

MINUTES
HOUSE RESOURCES & CONSERVATION COMMITTEE

DATE: Tuesday, February 07, 2023

TIME: 1:30 P.M.

PLACE: Room EW40

MEMBERS: Chairman Mendive, Vice Chairman Shepherd, Representatives Boyle, Vander Woude, Blanksma, Manwaring, Yamamoto, Raybould, Durrant, Hill, Mickelsen, Nelsen, Pickett, Raymond, Tanner, Burns, Necochea, Galaviz

**ABSENT/
EXCUSED:** None

GUESTS: The sign-in sheet will be retained in the committee secretary's office; following the end of session the sign-in sheet will be filed with the minutes in the Legislative Library.

Chairman Mendive called the meeting to order at 1:30 P.M.

MOTION: **Rep. Durrant** made a motion to approve the minutes of January 31, 2023, and February 1, 2023. **Motion carried by voice vote.**

RS 29924C2: **Chairman Mendive** welcomed **Rep. Redman** to introduce RS 29924C2. Rep. Redman described the RS, which is intended to define the Department of Parks and Recreation's responsibility and liability for loss, damage, and injury in Idaho's state parks.

MOTION: **Rep. Raybould** made a motion to introduce **RS 29924C2. Motion carried by voice vote.**

Chairman Mendive turned the gavel over to **Vice Chairman Shepherd** for consideration of rules.

Vice Chairman Shepherd welcomed **Mat Weaver**, Deputy Director of the Department of Water Resources, to present rules. Mr. Weaver outlined the five rules to be presented, and introduced several subject matter experts to help explain the rules.

**DOCKET NO.
37-0203-2201:** **Shelly Keen**, Water Allocation Bureau Chief for the Department of Water Resources, explained Fee Rule **Docket No. 37-0203-2201**, which covers water supply bank rules. He briefly described the bank, a voluntary exchange of water rights to supplement new and beneficial uses, using the Water Resource Board's water supply bank and local rental pools, and the changes and clarifications made to the program's rules. He described the rule-making and public comment procedure, and stressed that the Department has not modified or added any fees in this rule.

In response to questions from the committee, **Mr. Keen** deferred to **Mary Condon**, Water Supply Bank Coordinator, who explained the source of some of the changes to the text of the rule to reflect Idaho Code and input from stakeholders. She also addressed concerns about renting water rights from one basin to another.

Mr. Keen responded to a question about the rule potentially allowing rentals of water out of state, which would require additional qualifications for the Department of Water Resources to be able to approve diversions outside of Idaho. He also clarified some of the structure of the supply bank's governance by the Water Resource Board and by the Director of the Department of Water Resources.

In response to a question from the committee, **Ms. Condon** explained a rule change that would change the process for water users to withdraw their water from the bank after an executed contract. The committee also asked about a section that changed language to allow the bank to access water rights that "may have" been abandoned, rather than just those that "had" been abandoned, a process which Ms. Condon further explained.

MOTION: **Rep. Blanksma** made a motion to reject **Docket No. 37-0203-2201** in total.

SUBSTITUTE MOTION: **Rep. Raybould** made a substitute motion to hold the docket until time certain, February 15, 2022.

In response to committee questions about the impact of potentially repealing the existing rules without replacing them, **Josh Scholer**, Bureau Chief for Regulatory and Legislative Affairs at the Division of Financial Management, explained the process and consequences of rejecting the rule. He stated that the rule would revert to the previous, existing version of the rule, if it was a final rule, and that if the rule would evaporate if it was a temporary rule.

MOTION WITHDRAWN: **Rep. Raybould** asked unanimous consent to withdraw the substitute motion. There being no objection, the motion was withdrawn.

ROLL CALL VOTE ON ORIGINAL MOTION: Roll call vote was requested. **Original motion carried by a vote of 16 AYE, 2 NAY. Voting in favor of the motion: Chairman Mendive, Vice Chairman Shepherd, Reps. Boyle, Vander Woude, Blanksma, Manwaring, Yamamoto, Raybould, Durrant, Hill, Mickelsen, Nelsen, Raymond, Tanner, Burns, and Galaviz. Voting in opposition to the motion: Reps. Pickett and Necochea.**

DOCKET NO. 37-0305-2201: **Deputy Director Weaver** explained the pending rule, which covers mine tailings impoundment structures, an aspect of dam safety rules that is under a separate code section than other dam safety rules. He described that while the agency had considered combining this rule with other dam safety rules, due to delays until late in the process they kept the two separate and only made two minor changes.

In response to questions from the committee, **Deputy Director Weaver** clarified the change in rules for inspection timings, from a blanket two years to unique timelines based on each dam's characteristics and hazard class.

Jonathan Oppenheimer, external relations director for the Idaho Conservation League, testified **in opposition** to the docket on the grounds that it gives too much discretion to the Director of the Department of Water Resources to regulate inspections.

MOTION: **Rep. Raymond** made a motion to approve **Docket No. 37-0305-2201. Motion carried by voice vote. Reps. Necochea and Galaviz** requested to be recorded as voting NAY.

DOCKET NO. 37-0306-2201: **Deputy Director Weaver** described the rule set, which establishes safety standards for all new and existing dam construction, maintenance, and repair. He described the changes made in the rules, which modified some specifications and analysis requirements.

Mr. Oppenheimer testified **in opposition** to the docket on the grounds that the increase in discretion for the Director of the Department of Water Resources on the schedule for safety inspections for dams.

MOTION: **Rep. Boyle** made a motion to approve **Docket No. 37-0306-2201. Motion carried by voice vote. Reps. Necochea and Galaviz** requested to be recorded as voting NAY.

MOTION: **Rep. Boyle** moved the committee adjourn. **Motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 3:02 P.M.

Representative Mendive
Chair

Cameron Douglas
Secretary