

MINUTES  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**

**DATE:** Monday, January 29, 2024

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

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman Burtenshaw, Vice Chairman Adams, Senators Guthrie, Den Hartog, Harris, Okuniewicz, Schroeder, Semmelroth, and Taylor

**ABSENT/ EXCUSED:** None

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

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

**RS 30973C1** **Relating to Navigational Encroachments. Senator Herndon** stated this legislation added a clarifying definition to Idaho Code § 58-1312 concerning the 1974 Lake Protection Act. **Senator Herndon** explained the 1974 Lake Protection Act was amended by the legislature in 2006 to allow owners to repair and maintain encroachments on the lake bed that existed prior to 1974 without having to obtain a new permit and pay for the permitting and application process, however, the definition of modified was not included in the 2006 amendment. **RS 30973C1** added the definition of the phrase "has not been modified" to state that the overall footprint of the encroachment on the lake bed had not changed in dimension, orientation, height or location. He cited the minutes from the 2006 House Resources and Conservation Committee and Senate Resources and Environment meetings which in his opinion made clear the intention of the legislature in 2006. (Attachment 1)

**DISCUSSION:** In response to a question from Senator Harris, **Senator Herndon** stated he did not know if there was a reason why this definition was not included in the 2006 legislation.

**MOTION:** **Senator Schroeder** moved that **RS 30973C1** be sent to print. **Vice Chairman Adams** seconded the motion. The motion carried by **voice vote**.

**PASSED THE GAVEL:** Chairman Burtenshaw passed the gavel to Vice Chairman Adams.

**DOCKET NO. 37-0308-2301** **Water Appropriation Rules (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule. Angela Hansen**, Water Allocations Bureau Chief, Idaho Department of Water Resources (IDWR), referred the Committee to the 2024 Resources and Environment Committee Pending Rules Review Book on the Idaho State Legislature website. She noted the notice of rulemaking started on page 203, the clean version of the rule text was on pages 205 through 223, and a version showing changes to the previous rule was on pages 224 through 254. She explained the Water Appropriation Rules set the procedures for obtaining a permit to divert and use unappropriated public waters or a permit for a reallocation of trust water within the Swan Falls Trust Water Area, and govern the filing and processing of applications for permit to appropriate water. This rule had not changed significantly since 1986.

**Ms. Hansen** stated there was moderate public participation in commenting

on changes to this rule, with the majority of participation by those in the legal profession to clarify legal principles, such as how local public interests should be evaluated. Some of the significant changes were:

- updating the language related to the Swan Falls Trust water area based on relevant legal decisions that occurred since 1986
- changes to the application requirements
- removal of obsolete procedures for reprocessing permits
- updating and streamlining processing procedures
- the addition of review standards for statutory criteria added since 1986
- streamlining and clarifying moratorium procedures
- removing static map appendices that were no longer needed within the rules

IDWR did not modify any fees in this rule.

**DISCUSSION:** **Senator Harris** asked about the definition of "water right held in trust" in section 010.21 on page 226 and if there was any opposition to the changes in this section. **Ms. Hanson** responded that those particular water rights were the water rights held by the State in trust and were litigated during the Snake River Basin adjudication, so they were not a source of opposition during the rulemaking.

**MOTION:** **Senator Harris** moved to approve **Docket No. 37-0308-2301**. **Senator Schroeder** seconded the motion. The motion carried by **voice vote**.

**PASSED THE GAVEL:** Vice Chairman Adams passed the gavel to Chairman Burtenshaw.

**FISH AND GAME REAPPOINTMENT VOTE:** **Senator Guthrie** moved to send the Idaho Fish and Game Reappointment of Brad Compton to the Idaho Outfitters and Guides Licensing Board to the floor with the recommendation that he be confirmed by the Senate. **Senator Okuniewicz** seconded the motion. The motion carried by **voice vote**.

**GUBERNATORIAL REAPPOINTMENT VOTE:** **Senator Harris** moved to send the Gubernatorial Reappointment of Don Ebert to the Idaho Fish and Game Commission to the floor with the recommendation that he be confirmed by the Senate. **Senator Schroeder** seconded the motion. The motion carried by **voice vote**.

**GUBERNATORIAL REAPPOINTMENT:** **Committee Consideration of the Gubernatorial Reappointment of Edward Schriever of Boise, Idaho to the Northwest Power and Conservation Council** for a term commencing January 15, 2024 and expiring January 15, 2027. **Mr. Schriever** provided some history on the establishment of the Council and reviewed the Council's responsibilities and expected future challenges. The Council was responsible for developing a power plan to ensure the northwest region had adequate, reliable, and affordable electricity and for developing a fish and wildlife program to mitigate the effects of the region's hydropower development and operation. This power plan directed the operations of Bonneville Power, which generated power from the federal hydroelectric dams in the Columbia Basin and was the single largest provider of electrical energy in the region.

**DISCUSSION:** **Senator Okuniewicz** asked how the Council might increase capacity and what Mr. Schriever's position was on the breaching of dams. **Mr. Schriever** explained that Bonneville Power was not the only electricity supplier in the region, but was the only one directed by the Council. He added that increased capacity for Bonneville Power would likely come from other sources than hydropower, such as wind, solar, hydrogen, and nuclear. He stated he was on the Council to represent Idaho's policy positions, including that Idaho supported the continued operations of the four lower Snake River dams. **Senator Okuniewicz** asked how much input or authority Mr. Schriever had in keeping power generated in Idaho in Idaho, and available at a reasonable cost. **Mr. Schriever** reviewed the limited authority of the Council and explained that the federal hydropower system delivered more energy from outside of Idaho into Idaho than vice versa, so Idaho was a net importer of hydropower generated at these federal facilities.

**PASSED THE GAVEL:** Chairman Burtenshaw passed the gavel to Vice Chairman Adams.

**PRESENTATION:** **Idaho Department of Water Resources Rulemaking Update Erik Boe**, Ground Water Protection Section Manager, IDWR, presented a review of IDWR's rulemaking efforts in 2023 and projected efforts for 2024. He explained they were scheduled to negotiate two rules in 2023, the water appropriation rules presented earlier in this meeting, and Rule 37-0303, the rules and minimum standards for the construction and use of injection wells. The rulemaking process for Rule 37-0303 was extended to 2024 due to concerns regarding injecting recycled wastewater into Idaho's drinking water aquifers. IDWR was also beginning negotiated rulemaking for three additional chapters, Rule 37-0301, adjudication rules, Rule 37-0302, beneficial use examination rules, and Rule 37-0309, well construction standard rules.

**PRESENTATION:** **Idaho Rangeland Resources Commission Gretchen Hyde**, Director, Idaho Rangeland Resources Commission (IRRC) provided an overview of the background, funding, goals, and activities of the IRRC over the previous year. (Attachment 2)

**DISCUSSION:** In response to a question from Senator Adams, **Ms. Hyde** clarified that sales of IRRC's licence plates totaled \$80,000 for one year and sales had been growing consistently over the last few years. **Senator Adams** asked if IRRC's informational activities to address conflicts between rangeland users had resolved the issue. **Ms. Hyde** stated they had not. She added that conflicts impacted livestock producers the most and she would like to see more collaboration and more funding going towards educating new rangeland users. In response to a question from Senator Adams, **Ms. Hyde** stated the target audience for IRRC's Four Seasons with Sage materials was fifth graders.

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Senator Burtenshaw  
Chair

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Shelly Johnson  
Secretary