supported: equipment owners and independent equipment repair facilities should be able to look up diagnostic codes, to have and keep the right to do general maintenance and daily servicing, and to have access to repair and technical manuals. It was emphasized that they do not want trade secrets, they simply want to repair the equipment they own.

Clarifying to the committee, this legislation allows an industry to develop their own memorandum of understanding, which would supersede the requirements of this law. There is nowhere in the bill that a memorandum has to be at the national level. Committee questioned where the bankers weighed in on the right to repair as lienholders, this question could not be answered. It was acknowledged that there are some dealers that give diagnostics and help for self repair, but this is not universally the case. They believed that this access shows that the information is not proprietary. **Caleb Pirc**, acknowledged that Farm Bureau has not drafted legislation, but have passed policy of what they would like to see in legislation.

Those speaking in opposition were **Roger Batt**, **Eric Wareham**, VP of Governr Affairs, Western Equip Dealers Assn.; **Jason Behrand**, Exec. VP of Stokes Equip.; **David Taylor**, Toyota Chevrolet; **John Eaton**, VP of Idaho Commerce and Industry; **Ron Williams**, Idaho Cable Broadband; **Grant Peterson Jr.**, Bronco Motors Dealerships, IADA, and Chair to Dealer Advisory Board for the Governor; **Tom Green**, General Manager for Larry H. Miller, IADA, Dealer Counsel Rep. for Chrysler in Idaho.

They were of the opinion this legislation violated many contracts between manufacturers and dealers and it was pointed out that diagnostic tools are proprietary. There were concerns about the restrictions of how the pricing of tools should be met. It was also believed that requiring warranties to be honored even if non-standard parts were used, and the leaving the burden of proof on the manufacturer, was an unfair burden on manufacturers. Worries were expressed that copyright law does not allow states to contradict federal laws in their legislation. As an industry it was expressed that manufacturers and dealers have made a commitment to make more manuals and diagnostic tools available and have reached out to ask for more input, and have not received any. Many had serious concerns this legislation opened up the opportunity for modifications of their products and not just repair.

Some expressed concern that this bill was not about the right to repair, but about maximizing uptime for producers. They believed that there were two main issues that would support producers better than this bill; workforce development and rural broadband. The worry was expressed that this bill creates a perception that Idaho is hostile to manufacturers. In answer to committee questions opposers felt that this legislation was directed to farm equipment, but the ramifications of it's impact on other equipment was not being acknowledged. **Mr. Behrand** answered committees inquiries, that Idaho is the third largest leasing company in John Deeres network, about 65-70% of vehicles are leased. In this case, the consumer would be taking their vehicle to an independent shop, which might not be in the best interest of the lienholder.

**MOTION:** **Rep. Furniss** made a motion to send **H 452** to General Orders.

**SUBSTITUTE MOTION:** **Rep. Scott** made a substitute motion to **HOLD H 452** in committee.

**ROLL CALL VOTE ON SUBSTITUTE MOTION:** Roll call was requested on **H 452**. **Motion failed by a vote of 7 AYE, 9 NAY, 2 Absent/Excused. Voting in favor** of the substitute motion: **Reps. Horman, Moon, Scott, Ehardt, Armstrong, Young, Smith. Voting in opposition** to the substitute motion: **Reps. Anderson, Furniss, Hartgen, Lickley, Raybould, Chew, Ellis, Mason, Chairman Vander Woude. Reps. Amador, Anderst were absent/excused.**

**VOTE ON MOTION:** **Chairman Vander Woude** called for a vote on the motion to send **H 452** to General Orders. **Motion carried by voice vote. Rep. Raybould** will sponsor the bill on the floor.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 4:33 p.m.

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Representative Vander Woude  
Chair

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Maggie Price  
Secretary

**AMENDED AGENDA #1**  
**HOUSE ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE**  
**1:30 P.M. or Upon Adjournment**  
**Room EW41**  
**Wednesday, March 04, 2020**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
	Cloud 101, An Executive Overview	Bruce Burns, Senior Manager DLZP Group
	US Ecology	Terry Geis, Vice President of Western Region Operations for US Ecology

COMMITTEE MEMBERS

Chairman Vander Woude	Rep Scott	Rep Raybould(Erickson)
Vice Chairman Amador	Rep Ehardt	Rep Young
Rep Anderson	Rep Armstrong	Rep Smith
Rep Anderst	Rep Furniss	Rep Chew
Rep Horman	Rep Hartgen	Rep Ellis
Rep Moon	Rep Lickley	Rep Mason

COMMITTEE SECRETARY

Maggie Price  
Room: EW16  
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email: [henv@house.idaho.gov](mailto:henv@house.idaho.gov)

MINUTES

## HOUSE ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE

**DATE:** Wednesday, March 04, 2020

**TIME:** 1:30 PM or Upon Adjournment

**PLACE:** Room EW41

**MEMBERS:** Chairman Vander Woude, Vice Chairman Amador, Representatives Anderst, Horman, Moon, Armstrong, Furniss, Hartgen, Raybould, Young, Chew, Ellis

**ABSENT/  
EXCUSED:** Representatives Anderson, Scott, Ehardt, Lickley, Smith, Mason,

**GUESTS:** Natalie Creed, Daryl Sawyer, Idaho DEQ

**Chairman Vander Woude** called the meeting to order at 2:56 p.m.

**MOTION:** **Rep. Ellis** made a motion to approve the minutes of the February 18, 2020 and February 20, 2020 meetings. **Motion carried by voice vote.**

**Bruce Burns**, Senior Manager of DLZP Group gave an executive overview of the Cloud. Cloud computing refers to the on-demand delivery of IT resources and applications via the Internet with pay-as-you-go pricing. The Cloud is located in huge warehouses, filled with hundreds of thousands of physical servers to provide on-demand IT resources to commercial and governmental customers. 41% of the public cloud market is held by Amazon Web Services. Organizations use the Cloud because it's faster, lower cost, better availability, security and support. DLZP Group is an 8(a) SBA certified, woman- and minority- owned company with a focus on implementing, migrating, hosting, and managing Business Solutions on Amazon Web Services. The State of Idaho has contracted with DLZP Group to offer services for Idaho agencies, institutions, departments, and eligible public agencies at the agencies discretion.

In answer to committee questions, **Mr. Burns** verified that information saved in the Cloud is backed up in multiple ways, as of yet, nothing has ever been lost. He explained that data privacy is maintained in the Cloud on a customer level, customers have the only access to their own data. But he clarified that there is no data privacy when consumers contract with outside applications like Netflix, Amazon, Uber, and others, the data is controlled by those entities. Mr. Burns did confirm that data saved in a Cloud at one time, and then deleted by the consumer, might not be deleted by the vender. It is up to the vender/company, Apple, Samsung, or others to have a policy to delete or continue to store data the consumer deleted on their phone or computer.

**Roy Eiguren** introduced **Terry Geis**, Vice President of Western Operations for US Ecology presented before the committee. US Ecology has 3400 team members, and 192 employees in Idaho. The companies goal is to provide safe and compliant solutions to protect human health and the environment. US Ecology provides services for treatment, storage and disposal of waste. Mr. Geis shared that the company is usually spending \$1-2 million dollars per year in Idaho.

In November 2018 there was an explosion incident. Most structures have been repaired or replaced, but some investigations are still ongoing. **Mr. Geis** shared how corrective actions have been taken to prevent similar incidents in the future. There was also a landfill fire in December 2019. Fire started in an area where Household Hazardous Waste had been placed. There were no hazards to the community, and the fire was extinguished. Significant corrective actions to mitigate fire potential from similar types of waste has been made.

In June 2019, US Ecology and NRC Group Holdings merged. The combination expands both companies footprint, enhances capabilities to better serve customers and results in an improved financial profile and industry leading position.

**ADJOURN:**

There being no further business to come before the committee, the meeting adjourned at 4:00 p.m.

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Representative Vander Woude  
Chair

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Maggie Price  
Secretary

**AMENDED AGENDA #1**  
**HOUSE ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE**  
**2:00 P.M.**  
**Room EW41**  
**Monday, March 16, 2020**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
	Approval of Minutes	
<a href="#"><u>RS28010</u></a>	House Concurrent Resolution for Rules	

***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 Vander Woude	Rep Scott	Rep Raybould
Vice Chairman Amador	Rep Ehardt	Rep Young
Rep Anderson	Rep Armstrong	Rep Smith
Rep Anderst	Rep Furniss	Rep Chew
Rep Horman	Rep Hartgen	Rep Ellis
Rep Moon	Rep Lickley	Rep Mason

COMMITTEE SECRETARY

Maggie Price  
Room: EW16  
Phone: 332-1128  
email: [henv@house.idaho.gov](mailto:henv@house.idaho.gov)

MINUTES

## HOUSE ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE

**DATE:** Monday, March 16, 2020

**TIME:** 1:30 PM or Upon Adjournment

**PLACE:** Room EW41

**MEMBERS:** Chairman Vander Woude, Vice Chairman Amador, Representatives Anderson, Horman, Moon, Scott, Ehardt, Armstrong, Furniss, Hartgen, Lickley, Raybould, Smith, Chew, Ellis

**ABSENT/  
EXCUSED:** Representatives Anderst, Young, Mason

**GUESTS:** None

**Chairman Vander Woude** called the meeting to order at 2:02 p.m.

**MOTION:** **Rep. Hartgen** made a motion to approve the minutes of the March 4, 2020 meeting. **Motion carried by voice vote.**

**RS 28010:** **Chairman Vander Woude** presented **RS 28010**, House Concurrent Resolution for Rules.

**MOTION:** **Rep. Amador** made a motion to introduce **RS 28010** and recommended it be sent directly to the Second Reading Calendar. **Motion carried by voice vote.** **Chairman Vander Woude** will sponsor the bill on the floor.

**Chairman Vander Woude** thanked Committee Page, **Ashlyn Young** for her work during the session. Chairman Vander Woude expressed his appreciation to the Committee members for their support of the committee.

**ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 2:09 p.m.

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Representative Vander Woude  
Chair

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Maggie Price  
Secretary