

MINUTES  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**

- DATE:** Wednesday, March 11, 2020
- TIME:** 1:30pm or Upon Adjournment
- PLACE:** Room EW40
- MEMBERS:** Chairman Gibbs, Vice Chairman Gestrin, Representative(s) Moyle, Shepherd, Wood, Boyle, Vander Woude, Mendive, Kauffman, Blanksma, Addis, Lickley, Moon, Raybould, Rubel, Toone, Mason, Necochea
- ABSENT/  
EXCUSED:** Representative(s) Moyle, Shepherd, Mason
- GUESTS:** Norm Semanko, Parsons Behle; Jim Caswell, Roadless Commission; Paul Arrington, Idaho Water Users Association; Steve Thomas, Idaho Forest Group; Lynn Tominaga, Idaho Ground Water Association; Andy Brunelle, U.S. Forest Service; Dustin Miller, Idaho Department of Lands
- Chairman Gibbs** called the meeting to order at 1:30pm.
- MOTION:** **Rep. Kauffman** made a motion to approve the minutes of the March 3, 2020 meeting. **Motion carried by voice vote.**
- H 615:** **Rep. Raybould**, District 34, stated **H 615** accomplishes two specific objectives. She explained, Idaho water law, as it relates to forfeiture, has been thoroughly addressed in statute by the Courts and the Legislature, but because a water right is considered real property, the Courts are hesitant to declare a forfeiture without clear and compelling evidence. **H 615** will codify two long-standing legal principles that protect personal property rights relating to the forfeiture of water rights. The first principle states, if there is an assertion that a water right has been forfeited, the burden of proof must have clear and compelling evidence. The second principle is found in the nonuse portion as it relates to forfeiture and states, no water right shall be forfeited for nonuse if, after the five year period of nonuse, the use is resumed prior to any claim of right by a third party. Rep. Raybould explained this closes any loopholes that would create a situation where a property right was in jeopardy of being forfeited.
- In response to a question regarding what clear and compelling evidence is, **Rep. Raybould** yielded the podium to **Paul Arrington**, Executive Director, Idaho Water Users Association. Mr. Arrington stated clear and compelling evidence is a very high burden of proof standard within the court system. He continued, because Idaho defines a water right as a property right, the burden of proof is more than 50% and more than a probability; clear and compelling evidence is the highest standard and should leave no doubt a water right should be forfeited. He indicated an example might be aerial photographs documenting non use over time. He also pointed out there are exceptions to forfeitures and they are found in **Section 42-223, Idaho Code.**
- Chairman Gibbs** requested the record reflect no one came forward to testify.
- MOTION:** **Rep. Blanksma** made a motion to send **H 615** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Raybould** will sponsor the bill on the floor.

**S 1368:** **Rep. Boyle**, District 9, stated in 2008 Idaho successfully adopted an Idaho-specific Roadless Rule, which was distinct from the Clinton Administration's one-size-fits-all rule, known as the 2001 Roadless Rule. As a result, the U.S. Forest Service must consult with the Idaho Roadless Rule Commission prior to implementing any projects within a roadless area. She explained, **S 1368** amends **Section 67-826, Idaho Code** to codify the Commission's role as a partner with the U.S. Forest Service during the development of projects and policies related to Idaho's inventoried roadless areas. **S 1368** also sets terms for Commission members and reduces the number of Commissioners from 15 to a range of nine to twelve, subject to the discretion of the Governor.

**Steve Thomas**, Attorney, Idaho Forest Group, stood **in support** of **S 1368**.

**Chairman Gibbs** requested the record reflect no one else came forward to testify.

**MOTION:** **Rep. Blanksma** made a motion to send **S 1368** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Boyle** will sponsor the bill on the floor.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 1:41pm.

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Representative Gibbs  
Chair

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Tracey McDonnell  
Secretary