

**AMENDED AGENDA #1**  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**  
**1:30 P.M.**  
**Room EW40**  
**Tuesday, January 15, 2019**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
	Organizational Meeting	Chairman Gibbs
	Rules Review	Dennis Stevenson, Department of Administration and Eric Milstead, Legislative Services Office
Docket No. <a href="#">26-0120-1701</a>	Rules Governing the Administration of Park and Recreation Areas and Facilities	Anna Canning, Idaho Department of Parks and Recreation
Docket No. <a href="#">26-0123-1701</a>	Rules Governing Filming Within Idaho State Parks	David White, Idaho Department of Parks and Recreation
Docket No. <a href="#">26-0110-1701</a>	Rules Governing the Administration of Temporary Permits on Lands Owned by the Idaho Department of Parks and Recreation	David White, Idaho Department of Parks and Recreation
Docket No. <a href="#">25-0101-1802</a>	Rules of the Idaho Outfitters and Guides Licensing Board	Lori Thomason, Outfitter Guide Licensing Board

***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 Gibbs	Rep Vander Woude	Rep Moon
Vice Chairman Gestrin	Rep Mendive	Rep Raybould
Rep Moyle	Rep Kauffman	Rep Erpelding
Rep Shepherd	Rep Blanksma	Rep Rubel
Rep Wood	Rep Addis	Rep Mason
Rep Boyle	Rep Lickley	Rep Toone

COMMITTEE SECRETARY

Tracey McDonnell  
Room: EW62  
Phone: 332-1136  
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MINUTES  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**

**DATE:** Tuesday, January 15, 2019

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

**PLACE:** Room EW40

**MEMBERS:** Chairman Gibbs, Vice Chairman Gestrin, Representatives Moyle, Shepherd, Wood, Boyle, Vander Woude, Mendive, Kauffman, Blanksma, Addis, Lickley, Moon, Raybould, Erpelding, Rubel, Mason, Toone

**ABSENT/  
EXCUSED:** None

**GUESTS:** Anna Canning and David White, Idaho Department of Parks and Recreation; Sharon Kiefer, Idaho Department of Fish and Game; Grant Simonds, Idaho Outfitters and Guides Association; Joan Callahan, Idaho Outfitters and Guides Licensing Board; John Watts, Boulder Creek and Scotlyn Creek Outfitters; Jay Shaw, Administrative Rules; Douglas Jones, Jones and Associates

**Chairman Gibbs** called the meeting to order at 1:30pm.

**Chairman Gibbs** welcomed everyone to the committee and had everyone introduce themselves including the committee Page and Secretary. He also advised the committee the Administrative Rules would be done by the whole committee led by **Vice Chairman Gestrin**.

**Chairman Gibbs** announced that **Reps. Kauffman and Toone** will be the committee's proofreaders this Legislative Session and thanked them.

**Eric Milstead**, Director, Legislative Services Office, provided an update on the one change this year in the Rules process. He stated if a committee votes to reject a rule, **Ryan Bush**, Legislative Services Office, will draft a Concurrent Resolution rejecting that rule and then personally deliver it to the chairman, making himself available to answer any questions the chairman might have on next steps.

**Dennis Stevenson**, Rules Coordinator, Department of Administration, gave a brief presentation about the Administrative Rules process. He described the results of adopting or rejecting Pending, Pending Fee, and Temporary Rules and the effective dates.

**DOCKET NO. 26-0120-1701:** **Anna Canning**, Management Services Administrator, Idaho Department of Parks and Recreation, stated this pending rule is to clear up a loophole regarding when they can assess a surcharge for parking violations. The proposed language will state "in addition to paying the proper fee—one must also display proof of having paid." Negotiated rule making was conducted and three public meetings were held. No comments were received. Ms. Canning stated there is no expected fiscal impact as this proposed rule clarifies the current Department enforcement practice.

**MOTION:** **Rep. Erpelding** made a motion to approve **Docket No. 26-0120-1701. Motion carried by voice vote.**

**DOCKET NO.  
26-0123-1701:**

**David White**, North Region Manager, Idaho Department of Parks and Recreation, stated the Department is authorized to manage the production of commercial filming within state parks. The current rule was last updated in 1993, and is now too restrictive to accommodate the changing needs of their visitors and has become difficult for park managers to consistently administer. The original intent of the rule was to address the need to manage commercial filming occurring within state parks, but with most people using high quality hand-held recording devices, the creation of commercial quality images is no longer just in the hands of professionals. He stated social media has created many outlets for the general public to display still and video images, both for profit and non-profit platforms, and the Department believes there is value in this free promotion of state parks. This proposed rule will better define commercial filming and exempt filming to improve management of commercial filming, which may potentially impact park resources, the visitor experience, or create a significant revenue opportunity. Filming for news purposes is considered exempt from permitting requirements.

In response to a question regarding where nonprofit organizations fall under this rule, **Mr. White** responded they are exempt because they are not generating revenue due to their nonprofit status.

In response to questions regarding the permitting process, **Mr. White** explained the \$100 fee is an application fee for the permit and they have no plans to raise that amount. He stated each permit issued is unique to the permittee's needs, for example where in the park they want to film, how much time is needed to film and how often they need to be in the park. If the request is from a commercial entity, then they negotiate a fair rate of return based on anticipated revenue generated from that film and the impacts of filming in the park.

**Ryan Davidson**, representing self, spoke **in support** of this proposed rule.

**MOTION:**

**Rep. Addis** made a motion to approve **Docket No. 26-0123-1701. Motion carried by voice vote. Reps. Boyle and Moon** requested to be recorded as voting **NAY**.

**DOCKET NO.  
26-0110-1701:**

**David White**, North Region Manager, Idaho Department of Parks and Recreation, stated the Department has the authority to issue temporary permits to utility companies that need to install and maintain their power and/or water lines that serve directly or indirectly the Department. These temporary permits are also issued to individuals or businesses needing to cross park property with a roadway, for example, the Ashton-Tetonia Trail. Mr. White stated typically an easement would be used, however, the Department is unable to transfer ownership via an easement due to state law and the Federal Land and Water Conservation Fund rules. As a result of those limitations, in 1993, the current rule was established authorizing the Department to issue temporary permits to meet those needs. Mr. White stated this proposed rule will increase the administrative fees to better reflect the true costs associated with issuing temporary permits. Additionally, this proposed rule will allow the Department to collect a reasonable return based on the properties actual value as opposed to the current flat rate fee. The current administration fee is \$100 for issuance or modification and \$25 for assignment or renewal. They are proposing to raise both of these fees to \$300 each. The permit rate would change from the current \$50 per acre to a percentage of the fair market value per acre with a \$300 minimum. These fee changes are in line with the fees associated with the Department's other property management program (encroachment fees).

In response to a question regarding the Department having to follow federal Land and Water Conservation Fund rules, **Mr. White** replied approximately 90% of state parks have had those funds invested in them over the years through their grant program. Once the state accepted those funds, these lands must remain in state ownership for recreational activities, forever. If any land is given away, then they fall into what is called a reversion, where they are required to purchase like property of like value to replace those lands given away, and then the new property would fall under those same rules.

In response to questions regarding fees, **Mr. White** stated the increase in fees will better cover the costs associated with staff time. He further explained that although some permits take less time to process than others, the \$300 per permit administrative cost balances out overall. The decision to raise the administrative fee to \$300 is an attempt to standardize the administrative fees within the Department. He stated approximately six years ago they did a cost analysis of staff time to process permits in their encroachment property management program, and based on that analysis, came up with \$300 as an average cost.

**MOTION:** **Rep. Moon** made a motion to reject **Docket No. 26-0110-1701**.

**Rep. Erpelding** stated the Department struggles having adequate resources to cover staff time working on complex issues, so he does not believe this is an unreasonable fee.

**SUBSTITUTE MOTION:** **Rep. Erpelding** made a substitute motion to approve **Docket No. 26-0110-1701**.

**ROLL CALL VOTE:** **Rep. Boyle** requested a roll call vote on **Docket No. 26-0110-1701**.

**Rep. Wood** stated he believes whenever possible government should be able to function on fees, so the fees need to be high enough to actually pay for the work being done for which the fees are being collected. He doesn't believe this fee is out of line.

**Rep. Erpelding** doesn't believe his business is in conflict with this rule but will declare Rule 38.

**ROLL CALL VOTE ON SUBSTITUTE MOTION:** Roll call vote on the substitute motion to approve **Docket No. 26-0110-1701** failed by a vote of 8 AYE and 10 NAY. Voting in favor of the motion: **Reps. Wood, Kauffman, Lickley, Erpelding, Rubel, Mason, Toone, and Chairman Gibbs**. Voting in opposition to the motion: **Reps. Gestrin, Moyle, Shepherd, Boyle, Vander Woude, Mendive, Blanksma, Addis, Moon, and Raybould**.

**ROLL CALL VOTE ON ORIGINAL MOTION:** Roll call vote on the original motion to reject **Docket No. 26-0110-1701** carried by a vote of 10 AYE and 8 NAY. Voting in favor of the motion: **Reps. Gestrin, Moyle, Shepherd, Boyle, Vander Woude, Mendive, Blanksma, Addis, Moon, and Raybould**. Voting in opposition to the motion: **Reps. Wood, Kauffman, Lickley, Erpelding, Rubel, Mason, Toone, and Chairman Gibbs**.

**DOCKET NO.  
25-0101-1802:**

**Lori Thomason**, Executive Director, Idaho Outfitters and Guides Licensing Board, stated this temporary rule deals with specific types of deer and elk hunting tags and how those tags are designated to outfitters for their clients. She explained by law the Idaho Fish and Game Commission has the authority to limit the number of deer and elk tags available for a zone, unit, or game management area. When the Commission limits tags available, they divide out a portion of those tags for hunters using licensed outfitters. These tags specified for the use of outfitted hunters are referred to as allocated tags. This temporary rule deals only with those allocated tags and are only for capped zones or controlled hunts. Once the Commission allocates the outfitted tags, Idaho Code directs the Idaho Outfitters and Guides Licensing Board to designate those allocated tags among the outfitters. The allocated tags are designated based on a calculation of an outfitter's historic use of the same type of tags. This temporary rule sets forth the Board's process for designating those tags within capped zones and controlled hunts. The Board's goal is to designate these limited tags equitably among outfitters and in a manner to maximize the use of these tags by the public.

**Ms. Thomason** further stated the process to designate tags was developed by the Board in cooperation with the Idaho Outfitters and Guides Association and licensees. When further clarification regarding the calculations became necessary, the Board realized it was time to make changes and formalize the process, with the participation and input of licensees and interested parties. In the meantime, the Board adopted a temporary rule to ensure it could designate allocated tags for the following year. When the Board initiated negotiated rulemaking, it became clear there was not agreement among the industry regarding how certain aspects of the process should be handled. Ms. Thomason stated during the negotiated rulemaking process, the Board was notified that the Outfitters and Guides Association was developing legislation to make changes to the Fish and Game and the Boards' statutes which govern the allocation process. These proposed changes could significantly impact the scope and need for the current rulemaking, therefore, the Board would like this temporary rule extended so they may continue to designate tags in the immediate short term, while any statutory changes are being made.

**Chairman Gibbs and Rep. Erpelding** both declared Rule 38.

**Roger Hales**, Legal Counsel, Idaho Outfitters and Guides Licensing Board, stated the Board would like to see this temporary rule extended in order for the new legislation to be finished by the Association this Legislative Session. This new legislation would make significant changes to the overall approach in the current law for both Fish and Game statutes and Outfitters and Guides Licensing Board statutes. If the legislation passes this Session, they can begin to work on new Rules, but if it doesn't pass, the Board wants to ensure there is something in place to regulate allocated tags.

In response to questions from the committee regarding the Board's ability to continue to designate allocated tags if this temporary rule was rejected, **Mr. Hales** stated they have been relying on this temporary rule since last March and would be able to continue to do so up until the Legislative Session ended, when this temporary rule would expire. If necessary, they could issue another temporary rule to carry them until the next Legislative Session.

**Grant Simonds**, Government Affairs Liaison, Idaho Outfitters and Guides Association, stated he has been involved in deer and elk tag allocation matters for a long time. He provided a background to the committee on the process developed for allocation of deer and elk tags. He also stated the Association didn't have the language for this temporary rule from the Board until late last month. Since that time, they reviewed the language and provisions and have many concerns with the temporary rule. The legislation the Association has been working on since June will dramatically simplify the system. The Association believes this temporary rule is not ready for prime time and requests the committee hold it.

**John Watts**, Veritas, representing Boulder Creek and Scotlyn Creek Outfitters, stated his clients are **in opposition** to this rule but appreciate the process being undertaken.

**Darl Allred**, Sawtooth Wilderness Outfitters, stated he is **in opposition** to this proposed temporary rule. He explained his concerns, one of which is the Outfitters and Guides Licensing Board's recalculation methods. He believes their current method leads to a reduction in allocated tags to many outfitters, which significantly harms their business. He is also concerned the approval of this temporary rule will circumvent the negotiated rulemaking process, therefore eliminating the opportunity for public input and input from the industry, which is unfair to the small Idaho businesses the Board regulates.

- MOTION:** **Rep. Moyle** made a motion to reject **Docket No. 25-0101-1802**.
- SUBSTITUTE MOTION:** **Rep. Erpelding** made a substitute motion to hold **Docket No. 25-0101-1802** for time certain, February 27, 2019.
- ROLL CALL VOTE ON SUBSTITUTE MOTION:** **Rep. Blanksma** requested a roll call vote on the substitute motion for **Docket No. 25-0101-1802**. Roll call vote on the substitute motion to hold **Docket No. 25-0101-1802** for time certain, February 27, 2019 **failed by a vote of 5 AYE, 11 NAY, 2 Absent/Excused. Voting in favor** of the motion: **Reps. Erpelding, Rubel, Mason, Toone, and Chairman Gibbs. Voting in opposition** to the motion: **Reps. Gestrin, Moyle, Shepherd, Boyle, Mendive, Kauffman, Blanksma, Addis, Lickley, Moon, Raybould. Reps. Wood and Vander Woude were Absent/Excused.**
- VOTE ON ORIGINAL MOTION:** Original motion to reject **Docket No. 25-0101-1802** **carried by voice vote.**
- ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 3:47pm.

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Representative Gibbs  
Chair

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Tracey McDonnell  
Secretary

AGENDA  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**  
**1:30 P.M.**  
**Room EW40**  
**Thursday, January 17, 2019**

SUBJECT	DESCRIPTION	PRESENTER
<a href="#">H 1</a>	Water Storage	Rep. Bedke
Docket No.		
<a href="#">13-0102-1801</a>	Rules Governing Mandatory Education and Mentored Hunting	Sharon Kiefer, IDF&G
<a href="#">13-0108-1802</a>	Rules Governing the Taking of Big Game Animals	Sharon Kiefer
<a href="#">13-0108-1803</a>	Rules Governing the Taking of Big Game Animals	Sharon Kiefer
<a href="#">13-0108-1804</a>	Rules Governing the Taking of Big Game Animals	Sharon Kiefer
<a href="#">13-0108-1805</a>	Rules Governing the Taking of Big Game Animals	Sharon Kiefer
<a href="#">13-0109-1803</a>	Rules Governing the Taking of Game Birds	Sharon Kiefer
<a href="#">13-0109-1805</a>	Rules Governing the Taking of Game Birds	Sharon Kiefer
<a href="#">13-0110-1801</a>	Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife	Sharon Kiefer
<a href="#">13-0110-1802</a>	Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife	Sharon Kiefer
<a href="#">13-0116-1802</a>	The Trapping of Predatory and Unprotected Wildlife and the Taking of Furbearing Animals	Sharon Kiefer
<a href="#">13-0116-1803</a>	The Trapping of Predatory and Unprotected Wildlife and the Taking of Furbearing Animals	Sharon Kiefer
<a href="#">13-0117-1801</a>	Rules Governing the Use of Bait and Trapping for Taking of Big Game Animals	Sharon Kiefer
<a href="#">13-0117-1802</a>	Rules Governing the Use of Bait and Trapping for Taking of Big Game Animals	Sharon Kiefer
<a href="#">13-0118-1801</a>	Rules Governing Emergency Feeding of Antelope, Elk, and Deer	Sharon Kiefer

***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 Gibbs      Rep Vander Woude  
Vice Chairman Gestrin      Rep Mendive  
Rep Moyle      Rep Kauffman  
Rep Shepherd      Rep Blanksma  
Rep Wood      Rep Addis

Rep Moon  
Rep Raybould  
Rep Erpelding  
Rep Rubel  
Rep Mason

COMMITTEE SECRETARY

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Rep Boyle

Rep Lickley

Rep Toone



MINUTES  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**

**DATE:** Thursday, January 17, 2019

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

**PLACE:** Room EW40

**MEMBERS:** Chairman Gibbs, Vice Chairman Gestrin, Representatives Moyle, Shepherd, Wood, Boyle, Vander Woude, Mendive, Kauffman, Blanksma, Addis, Lickley, Moon, Raybould, Erpelding, Rubel, Mason, Toone

**ABSENT/  
EXCUSED:** Representative(s) Lickley

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

**Chairman Gibbs** called the meeting to order at 1:30pm.

**H 1:** **Rep. Scott Bedke**, District 27, stated this is the same legislation that was presented during the interim Joint Resources committee meeting on June 6, 2018, and represents significant closure on a big water issue in the Treasure Valley. He stated water is a scarce and valuable resource in Idaho and drives the economy; everyone wants clean and abundant water, whether it's for rural, urban, or agriculture uses. Rep. Bedke remarked that for the purposes of this legislation, Bear Lake is considered off river storage.

**Rep. Bedke** explained the Boise River system, which includes three reservoirs (Lucky Peak, Arrowrock, and Anderson Ranch) has two functions; irrigation and flood control. After the significant flood control releases in early 2017, many irrigators, who are water rights holders, became concerned because they believed their water was being used up in flood control efforts at a time early in the year when they couldn't use the water. He stated it is because of years like 2017 that their water rights need to be protected and is the genesis for this bill. Rep. Bedke explained this bill addresses water storage and the rights of users to the refill waters in the Boise River system after a flood release. This bill specifically outlines how the Idaho Department of Water Resources will account for stored water after flood control measures and how water rights will be satisfied. He further explained this bill specifies new storage, and the filling of new storage, is classified as anything over 1,000 acre feet, and that new fillings come after the filling of existing storage. For example, recharge, out of basin refills, and most hydro will not jump ahead of existing storage.

**Gary Spackman**, Director, Idaho Department of Water Resources, stated he is **in support** of this bill. He described this is a product of long and difficult negotiations and many efforts by Legislators to work with people to find common grounds. Mr. Spackman thanked **Speaker Bedke** and **Reps. Moyle and Vander Woude** for all of their efforts in order to reach this settlement agreement. He stated this dispute is a classic example of conflicting instructions he has had to deal with as the Director for the Department. He explained he is responsible for protecting the senior water right holders based on "first in time first in right." Secondly, he is responsible for optimizing beneficial use of the waters of the state of Idaho. Sometimes those two mandates collide, but this bill will help guide him with these differing mandates while protecting water rights.

Those speaking **in support** were **Paul Arrington**, Executive Director and General Counsel, Idaho Water Users Association; **Al Barker**, Attorney, Boise Project Board of Control; **Dan Steenson**, Attorney, Sawtooth Law Offices, representing multiple water user groups in the Treasure Valley; **Rex Barrie**, Boise River Water Master, Basin 63; **Richard Durant**, third generation producer in the Treasure Valley; **Ron Platt**, Wilder Irrigation District; **Mark Zirschky**, Pioneer Irrigation District; **Allen Funkhouser**, Drainage District #2; **Clintin Pline**, Nampa-Meridian Irrigation District; and **Will Patterson**, Nampa-Meridian Irrigation District. They were of the opinion that **H 1** was necessary to clarify water storage and the rights of users to refill waters after a flood control release first before any new storage is authorized.

**Chairman Gibbs** requested the record reflect nobody came forward to testify in opposition to **H 1**.

In closing, **Rep. Bedke** stated this is a very complicated system built on trust and agreements throughout the years, and has worked well most of the time. It needed this extra piece of legislation, plus this agreement, to make sure all water users have access to water as Idaho continues to grow.

**MOTION:** **Rep. Moyle** made a motion to send **H 1** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Bedke** will sponsor the bill on the floor.

**Chairman Gibbs** turned the gavel over to **Vice Chairman Gestrin**.

**DOCKET NO. 13-0110-1801:** **Sharon Kiefer**, Deputy Director, Idaho Department of Fish and Game, stated this proposed rule changes **IDAPA 13.01.10** to not approve possession, importation, transport, sale, barter, or trade of wild elk, moose, mule deer, white-tailed deer, fallow deer, or muntjac deer because of concerns about transmission of Chronic Wasting Disease. Ms. Kiefer clarified this does not apply to fur farms, fish farms, and domestic cervidae managed by the Department of Agriculture, as these are considered agricultural pursuits.

There were concerns raised by several committee members regarding confusion over whether the Fish and Game or Department of Agriculture has purview over the importation of wild elk, and there is some confusion over what is defined as "wild." As a result, it was suggested the Department try to better define wild versus domestic, and to provide more clarification that Fish and Game should be the managing agency for importation of wild elk relative to Chronic Wasting Disease.

**MOTION:** **Rep. Wood** made a motion to reject **Docket No. 13-0110-1801.** **Motion carried by voice vote.**

**DOCKET NO. 13-0109-1805:** **Sharon Kiefer**, Deputy Director, Idaho Department of Fish and Game, stated this proposed rule creates an administrative framework for the Fish and Game Commission to adopt Landowner Permission Hunt (LPH) seasons for turkeys in areas of the state to manage turkey depredation on private lands, and to provide landowners with turkey hunting opportunities where turkey hunting is controlled. Landowners must own more than 79 acres to qualify for this program. These LPH tags would be sold on a first-come-first-serve basis at the headquarters or regional offices of the Idaho Department of Fish and Game for both spring and fall hunts.

**Doug Bates**, representing self, spoke **in support** of this proposed rule. He stated he has been suffering severe turkey depredation on his property and is in favor of this change to allow LPH seasons for turkey on private lands.

**MOTION:** **Rep. Gibbs** made a motion to approve **Docket No. 13-0109-1805.** **Motion carried by voice vote.**

Due to time constraints, **Vice Chairman Gestrin** announced the remaining Dockets on the agenda will be carried over to the next committee meeting on Monday, January 21, 2019.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 2:58pm.

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Representative Gibbs  
Chair

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Tracey McDonnell  
Secretary

AGENDA  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**  
**1:30 P.M.**  
**Room EW40**  
**Monday, January 21, 2019**

SUBJECT	DESCRIPTION	PRESENTER
	Presentation - Idaho Department of Fish and Game Budget	Ed Schriever, Director, Idaho Department of Fish and Game
Docket No.		
<a href="#">13-0102-1801</a>	Rules Governing Mandatory Education and Mentored Hunting	Sharon Kiefer, Idaho Department of Fish and Game
<a href="#">13-0108-1802</a>	Rules Governing the Taking of Big Game Animals	Sharon Kiefer
<a href="#">13-0108-1803</a>	Rules Governing the Taking of Big Game Animals	Sharon Kiefer
<a href="#">13-0108-1804</a>	Rules Governing the Taking of Big Game Animals	Sharon Kiefer
<a href="#">13-0108-1805</a>	Rules Governing the Taking of Big Game Animals	Sharon Kiefer
<a href="#">13-0109-1803</a>	Rules Governing the Taking of Game Birds	Sharon Kiefer
<a href="#">13-0110-1802</a>	Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife	Sharon Kiefer
<a href="#">13-0116-1802</a>	The Trapping of Predatory and Unprotected Wildlife and the Taking of Furbearing Animals	Sharon Kiefer
<a href="#">13-0116-1803</a>	The Trapping of Predatory and Unprotected Wildlife and the Taking of Furbearing Animals	Sharon Kiefer
<a href="#">13-0117-1801</a>	Rules Governing the Use of Bait and Trapping for Taking of Big Game Animals	Sharon Kiefer
<a href="#">13-0117-1802</a>	Rules Governing the Use of Bait and Trapping for Taking of Big Game Animals	Sharon Kiefer
<a href="#">13-0118-1801</a>	Rules Governing Emergency Feeding of Antelope, Elk, and Deer	Sharon Kiefer

***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 Gibbs	Rep Vander Woude	Rep Moon
Vice Chairman Gestrin	Rep Mendive	Rep Raybould
Rep Moyle	Rep Kauffman	Rep Erpelding
Rep Shepherd	Rep Blanksma	Rep Rubel
Rep Wood	Rep Addis	Rep Mason

COMMITTEE SECRETARY

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Phone: 332-1136  
email: hres@house.idaho.gov

Rep Boyle

Rep Lickley

Rep Toone

MINUTES  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**

- DATE:** Monday, January 21, 2019
- TIME:** 1:30 P.M.
- PLACE:** Room EW40
- MEMBERS:** Chairman Gibbs, Vice Chairman Gestrin, Representatives Moyle, Shepherd, Wood, Boyle, Vander Woude, Mendive, Kauffman, Blanksma, Addis, Lickley, Moon, Raybould, Erpelding, Rubel, Mason, Toone
- ABSENT/  
EXCUSED:** Representative(s) Shepherd
- GUESTS:** Owen Moronay, Attorney Generals Office; Ed Schriever, Sharon Kiefer, Toby Boudreau, Michael Pearson, Paul Kline, Scott Reinecker, Idaho Department of Fish and Game; Brian Brooks, Idaho Wildlife Federation; Russell Westerberg, RMP-Station Creek; Benjamin Davenport, Idaho Mining Association; Rialin Flores, Conservation Voters of Idaho; Jonathan Oppenheimer, Idaho Conservation League
- Chairman Gibbs** called the meeting to order at 1:30pm.
- MOTION:** **Rep. Kauffman** made a motion to approve the minutes of the January 15, 2019 meeting. **Motion carried by voice vote.**
- Ed Schriever**, Director, Idaho Department of Fish and Game, introduced himself to the committee stating this is his 8th day as Director. He also wished to express his appreciation to former Director **Virgil Moore** for his leadership to the Department over the last 8 years. Director Schriever stated the Department's finances are in great shape, in part due to the 2017 license and tag increases and the successful price lock program. He explained by sportsmen and women purchasing licenses and tags, they are directly funding the Department's mission. Additionally, through the purchase of hunting and fishing equipment, a surcharge, or tax, is collected through a national program. That money is then distributed to each state based on a formula, of which Idaho receives 2.4% of the national total. Director Schriever emphasized that no general funds or state tax dollars are appropriated to the Department, rather they rely on revenues from licenses, tags and permits as well as the previously mentioned federal taxes to fund the Department. The license and tag increases, price lock program, and the depredation access program have added stability to their revenue model and addresses concerns raised from sportsmen and women. Director Schriever finished his presentation by providing an overview of the enhancements to the Department's proposed fiscal year 2020 budget.
- Chairman Gibbs** turned the gavel over to **Vice Chairman Gestrin**.
- DOCKET NO. 13-0102-1801:** **Sharon Kiefer**, Deputy Director, Idaho Department of Fish and Game, stated this proposed rule is a revision to allow youth who are 8 years old, without a license or hunter education certification, to possess consecutive annual hunting passports until reaching the age of 10.
- MOTION:** **Rep. Kauffman** made a motion to approve **Docket No. 13-0102-1801**. **Motion carried by voice vote.**
- DOCKET NO. 13-0108-1802:** **Sharon Kiefer**, Deputy Director, Idaho Department of Fish and Game, stated this proposed rule is a revision stating a parent or grandparent who draws a controlled hunt tag and wants to designate that tag to a child or grandchild, will now exclude the option of designating "once in a lifetime" controlled hunt species (moose, bighorn sheep, mountain goat, or grizzly bear).

- MOTION:** **Rep. Wood** made a motion to approve **Docket No. 13-0108-1802. Motion carried by voice vote.**
- DOCKET NO. 13-0108-1803:** **Sharon Kiefer**, Deputy Director, Idaho Department of Fish and Game, stated this proposed rule would allow hunters, 65 years of age or older; or hunters with a senior combination hunting license, or a disabled combination license, or a nonresident disabled American Veteran hunting license to be eligible to apply for left over youth only controlled hunt tags during the second application period.
- In response to questions and concerns regarding why there isn't more of an effort to get as many youth as possible out hunting before giving youth controlled hunt tags away, **Ms. Kiefer** stated they don't have enough youth interested in using all the tags they have available. She clarified all of the eligibility people identified are already eligible for these leftover tags, so they anticipate this would speed up the sales process from a customer efficiency standpoint and help get as many tags as possible out the door.
- MOTION:** **Rep. Boyle** made a motion to reject **Docket No. 13-0108-1803. Motion carried by voice vote. Rep. Erpelding** requested to be recorded as voting **NAY**.
- DOCKET NO. 13-0108-1804:** **Sharon Kiefer**, Deputy Director, Idaho Department of Fish and Game, stated this proposed rule would allow certain caliber airguns using pre-charged pneumatic power as a method of take for big game. She stated since this rule is written identifying what is an unlawful method of take, the revised section would state it is unauthorized to take deer, pronghorn antelope, mountain lion, or grey wolf with any airgun less than .35 caliber and it is unauthorized to take elk, moose, bighorn sheep, mountain goat, or black or grizzly bear with any airgun less than .45 caliber.
- In response to a question as to why airguns are a necessary option for hunting, **Ms. Kiefer** stated many states have already adopted airguns as a legal method of take. As more people move into Idaho, they already have a familiarity with the use of airguns, so the Fish and Game Commission spent an entire day at the range testing airguns against more commonly used weapons used to hunt big game, they examined the velocity and ballistics, and heard from some of the experts in the use of airguns to arrive at this decision.
- MOTION:** **Rep. Moyle** made a motion to approve **Docket No. 13-0108-1804. Motion carried by voice vote.**
- DOCKET NO. 13-0108-1805:** **Sharon Kiefer**, Deputy Director, Idaho Department of Fish and Game, stated this proposed rule was written in an attempt to gain better customer response and efficiency for submitting controlled hunt applications. This rule would be revised to not allow mail as a method to submit regular controlled hunt applications and would state applications would be accepted electronically through the automated licensing system at any vendor location, including the Department's regional offices and the headquarters office, in addition to the Internet, or over the telephone.
- MOTION:** **Rep. Wood** made a motion to approve **Docket No. 13-0108-1805. Motion carried by voice vote. Reps. Boyle and Blanksma** requested to be recorded as voting **NAY**.
- DOCKET NO. 13-0109-1803:** **Sharon Kiefer**, Deputy Director, Idaho Department of Fish and Game, stated this proposed rule clarifies the use of turkey tags in conjunction with a turkey controlled hunt permit including validation. It also revises the controlled hunt application period to be consistent with the turkey season proclamation.
- MOTION:** **Rep. Kauffman** made a motion to approve **Docket No. 13-0109-1803. Motion carried by voice vote.**

**DOCKET NO. 13-0110-1802:** **Sharon Kiefer**, Deputy Director, Idaho Department of Fish and Game, stated this proposed rule would prohibit, with certain exceptions, the importation of carcasses or other parts of deer, elk, or moose from another state, province of Canada, or country with any documented cases of Chronic Wasting Disease (CWD). This proposed rule would also create additional transport prohibitions if the Commission designates any part of Idaho as a CWD management zone. Ms. Kiefer stated these provisions are being adopted as a risk management strategy.

**Rep. Moyle** expressed concern the proposed language in this rule wasn't clear to differentiate between dead and live animal parts. **Ms. Kiefer** stated this rule only pertains to dead animal carcasses and parts. Rep. Moyle requested the record reflect that the Department's representative stated this proposed rule does not include live animal parts and is only referring to dead animal carcasses and parts.

**MOTION:** **Rep. Wood** made a motion to approve **Docket No. 13-0110-1802. Motion carried by voice vote.**

**DOCKET NO. 13-0116-1802:** **Sharon Kiefer**, Deputy Director, Idaho Department of Fish and Game, stated this proposed rule revises the distance that ground sets for trapping furbearing animals, or predatory or unprotected wildlife, may be placed from maintained paved or unpaved public trails. This revision changes the distance from within 5 feet of the center line of the unpaved trail to within 10 feet of the edge of any maintained unpaved trail. Paved trails have been added to the other already approved locations (public campgrounds, trailheads, and picnic areas) for placing ground sets incorporating snares, traps or attached materials, and cage or box live traps, within 300 feet of these approved locations.

**MOTION:** **Rep. Erpelding** made a motion to approve **Docket No. 13-0116-1802. Motion carried by voice vote.**

**DOCKET NO. 13-0116-1803:** **Sharon Kiefer**, Deputy Director, Idaho Department of Fish and Game, stated this proposed rule removes the restriction that red fox may only be taken by trapping in Valley County and portions of Adams County in the Little Salmon River drainage. This was done in order to align with the Commission's adoption of the 2018 furbearer season allowing hunting of red fox as a method of take in these counties.

**MOTION:** **Rep. Raybould** made a motion to approve **Docket No. 13-0116-1803. Motion carried by voice vote.**

**DOCKET NO. 13-0117-1801:** **Sharon Kiefer**, Deputy Director, Idaho Department of Fish and Game, stated this proposed rule includes the same revisions as in **Docket No. 13-0116-1802**, and is for the purpose of trapping gray wolf.

**Jonathan Oppenheimer**, Government Relations Director, Idaho Conservation League, stated they are **in support** of this proposed rule revision.

**MOTION:** **Rep. Erpelding** made a motion to approve **Docket No. 13-0117-1801. Motion carried by voice vote.**

**DOCKET NO. 13-0117-1802:** **Sharon Kiefer**, Deputy Director, Idaho Department of Fish and Game, stated this proposed rule is to restrict liquid scent (urine) to only synthetic scent to attract deer and elk as a measure to reduce the risk of Chronic Wasting Disease entering Idaho.

**MOTION:** **Rep. Lickley** made a motion to approve **Docket No. 13-0117-1802. Motion carried by voice vote.**

**DOCKET NO. 13-0118-1801:** **Sharon Kiefer**, Deputy Director, Idaho Department of Fish and Game, stated this proposed rule is to integrate the risk of Chronic Wasting Disease (CWD) into the conditions and criteria considered by the Department for emergency winter feeding of deer, pronghorn antelope, and elk. It prohibits the private feeding of deer, pronghorn antelope, and elk within any CWD management zones, and it makes a technical correction to the chapter title.



In response to a question regarding CWD management zones in Idaho, **Ms. Kiefer** stated currently Idaho does not have any established zones. This is a proactive action, so in the event CWD is detected in Idaho the Commission would establish CWD designated management zones, and then prohibitions would be placed on non-Departmental feeding of deer and elk. She also clarified incidental feeding of deer and elk during the normal practice of feeding livestock in the winter is not a violation of this section.

**MOTION:** **Rep. Toone** made a motion to approve **Docket No. 13-0118-1801. Motion carried by voice vote.**

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 3:10pm.

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Representative Gestrin  
Chair

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Tracey McDonnell  
Secretary

**AMENDED AGENDA #1**  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**  
**1:30 P.M.**  
**Room EW40**  
**Wednesday, January 23, 2019**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>RS26436</u></a>	Forest Practice Act	David Groeschl, Idaho Department of Lands
Docket No. <a href="#"><u>20-0401-1701</u></a>	Rules Pertaining to Forest Fire Protection	David Groeschl
<a href="#"><u>20-0301-1801</u></a>	Dredge and Placer Mining Operations	Todd Drage, Idaho Department of Lands
<a href="#"><u>20-0302-1801</u></a>	Rules Governing Exploration, Surface Mining, and Closure of Cyanidation Facilities	Todd Drage
<a href="#"><u>20-0304-1801</u></a>	Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes	Andrew Smyth, Idaho Department of Lands
	Introduction of the Idaho Department of Fish and Game Commissioners	Ed Schriever, Idaho Department of Fish and Game

***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 Gibbs	Rep Vander Woude	Rep Moon
Vice Chairman Gestrin	Rep Mendive	Rep Raybould
Rep Moyle	Rep Kauffman	Rep Erpelding
Rep Shepherd	Rep Blanksma	Rep Rubel
Rep Wood	Rep Addis	Rep Mason
Rep Boyle	Rep Lickley	Rep Toone

COMMITTEE SECRETARY

Tracey McDonnell  
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MINUTES  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**

**DATE:** Wednesday, January 23, 2019  
**TIME:** 1:30 P.M.  
**PLACE:** Room EW40  
**MEMBERS:** Chairman Gibbs, Vice Chairman Gestrin, Representatives Moyle, Shepherd, Wood, Boyle, Vander Woude, Mendive, Kauffman, Blanksma, Addis, Lickley, Moon, Raybould, Erpelding, Rubel, Mason, Toone  
**ABSENT/EXCUSED:** Representative(s) Shepherd  
**GUESTS:** Todd Drage and Andrew Smyth, Idaho Department of Lands; Ben Davenport, Idaho Mining Association; Shawn Keough, Associated Logging Contractors; Steve Thomas, Idaho Forest Group

**Chairman Gibbs** called the meeting to order at 1:30pm.

**RS 26436:** **David Groeschl**, Deputy Director, Idaho Department of Lands, stated this proposed legislation revises **Idaho Code 38-134** to raise the Forest Practices Act (FPA) assessment cap from \$0.10/acre/year to \$0.20/acre/year. He stated the actual FPA assessment rate is set within the statutory cap by the State Board of Land Commissioners and was last increased in 2003, when it was raised to \$0.10/acre/year. Regarding why they are proposing an increase, Mr. Groeschl explained expenses have increased substantially over the last 15 years and the dedicated fund where FPA landowner assessments are deposited is critically low and will be depleted in the next fiscal year.

**MOTION:** **Rep. Wood** made a motion to introduce **RS 26436. Motion carried by voice vote.**  
**Chairman Gibbs** turned the gavel over to **Vice Chairman Gestrin.**

**DOCKET NO. 20-0401-1701:** **David Groeschl**, Deputy Director, Idaho Department of Lands, stated this proposed rule would amend the fire protection standards for specific forest operations including spark arresters, fire tools, fire extinguishers, and fire crews. In addition, he stated forest operation activities involving cable logging operations and the use of metal tracked harvesters are considered to be at a greater risk of resulting in unwanted fire, so the Department is introducing new fire protection requirements for these forest operations to include on-site water supply, a fire watch service, and operation area fire prevention practices. Mr. Groeschl stated the Department conducted nine negotiated rule making meetings and received extensive comments leading to the rule language revisions.

In response to questions regarding small private landowner operations, **Mr. Groeschl** clarified that small operations generally do not create a fire hazard and so would be exempt from the fire watch service requirement. He further clarified small operations are also generally exempt under Option 1 of the Certificate of Compliance, because the level of logging operations small private landowners typically do does not create a fire hazard since those operations are too minimal and scattered across their property.

In response to a question as to whether these rules would apply on lands under the Good Neighbor Authority (GNA), **Mr. Groeschl** stated these rules would apply to any project during fire restrictions, whether on federal, state, or private land when using certain equipment and doing certain activities.

**Steve Thomas**, Attorney, representing Idaho Forest Group, stated they are in **support** of this rule package.

**MOTION:** **Rep. Erpelding** made a motion to approve **Docket No. 20-0401-1701. Motion carried by voice vote.**

**DOCKET NO. 20-0301-1801:** **Todd Drage**, Regulatory Minerals Program Manager, Idaho Department of Lands, stated this proposed rule pertains to the Dredge and Placer Mining Protection Act and removes the requirement for mailing in paper submittals. It would allow for permittees and operators to submit documents by paper copy or in electronic format using the Department's new web-based portal and information management system.

**MOTION:** **Rep. Erpelding** made a motion to approve **Docket No. 20-0301-1801. Motion carried by voice vote.**

**DOCKET NO. 20-0302-1801:** **Todd Drage**, Regulatory Minerals Program Manager, Idaho Department of Lands, stated this proposed rule pertains to the Surface Mining Act and removes the requirement for mailing in paper submittals. It would allow permittees and operators to submit documents by paper copy or in electronic format using the Department's new web-based portal and information management system.

**MOTION:** **Rep. Lickley** made a motion to approve **Docket No. 20-0302-1801. Motion carried by voice vote.**

**DOCKET NO. 20-0304-1801:** **Andrew Smyth**, Public Trust Program Manager, Idaho Department of Lands, stated this proposed rule would make changes to six sections within this rule. There would be updates in the Incorporated by Reference Section to incorporate by reference rules of the Idaho Electrical and Plumbing Boards, as well as the Code of Federal Regulations on the United States aids to navigation systems. Under Boat Garages, the proposed change is more specific by allowing existing permitted boat garages to be maintained or replaced at the existing height and at the same square footage of the existing footprint. Under Float Homes, the proposed change would be updated to require float homes to meet the Idaho State Plumbing Code and the National Electrical Code. Under the Application section, the proposed rule would allow people to file applications for encroachment permits either by paper or electronically. Also within this section the proposed rule would clarify that a deposit toward the cost of publication is required with an application for an encroachment permit for bank stabilization projects. Finally, Mr. Smyth stated under the Violations section, the proposed rule provides clarification that notices of noncompliance may be issued to anyone, regardless if they hold a permit or not.

**MOTION:** **Rep. Erpelding** made a motion to approve **Docket No. 20-0304-1801. Motion carried by voice vote.**

**Vice Chairman Gestrin** turned the gavel over to **Chairman Gibbs**.

**Ed Schriever**, Director, Idaho Department of Fish and Game, stated he is pleased to introduce the members of the Fish and Game Commission to the committee. They are **Derick Attebury**, Chairman, Upper Snake Region; **Jerry Meyers**, Vice Chairman, Salmon Region; **Brad Corkill**, Panhandle Region; **Dan Blanco**, Clearwater Region; **Tim Murphy**, Southwest Region; **Greg Cameron**, Magic Valley Region; and **Lane Clezie**, Southeast Region.

At the request of the committee, **Ed Schriever** provided a brief update on the first year of the new license vendor put in place in 2018. He stated per legislation, the Department was required to use a third-party independent vendor for the controlled hunt module and there have been many challenges standing up this new contract. Because the Department is a dedicated fund agency, they are self funded by the sales of licenses, tags, and permits, so the ability to actually sell those is extremely important. He explained the contract for the license vendor is a very large contract and is managed through the Department of Administration's Purchasing Division. The Department has been working closely with the Purchasing Division to address the many concerns including several missed deadlines and fading tags with the goal of having a system that meets the needs of the Department and provides a reliable service to their constituents.

**Eric Attebury**, Chairman, Idaho Fish and Game Commission, provided a brief update on some of the current issues the Commission is working on. First, he stated one of the most important recent decisions the Commission made was to hire **Director Schriever** after the retirement of **Virgil Moore**. Mr. Attebury went on to explain one of the top priorities the Commission is working on involves assuring sportsmen and women have access to hunt, fish and trap, in both the frontcountry and backcountry. Another issue the Commission is working on is crowding in certain areas, due in part to the population growth in the state. The goal is to ensure a quality experience for everyone enjoying Idaho's resources.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 2:29pm.

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Representative Gestrin  
Chair

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Tracey McDonnell  
Secretary

**AMENDED AGENDA #1**  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**  
**1:30 P.M.**  
**Room EW40**  
**Tuesday, January 29, 2019**

SUBJECT	DESCRIPTION	PRESENTER
<a href="#">RS26595</a>	Low Temperature Geothermal	Rep. Gestrin
<a href="#">RS26635</a>	Rules Rejection for Docket No. 13-0110-1801	Rep. Gestrin
	Midas Gold Idaho - Stibnite Gold Project Update	Mckinsey Lyon, Director, Public Affairs, Midas Gold Idaho

***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 Gibbs	Rep Vander Woude	Rep Moon
Vice Chairman Gestrin	Rep Mendive	Rep Raybould
Rep Moyle	Rep Kauffman	Rep Erpelding
Rep Shepherd	Rep Blanksma	Rep Rubel
Rep Wood	Rep Addis	Rep Mason
Rep Boyle	Rep Lickley	Rep Toone

COMMITTEE SECRETARY

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Phone: 332-1136  
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MINUTES  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**

- DATE:** Tuesday, January 29, 2019
- TIME:** 1:30 P.M.
- PLACE:** Room EW40
- MEMBERS:** Chairman Gibbs, Vice Chairman Gestrin, Representative(s) Moyle, Shepherd, Wood, Boyle, Vander Woude, Mendive, Kauffman, Blanksma, Addis, Lickley, Moon, Raybould, Erpelding, Rubel, Mason, Toone
- ABSENT/  
EXCUSED:** Representative(s) Moyle
- GUESTS:** Sharon Kiefer and Paul Kline, Idaho Department of Fish and Game; Lynn Tominaga, Idaho Ground Water Association; Tim Luke, Idaho Department of Water Resources; Paul Arrington and Morgan Howard, Idaho Water Users Association; John Williams, BPA; John Chatburn, Office of Energy and Mineral Resources; Rialin Flores and Ryan McGoldrick, Conservation Voters for Idaho; Jonathan Oppenheimer, Idaho Conservation League; Mckinsey Lyon, Midas Gold Idaho; Andy Brunelle, USDA Forest Service
- Chairman Gibbs** called the meeting to order at 1:30pm.
- MOTION:** **Rep. Kauffman** made a motion to approve the minutes of the January 17 and January 21, 2019 meetings. **Motion carried by voice vote.**
- RS 26595:** **Rep. Gestrin**, District 8, stated this proposed legislation would provide the Director of the Department of Water Resources more flexibility to exempt new low temperature geothermal wells if certain conditions are met. He stated currently if the bottom of the hole temperature is 85 degrees, that puts the well into the geothermal category and it must immediately be sealed and closed off. This proposed legislation has a provision which would allow the well to remain open as long as the proposed use will not reduce the temperature or pressure of the surrounding geothermal layer.
- MOTION:** **Rep. Raybould** made a motion to introduce **RS 26595**. **Motion carried by voice vote.**
- RS 26635:** **Rep. Gestrin**, District 8, stated this Concurrent Resolution is to reject **Docket No. 13-0110-1801** from the Idaho Department of Fish and Game, in its entirety. The Senate Resources and Environment Committee concurred.
- MOTION:** **Rep. Wood** made a motion to introduce **RS 26635** and recommend it be sent directly to the Second Reading Calendar. **Motion carried by voice vote.** **Rep. Gestrin** will sponsor the bill on the floor.
- Chairman Gibbs** turned the gavel over to **Vice Chairman Gestrin**.

**Mckinsey Lyon**, Vice President of Public Affairs, Midas Gold Idaho, gave an update on the status of the Stibnite Gold Project. She stated the proposed Stibnite Gold Project's plan is to take an abandoned mining district and use a sustainable approach to partner economic development with environmental restoration. She explained because the original mining at Stibnite occurred during a time of little or no environmental regulations, there are significant historical legacies including over 10 million tons of tailings and waste rock in unprotected water sources, the site contains the largest source of sedimentation in a watershed from an old blown out hydroelectric dam, and a mine pit that blocks fish migration. She stated Midas Gold Idaho built the design for this project based on conditions they wanted to see at closure. Those conditions include sustainable ecosystems, clean up of the legacy impacts from the early mine life, positive social benefits, enhanced fish habitat, and a limited footprint. The Stibnite Gold Project plans include mining the tailings piles for gold, since the focus of earlier operations was strictly for tungsten. Midas Gold anticipates there is over 4 million ounces of high grade gold within the tailings piles and should be enough to pay for the cleanup. They also anticipate production of approximately 100 million pounds of antimony, which is a critical mineral controlled primarily in China. Ms. Lyon concluded by stating the Forest Service is currently in the NEPA process, and anticipates releasing the draft EIS in August 2019. They anticipate a Record of Decision on the EIS within the first quarter of 2020.

**ADJOURN:**

There being no further business to come before the committee, the meeting adjourned at 1:55pm.

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Representative Gibbs  
Chair

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Tracey McDonnell  
Secretary



AGENDA  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**  
**1:30 P.M.**  
**Room EW40**  
**Thursday, January 31, 2019**

SUBJECT	DESCRIPTION	PRESENTER
<a href="#">RS26680</a>	Fish and Game Damage Compensation	Rep. Wood
<a href="#">RS26661</a>	Fish and Game Landowner Liability	Emily McClure, McClure Policy
<a href="#">H 44</a>	Forest Practices Act	David Groeschl, Idaho Department of Lands
	Annual Update on H 230	Ed Schriever, Idaho Department of Fish and Game

***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 Gibbs	Rep Vander Woude	Rep Moon
Vice Chairman Gestrin	Rep Mendive	Rep Raybould
Rep Moyle	Rep Kauffman	Rep Erpelding
Rep Shepherd	Rep Blanksma	Rep Rubel
Rep Wood	Rep Addis	Rep Mason
Rep Boyle	Rep Lickley	Rep Toone

COMMITTEE SECRETARY

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MINUTES  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**

- DATE:** Thursday, January 31, 2019
- TIME:** 1:30 P.M.
- PLACE:** Room EW40
- MEMBERS:** Chairman Gibbs, Vice Chairman Gestrin, Representative(s) Moyle, Shepherd, Wood, Boyle, Vander Woude, Mendive, Kauffman, Blanksma, Addis, Lickley, Moon, Raybould, Erpelding, Rubel, Mason, Toone
- ABSENT/  
EXCUSED:** Representative(s) Moyle, Erpelding
- GUESTS:** Sharon Kiefer, Paul Kline, Ed Schriever, Scott Reinecker, Sal Palazzolo, and Michael Pearson, Idaho Department of Fish and Game; Barbara Jordan, Idaho Trial Lawyers Association; Ben Davenport, Idaho Mining Association; Stacey Satterlee, Idaho Grain Producers; Steve Thomas, Idaho Forest Group; Peter Stegner, Riley Stegner and Associates; Jeremy Pisca, Potlatch Deltic; Jane Wittmeyer, Wittmeyer and Associates
- Chairman Gibbs** called the meeting to order at 1:30pm.
- MOTION:** **Rep. Toone** made a motion to approve the minutes of the January 23, 2019 meeting. **Motion carried by voice vote.**
- RS 26680:** **Rep. Fred Wood**, District 27, stated wildlife populations are increasing significantly in some agricultural areas of the state, which produces more opportunity for damage to an array of agricultural equipment and land. The two areas of increasing damage are to center pivots and fall seed bed prepared ground. He stated this proposed legislation would expand the ability of owners and lessees to file claims for damages in the two areas mentioned, including parts and labor.
- MOTION:** **Rep. Mendive** made a motion to introduce **RS 26680**. **Motion carried by voice vote.**
- RS 26661:** **Emily McClure**, Lawyer and Lobbyist, representing Riley Stegner and Associates and several large timber land owners in North Idaho, stated this proposed legislation would amend **Idaho Code 36-1604**, the recreational immunity statute, to provide limited liability protection to private landowners who are willing to open up their land to the public for recreational access without fees or compensation. She stated last year the Legislature amended this statute in order to provide limited liability protection to government agencies and this amendment would also include the private landowner.
- MOTION:** **Rep. Addis** made a motion to introduce **RS 26661**. **Motion carried by voice vote.**
- H 44:** **David Groeschl**, Deputy Director, Idaho Department of Lands, stated this bill addresses funding for administration of the Forest Practices Act (FPA), which ensures the continuous growing and harvesting of forest trees while protecting and maintaining Idaho's forest soil, water resources, wildlife and aquatic habitat. Funding for the FPA program is through a combination of general fund and landowner assessments of which the Department relies on to cover personnel, operating, and equipment costs. In 2014, annual funding in the amount of \$100,000 was added from state endowment forestlands to cover FPA inspections on those lands. Mr. Groeschl pointed out the last time there was an assessment increase was 2003, when the FPA assessment was raised to the cap of \$0.10/acre/year, and since that time expenses have increased substantially. As a result, the dedicated fund where FPA landowner assessments are deposited is critically low and will be

depleted in the next fiscal year. An increase to the FPA assessment cap, as well as an increase to the current assessment rate is needed to sustain the Department's administration of the FPA program and to maintain services to all private forest landowners in Idaho.

**Mr. Groeschl** stated this bill would amend **Idaho Code 38-134** to raise the FPA assessment cap from \$0.10/acre/year to \$0.20/acre/year, and then the Department would recommend to the State Board of Land Commissioners an increase from the current \$0.10/acre/year to \$0.13/acre/year. The \$0.3/acre/year increase would generate an additional \$150,000 annually from private forest owners and \$30,000 from state endowment forestlands for a total of \$180,000 increase to the FPA dedicated fund, which should sustain the Department's administration of the FPA program for the next 3-5 years. The Department met with the Idaho Forest Owner's Association and Industrial Forest Landowner representatives, who both were supportive of the rate increase.

In response to questions and concerns regarding increased fees in rural communities, **Mr. Groeschl** explained the FPA assessment helps to fund a private lands forestry specialist who works with private forest landowners around the state. If a private landowner has an interest in developing a forest management plan for their property, including how to make their property more resilient to wildfires, the forestry specialist will work with them to develop that plan which will then connect the landowner to potential cost share funds to implement the management recommendations on the ground.

**Steve Thomas**, lawyer and lobbyist representing Idaho Forest Group; **Peter Stegner**, with Riley Stegner and Associates representing Stimson Lumber Company; and **Jeremy Pisca**, attorney and lobbyist representing Potlatch Deltic Corporation all spoke **in support of H 44** stating the increased rate is justified because the FPA program works to maximize the potential for healthy forests and minimizes the potential for wildfires.

**MOTION:**

**Rep. Wood** made a motion to send **H 44** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Reps. Shepherd, Vander Woude, Gestrin, and Moon** requested to be recorded as voting **NAY.** **Rep. Lickley** will sponsor the bill on the floor.

**Ed Schriever**, Director, Idaho Department of Fish and Game, presented the annual update on **H 230**. He stated this bill has been significant in providing resources to the Department, as well as providing resources to help the Department resolve conflicts between wildlife and the agricultural community. Mr. Schriever explained with the Price Lock component of the bill, there was over a 7% increase in resident hunting and fishing licenses purchased with an 80% retention of resident licenses from 2017 to 2018. Additionally, there was a 21% increase from 2017 to 2018 for residents who "locked in" by purchasing a 3- year license.

**Mr. Schriever** explained with every license purchased, \$5.00 from each resident license and \$10.00 from each nonresident license goes into three accounts within the depredation program; claims/compensation, prevention, and private lands access. In 2018, approximately \$2 million was generated enabling each of these three accounts to receive \$500,000. These funds are in addition to the funds dedicated to these programs. With the fee increase of deer, elk, and pronghorn tags, \$3.50 transfers from each tag equally into the winter feeding account and the depredation prevention account. Additionally, the bill created a reserve account to pay depredation claims, increasing the cap from \$750,000 to \$2.5 million. All of these new funding streams have greatly enhanced the Department's ability to successfully manage these programs.

**Mr. Schriever** stated the Commission increased hunting opportunities to address depredation/wildlife conflicts by reducing the numbers of depredating animals or changing the behavior of the animals causing the problems. Those opportunities include depredation hunts where the Department chooses half of the hunters and the landowner chooses half. Another opportunity includes landowner permission hunts where the landowner choose all of the hunters. The Department began issuing the landowner permission slips to have on hand in order to provide flexibility to the landowner to invite hunters onto their property when they recognize there is a problem instead of waiting for the Department to recognize there is a problem.

**Mr. Schriever** stated the Department is testing new lure crops in an attempt to keep elk and deer off private property, and research continues to assist in the depredation prevention program with the use of cameras, radio collars to track problem deer and elk to study habits and learn where they spend time during hunting season when not on private lands, motion detectors to set off hazing equipment, and are researching other methods such as noise, scent, dogs, and taste for deterrent ideas.

Other areas **Mr. Schriever** highlighted include: the Department investing approximately \$1 million constructing over 300 permanent stack yards to assist landowners in protecting hay, and the now standard practice of issuing kill permits which authorize landowners to keep animals harvested as a result of resolving depredation problems. Additionally, the Department has streamlined the processes within two programs; the depredation program has a new web page, which includes downloadable forms and has removed the requirement for a notary, and the compensation and claims program now has a decreased timeframe for processing claims in order to make more timely payments.

Finally, **Mr. Schriever** stated with the \$1 million spending authority, the Department continues to improve the access program by working with willing private landowners to provide access to their land as well as access to landlocked public lands for hunting, trapping, and fishing opportunities.

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

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Representative Gibbs  
Chair

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Tracey McDonnell  
Secretary

AGENDA  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**  
**1:30 P.M.**  
**Room EW40**  
**Tuesday, February 05, 2019**

SUBJECT	DESCRIPTION	PRESENTER
<a href="#">RS26666</a>	Outfitters, Elk and Deer Tags	Jeremy Pisca, Idaho Outfitters and Guides Association
<a href="#">RS26744</a>	Fish and Game, Landowner Liability	Emily McClure, McClure Policy
<a href="#">RS26511</a>	Wilderness Areas	Rep. Giddings
<a href="#">RS26681</a>	Bunker Hill Superfund Site	Rep. Giddings
	Budget Briefing	Paul Headlee and Rob Sepich, Budget and Policy Analysis, LSO
	Middle Snake River Water Quality Presentation	Travis Rothweiler, City Manager, Twin Falls Idaho

***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 Gibbs	Rep Vander Woude	Rep Moon
Vice Chairman Gestrin	Rep Mendive	Rep Raybould
Rep Moyle	Rep Kauffman	Rep Erpelding
Rep Shepherd	Rep Blanksma	Rep Rubel
Rep Wood	Rep Addis	Rep Mason
Rep Boyle	Rep Lickley	Rep Toone

COMMITTEE SECRETARY

Tracey McDonnell  
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MINUTES  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**

**DATE:** Tuesday, February 05, 2019

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

**PLACE:** Room EW40

**MEMBERS:** Chairman Gibbs, Vice Chairman Gestrin, Representatives Moyle, Shepherd, Wood, Boyle, Vander Woude, Mendive, Kauffman, Blanksma, Addis, Lickley, Moon, Raybould, Erpelding, Rubel, Mason, Toone

**ABSENT/  
EXCUSED:** Representative(s) Boyle

**GUESTS:** Sharon Kiefer and Paul Kline, Idaho Department of Fish and Game; Russell Westerberg, AVCenter Inc.; Jeremy Pisca and Jeff Bitton, Idaho Outfitters and Guides Association; Austin Hopkins and Alli Olson, Idaho Conservation League; Paul Arrington and Morgan Howard, Idaho Water Users Association; Jason Brown, Wade Allred, and Travis Rothweiler, City of Twin Falls; John Kulm, Idaho Recreation Council; Ben Davenport, Idaho Mining Association; Marv Patten, Milk Producers of Idaho

**Chairman Gibbs** called the meeting to order at 1:30pm.

**MOTION:** **Rep. Toone** made a motion to approve the minutes of the January 29, 2019 meeting. **Motion carried by voice vote.**

**RS 26666:** **Jeremy Pisca**, representing the Idaho Outfitters and Guides Association, stated this proposed legislation will update statutes governing the nonresident set-aside and tag allocation system administered by the Idaho Department of Fish and Game in conjunction with the Idaho Outfitters and Guides Licensing Board, so it will more accurately capture actual outfitted use, reflect current trends in hunter demand, and provide more dependable access for the public to outfitted tags. Additionally, it would direct the Idaho Fish and Game Commission to implement a new formula for determining an outfitter's historic use and directs the Idaho Outfitters and Guides Licensing Board to designate the tags set-aside in capped or controlled zones in a more fair and equitable manner. Mr. Pisca stated this legislation will not affect the number of resident elk or deer tags.

**MOTION:** **Rep. Kauffman** made a motion to introduce **RS 26666**. **Motion carried by voice vote.**

**RS 26744:** **Emily McClure**, Lawyer and Lobbyist, representing Riley Stegner and Associates and several large timber land owners in North Idaho, stated this proposed legislation is nearly identical to **RS 26661** which the committee heard and introduced on January 31, 2019. She stated as a result of concerns expressed by some committee members about a couple of words, they met and were able to reach a compromise. **RS 26744** is a result of that compromise. The only difference is the removal of the words "nongovernmental organization" on page 2, lines 17 and 19.

**MOTION:** **Rep. Moon** made a motion to introduce **RS 26744**. **Motion carried by voice vote.**

**RS 26511:** **Rep. Giddings**, District 7, stated this Memorial would make a request from the Idaho Legislature to Congress to release all wilderness study areas acreage which has already been listed as "not suitable for wilderness" by the BLM and relayed to **President George H.W. Bush** in 1992, in order to return the lands to public use.

**Rep. Giddings** stated she was made aware just before the meeting that some of the listed wilderness study area acreages have already been de-listed. Then during committee discussions, more areas were identified that have been designated as wilderness through previous bills. With that information, Rep. Giddings offered the committee options on how best to proceed. Those options include moving forward with **RS 26511** and omit those areas already removed and/or designated, or make those corrections in a new RS and re-present to the committee at a future meeting.

**MOTION:** **Rep. Shepherd** made a motion to introduce **RS 26511**.

**SUBSTITUTE MOTION:** **Rep. Moyle** made a substitute motion to return **RS 26511** to the sponsor. **Motion carried by voice vote.**

**RS 26681:** **Rep. Giddings**, District 7, stated this Resolution would request the Idaho Department of Environmental Quality petition the Environmental Protection Agency requesting the Residential Soils Operable Unit 1 be delisted from the overall Superfund site in Shoshone County.

**MOTION:** **Rep. Addis** made a motion to introduce **RS 26681**. **Motion carried by voice vote.**

**Rob Sepich**, Budget Analyst, Budget and Policy Division, LSO, provided a briefing on the following agency budgets: Idaho Department of Lands, Idaho Department of Water Resources, and Idaho Department of Parks and Recreation.

**Jason Brown**, Environmental Engineer, City of Twin Falls and **Travis Rothweiler**, City Manager, City of Twin Falls co-presented the Middle Snake River Water Quality Update. Mr. Brown began by identifying the boundary of the Middle Snake River, which is approximately 115 river miles between the Milner Dam and King Hill. He stated a key concern the communities in the Magic Valley and Southern Idaho are facing, and what is driving the regulatory issue, is managing nutrients to meet the state's water quality standard in the Middle Snake River.

**Mr. Brown** stated in the early 1990's, the University of Idaho, in partnership with Idaho DEQ and EPA, conducted a series of monitorings and measurements to characterize the extent of nutrient impairment in the Middle Snake River. That work was used to establish Idaho's water quality standard for nutrients (i.e. phosphorus). Monitoring was never repeated after those initial measurements. Over the past two decades, Magic Valley municipalities, industrial discharges, and agriculture water purveyors have implemented nutrient reduction projects and the results have shown a decline in phosphorus levels on the Middle Snake River. However, in 2014, EPA conducted an assessment and a re-evaluation of the total maximum daily load (TMDL) for river flows between 2000-2009, which concluded total phosphorus levels did not meet the in-stream target. The EPA used the low flow conditions during that time period not as a basis for adjustments but rather as a basis to invalidate the TMDL and impose end of pipe limits. Mr. Brown stated they believe there is a poor correlation between river flow and phosphorus concentration due to legacy sediments and nutrient cycling within the river system. Additionally, he stated, water quality monitoring of phosphorus concentration should not be the sole basis for determining nutrient impairment. With EPA making the determination that low flows during the 2000's were the basis for proposed changes in permits, discussions began with EPA over differences of opinion. In April of 2017, after several meetings, Idaho DEQ and EPA announced they would re-open and revise the Middle Snake River Nutrient TMDL document before issuing the National Pollutant Discharge Elimination System (NPDES) permit. Previous to those meetings, in August of 2016, **Governor Otter** submitted an application for NPDES primacy for the State of Idaho, then in June of 2018, Idaho received approval to begin a phased implementation of the NPDES program, resulting in Idaho DEQ being granted the authority to issue Twin Falls next NPDES permit.

**Mr. Rothweiler** concluded the presentation by stating Twin Falls is a founding member of the Southern Idaho Water Quality Coalition that was formed in 2018, with environmental sustainability being at the forefront of their objectives. The Coalition was formed to engage a broad spectrum of land and water users to identify, manage, and increase awareness for water quality issues and are active in the Middle Snake TMDL process. The Coalition's focus is implementing projects that have a greater environmental outcome than those achieved under the framework of the Clean Water Act and the TMDL and NPDES permit programs. The Coalition is hopeful this committee can assist with finding resources necessary to move forward with monitoring and to support the permit development process.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 2:58pm.

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Representative Gibbs  
Chair

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Tracey McDonnell  
Secretary



AGENDA  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**  
**1:30 P.M.**  
**Room EW40**  
**Thursday, February 07, 2019**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">RS26548</a>	East Snake Plain Aquifer Settlement	Rep. Bedke
<a href="#">RS26652</a>	Fish and Game Inspections, Search	Rep. Scott
<a href="#">RS26751</a>	Aquatic Resources, Mitigation	Norm Semanko, Parsons, Behle and Latimer
<a href="#">RS26729</a>	Boise River, Reclamation, Dams	Rep. Blanksma
<a href="#">RS26674C1</a>	Federal Lands, Selling	Seth Grigg, Idaho Association of Counties
<a href="#">H 80</a>	Fish and Game, Damage Compensation	Rep. Wood
<a href="#">H 67</a>	Low Temperature, Geothermal	Rep. Gestrin

***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 Gibbs	Rep Vander Woude	Rep Moon
Vice Chairman Gestrin	Rep Mendive	Rep Raybould
Rep Moyle	Rep Kauffman	Rep Erpelding
Rep Shepherd	Rep Blanksma	Rep Rubel
Rep Wood	Rep Addis	Rep Mason
Rep Boyle	Rep Lickley	Rep Toone

COMMITTEE SECRETARY

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MINUTES  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**

**DATE:** Thursday, February 07, 2019

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

**PLACE:** Room EW40

**MEMBERS:** Chairman Gibbs, Vice Chairman Gestrin, Representative(s) Moyle, Shepherd, Wood, Boyle, Vander Woude, Mendive, Kauffman, Blanksma, Addis, Lickley, Moon, Raybould, Erpelding, Rubel, Toone, Mason

**ABSENT/  
EXCUSED:** Representative(s) Moyle, Erpelding

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

**Chairman Gibbs** called the meeting to order at 1:31pm.

**RS 26548:** **Rep. Bedke**, District 27, stated this proposed legislation expresses support for the settlement agreement between the cities, the surface water coalition, and the members of the Idaho Ground Water Appropriators. He stated the settlement resolves remaining issues, avoids curtailment, and maintains stable groundwater and surface water supplies on the East Snake Plain Aquifer. Additionally, this proposed legislation supports the continued efficient management of the water supplies within the Easter Snake Plain Aquifer, and supports state management to ensure water supply issues are addressed timely and declining water levels are stabilized and reversed.

**MOTION:** **Rep. Blanksma** made a motion to introduce **RS 26548. Motion carried by voice vote.**

**RS 26652:** **Rep. Scott**, District 1, stated this proposed legislation is to preserve the presumption of privacy for all citizens. She stated before any search or inspection is conducted under the provisions of this section, a warrant must be obtained, or consent must be given.

**MOTION:** **Rep. Moon** made a motion to introduce **RS 26652. Motion carried by voice vote.**

**RS 26751:** **Norm Semanko**, Attorney, Parsons, Bailey and Latimer, stated this proposed legislation adds a new **Chapter 93 to Title 76, Idaho Code** to provide for the purchase of mitigation bank credits by project applicants and for alternatives to mitigate for project impacts to wetlands.

**MOTION:** **Rep. Wood** made a motion to introduce **RS 26751. Motion carried by voice vote.**

**RS 26729:** **Rep. Blanksma**, District 23, stated this proposed legislation supports efforts to designate the raising of Anderson Ranch Dam as one of the priorities for the State of Idaho in the interest of promoting additional water security. Raising Anderson Ranch Dam would provide an additional 29,000 acre feet of water storage on the Boise River. She stated this proposed legislation urges Idaho's congressional delegation to ensure completion of the feasibility study and NEPA analysis in a timely manner and to advance the project through any additional congressional action necessary, including the provision of further WIIN Act Funds.

**MOTION:** **Rep. Addis** made a motion to introduce **RS 26729. Motion carried by voice vote.**

**RS 26674C1:** **Seth Grigg**, Idaho Association of Counties, stated this proposed legislation calls on Congress to enact federal legislation to require when private lands are exchanged, purchased, or transferred to the federal government that other federal lands within the county be sold.

**MOTION:** **Rep. Moon** made a motion to introduce **RS 26674C1**. **Motion carried by voice vote.**

**H 80:** **Rep. Wood**, District 27, stated this legislation addresses compensation for damages to an array of agricultural equipment and land due to increasing wildlife populations' impact on corn crops in Southern Idaho. He stated the two areas of increasing damage, specifically from elk, are to center pivots and fall seed bed prepared ground. The original proposal included damage to fences and other structures, but it was decided to first tackle a smaller group of damages in order to avoid pro-rated claim payments. He stated this legislation would also allow for parts and labor to be included in the claims for these two areas.

In response to questions regarding paying for claims and fences, **Rep. Wood** explained although fences was one of the top concerns raised, it would be extremely difficult to define a fence for claims purposes and would also be difficult to determine the condition of the fence prior to damages being claimed. With the potential for very large claims and the chance fence claims would cause payments to go into a pro-rated status, they decided to start with the irrigation equipment and fall seed bed prepared ground with the goal of full payments on claims.

In response to questions regarding using sportsmen's dollars to pay claims for agriculture and whether sportsmen's groups were included in discussions, **Rep. Wood** explained many sportsmen are also agricultural people and although he did not speak with any sportsmen's organizations, those individuals he did speak with didn't have any problems with this legislation. He stated whatever can be done to mitigate the complaints agriculture has for wildlife, the better, and is why they chose to start with the subset of irrigation equipment and fall seed bed prepared grounds.

**Rich Garber**, Lobbyist, representing Idaho Grain Producers and **Delong Lee**, representing Idaho Farm Bureau, both stated they are **in support** of this bill in order to compensate farmers for wildlife damages.

**Sharon Kiefer**, Deputy Director, Idaho Department of Fish and Game, stated these are real damages being addressed in this bill. In order to clear up any misconceptions with sportsmen, she stated this bill just expands aspects of crop production that are eligible for compensation claims. This bill will not impact the current Department funds that are dedicated to compensation claims for wildlife damages, nor does it impact the process for submitting or evaluating claims. Ms. Kiefer explained the Department is currently trying to manage the type of damage described in this bill and recognizes that it does and can occur. The Fish and Game Commission's position at this time is to monitor the progress of this bill.

**Brian Brooks**, representing Idaho Wildlife Federation, stated they are **in opposition** to this bill. Their opposition is with the fiscal note. He stated hunters want to help farmers, but believes this legislation drifts from the original intent of the depredation account from which it would draw funds.

**MOTION:** **Rep. Addis** made a motion to send **H 80** to the floor with a **DO PASS recommendation**. **Motion carried by voice vote**. **Rep. Wood** will sponsor the bill on the floor.

**H 67:** **Rep. Gestrin**, District 8, stated this legislation would provide the Director of Water Resources more flexibility to exempt new low temperature geothermal wells if certain conditions are met. He stated currently if the bottom of the hole temperature is 85 degrees or more, that puts the well into the geothermal category and it must be immediately sealed and closed off. This legislation provides a provision allowing the well to remain open as long as the proposed use will not reduce the temperature or pressure of the surrounding geothermal layer.

**Gary Spackman**, Director, Idaho Department of Water Resources, stated the Department worked extensively with the Idaho Ground Water Association on this legislation. As a result, the Department is **in support** of this legislation because it more clearly describes the criteria an individual will have to meet in order to use low temperature geothermal water.

**Paul Arrington**, Idaho Water Users Association and **Lynn Tominaga**, Idaho Ground Water Association, stated they are **in support** of this legislation because water rights users are protected.

**MOTION:** **Rep. Blanksma** made a motion to send **H 80** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Gestrin** will sponsor the bill on the floor.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 2:34pm.

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Representative Gibbs  
Chair

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Tracey McDonnell  
Secretary

AGENDA  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**  
**1:30 P.M.**  
**Room EW40**  
**Monday, February 11, 2019**

SUBJECT	DESCRIPTION	PRESENTER
<a href="#">RS26828C1</a>	Wilderness Study Areas	Rep. Giddings
<a href="#">RS26746</a>	Mines, Financial Assurance, Reclamation	Rep. Addis
<a href="#">RS26794</a>	Natural Resources Committee	Rep. Gibbs
<a href="#">RS26818</a>	Bear Lake, Lands and Waters	Rep. Gibbs
	Flood Maintenance and Recovery Program Update	Roger Batt, Treasure Valley Water Users Association; Brian Patton, Idaho Department of Water Resources; Mike Dimmick, Flood District 10; and Brian Olmstead, Twin Falls Canal Company
	Discussion on Resources Budgets	Chairman Gibbs

***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 Gibbs	Rep Vander Woude	Rep Moon
Vice Chairman Gestrin	Rep Mendive	Rep Raybould
Rep Moyle	Rep Kauffman	Rep Erpelding
Rep Shepherd	Rep Blanksma	Rep Rubel
Rep Wood	Rep Addis	Rep Mason
Rep Boyle	Rep Lickley	Rep Toone

COMMITTEE SECRETARY

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MINUTES  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**

- DATE:** Monday, February 11, 2019
- TIME:** 1:30 P.M.
- PLACE:** Room EW40
- MEMBERS:** Chairman Gibbs, Vice Chairman Gestrin, Representatives Moyle, Shepherd, Wood, Boyle, Vander Woude, Mendive, Kauffman, Blanksma, Addis, Lickley, Moon, Raybould, Erpelding, Rubel, Toone, Mason
- ABSENT/  
EXCUSED:** Representative(s) Moon
- GUESTS:** Roger Batt, Treasure Valley Water Users Association; Scott Reinecker and Paul Kline, Idaho Department of Fish and Game; Brian Patton, Idaho Department of Water Resources; Brian Olmstead, Twin Falls Canal Company; Mike Dimmick, Flood District #10; Norm Semanko, Parsons, Behle and Latimer; Tom Daniel, Idaho Farm Bureau; Claudia Cottle, Bear Lake; Lynn Tominaga, Idaho Ground Water Association
- Chairman Gibbs** called the meeting to order at 1:30pm.
- MOTION:** **Rep. Kauffman** made a motion to approve the minutes of the January 31, 2019 meeting. **Motion carried by voice vote.**
- RS 26828C1:** **Rep. Giddings**, District 7, stated this RS is a re-do of **RS 26511** the committee heard on February 5, 2019. The original RS had an extensive list of wilderness study areas, but there were errors with the list. She explained **RS 26828C1** is the same as **RS 26511** but without the list, which isn't necessary to have at this time. Rep. Giddings stated this memorial would make a request from the Idaho Legislature to Congress to release all wilderness study areas acreage which have already been listed as "not suitable for wilderness" by the BLM and relayed to **President George H.W. Bush** in 1992, in order to return the lands to public use.
- MOTION:** **Rep. Shepherd** made a motion to introduce **RS 26828C1**. **Motion carried by voice vote.**
- RS 26746:** **Rep. Addis**, District 4, stated the Surface Mining Act, enacted in 1971, has a primary purpose to protect the taxpayers and the lands of Idaho by providing for reclamation activities and bonds for lands disturbed by surface mining activities. This proposed legislation will more accurately reflect the current mining industry and regulatory practices including addressing the surface impacts of underground mines and providing for actual cost estimation of reclamation and related environmental activities. Additionally, this proposed legislation would update financial assurance methods and the ability to require reasonable fees to pay for any additional workload associated with the proposed changes.
- MOTION:** **Rep. Wood** made a motion to introduce **RS 26746**. **Motion carried by voice vote.**
- Chairman Gibbs** turned the gavel over to **Vice Chairman Gestrin**.
- RS 26794:** **Rep. Gibbs**, District 32, stated this proposed legislation would authorize the Legislative Council to continue an interim committee to undertake studies of natural resource issues, particularly the water resources of the state.
- MOTION:** **Rep. Wood** made a motion to introduce **RS 26794**. **Motion carried by voice vote.**

**RS 26818:** **Rep. Gibbs**, District 32, stated this proposed legislation would codify the many beneficial uses of the lands and waters in and around Bear Lake and recognize the Bear River Compact and the right that Idaho has to use and develop additional water from the Bear River drainage.

**MOTION:** **Rep. Blanksma** made a motion to introduce **RS 26818**. **Motion carried by voice vote.**

**Vice Chairman Gestrin** turned the gavel over to **Chairman Gibbs**.

**Roger Batt**, Treasure Valley Water Users Association, began the flood maintenance and recovery program update by stating as a result of the 2017 flooding, the Association came before the committee last Legislative Session with the proposal to stand up and fund a state-wide flood management program. With the passage of **H 712** and the transfer of \$1 million dollars from the General Fund to be administered by the Water Resource Board, they have been actively working on flood management projects. Through grants and with the assistance of several different entities, such as FEMA, NRCS, Corps of Engineers, Bureau of Reclamation, local governments and agencies, and others, they have been able to leverage their funding to stretch their dollars for project work even further.

**Brian Patton**, Executive Officer, Idaho Water Resources Board, stated one of his responsibilities is to assure this program is successful. He explained the \$1 million was intended for a grant program to provide statewide competitive grants for flood damaged stream channel repairs, stream channel improvements, flood risk reduction, and flood prevention projects. The grant criteria, application, and guidance was established in May 2018, with grants awarded in the first round by July and in the second round by August. He stated they received 18 applications during the two rounds of funding, and after the applications were evaluated, scored, and ranked, the Board authorized funding for 14 projects throughout Idaho totalling \$1 million. The project goals included mitigating flood damage, realigning main channels for water delivery, reducing sedimentation, improving riparian habitat and floodplain function, and implementing long term solutions based on river geomorphology.

**Mike Dimmick**, District Manager, Flood Control District #10, provided an overview of the many projects that were funded and ongoing in his district, including the Duck Alley Pit Capture project, New Dry Creek river bank repair and diversion project, Riverside Village/Garden City project, the Mulchay/Porter flood mitigation project, and various gravel removal projects.

**Brian Olmstead**, General Manager, Twin Falls Canal Company, provided an overview of the 2017 flooding events that occurred throughout the Magic Valley. He explained canals go across the grain of all the native ditches that used to run towards the rivers from the deserts, foothills and farm fields, so they become a collecting point for all the water, but were not designed to handle floods. He further explained canals tend to get smaller as they go downstream and flood waters tend to get bigger as they flow downstream. The flooding event in 2017 created a terrible situation because they started getting thousands of calls due to flooding, but the Canal Company wasn't liable for insurance purposes since the flooding was an "act of God." He stated they were able to get a FEMA grant for canal repair projects but were not authorized to use any of that funding for new structures to prevent future flooding. They were, however, able to apply for flood management grant money and received funding for the East Perrine Pond/Wetland project which will help 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.

**Paul Arrington**, Idaho Water Users Association, thanked the Legislature for funding these projects. He stated all of these projects were collaborative efforts from various stakeholders to solve real programs.

**Chairman Gibbs** led a brief discussion on resource agency budgets and committee priorities. Some of those priorities include continuation of the flood maintenance and recovery program, water quality on the Snake River, and the raising of Anderson Ranch Dam.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 2:19pm.

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Representative Gibbs  
Chair

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Tracey McDonnell  
Secretary



AGENDA  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**  
**1:30 P.M.**  
**Room EW40**  
**Wednesday, February 13, 2019**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">HCR 10</a>	East Snake Plain Aquifer, Settlement	Rep. Bedke
<a href="#">HJM 4</a>	Boise River, Anderson Ranch Dam	Rep. Blanksma
<a href="#">S 1039</a>	Wolf Control Board, Sunset	Carl Rey, Wolf Depredation Control Board
<a href="#">S 1041</a>	Ground Water Districts, Assessments	Lynn Tominaga, Idaho Ground Water Appropriators

***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 Gibbs	Rep Vander Woude	Rep Moon
Vice Chairman Gestrin	Rep Mendive	Rep Raybould
Rep Moyle	Rep Kauffman	Rep Erpelding
Rep Shepherd	Rep Blanksma	Rep Rubel
Rep Wood	Rep Addis	Rep Toone
Rep Boyle	Rep Lickley	Rep Mason

COMMITTEE SECRETARY

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MINUTES  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**

**DATE:** Wednesday, February 13, 2019

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

**PLACE:** Room EW40

**MEMBERS:** Chairman Gibbs, Vice Chairman Gestrin, Representatives Moyle, Shepherd, Wood, Boyle, Vander Woude, Mendive, Kauffman, Blanksma, Addis, Lickley, Moon, Raybould, Erpelding, Rubel, Toone, Mason

**ABSENT/  
EXCUSED:** Representative(s) Shepherd, Vander Woude

**GUESTS:** Paul Kline, Toby Boudreau, and Ed Schriever, Idaho Department of Fish and Game; Mat Weaver and Brian Patton, Idaho Department of Water Resources; Amber Renne, City of Boise; Marie Kellner and Alli Olson, Idaho Conservation League; Lynn Tominaga, Idaho Ground Water Association; Paul Arrington and Morgan Howard, Idaho Water Users Association; Kira Finkler, Trout Unlimited; Wyatt Prescott, Idaho Cattle Association; Benn Brocksome, Idaho Sportsmen's Alliance; Braden Jensen, Idaho Farm Bureau; Chris Bromley, McHugh Bromley PLLC; Ben Davenport, Idaho Mining Association; Doug Jones, Jones and Associates; Brandy Kay, Idaho Wool Growers; Brian Oakey, Idaho Wolf Depredation Control Board

**Chairman Gibbs** called the meeting to order at 1:30pm.

**MOTION:** **Rep. Kauffman** made a motion to approve the minutes of the February 5, 2019 meeting. **Motion carried by voice vote.**

**HCR 10:** **Rep. Bedke**, District 27, stated this Concurrent Resolution expresses Legislative support for the settlement agreement between the cities, the Surface Water Coalition, and the members of the Idaho Ground Water Appropriators on the Eastern Snake Plain Aquifer. He explained in 2016, the Director of the Idaho Department of Water Resources designated the Eastern Snake Plain Groundwater Management Area, which the cities opposed. In 2018 a settlement was reached between the cities, the Idaho Ground Water Appropriators and the Surface Water Coalition where the cities agreed to mitigate for their impacts of pumping from the aquifer by collectively delivering 7,600 acre feet of water to the Idaho Water Board annually, in addition to providing money to pay the expense for that amount of water to be recharged to the aquifer. Rep. Bedke stated this was a great settlement that will be in place for 35 years, it ties up the last loose ends, provides safe harbor for the 22 participating cities that other ground water users enjoy, provides opportunities for water users to work together, and keeps money going into the recharge program.

In response to a question regarding participating cities and population growth and how that will impact the 35 year agreement, **Rep. Bedke** stated this number over-mitigates their impacts which provides room for growth. He acknowledged the cities should be commended for their foresight by putting more on the table to accommodate for potential city growth.

**Chris Bromley**, Attorney, McHugh Bromley PLLC, stated they represent the 14 lower valley cities, and are **in support** of this settlement and this Concurrent Resolution.

**MOTION:** **Rep. Kauffman** made a motion to send **HCR 10** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Moyle** will sponsor the bill on the floor.

**Chairman Gibbs** recognized **Bradley Chrysler**, the committee's Page, for his excellent work during the first six weeks of the Legislative Session.

**HJM 4:**

**Rep. Blanksma**, District 23, stated this Joint Memorial expresses Legislative support for the efforts of raising Anderson Ranch Dam as one of the priorities for Idaho and urges the Congressional Delegation to ensure completion of the feasibility study and NEPA analysis in a timely manner. Additionally, this shows Idaho is prepared and ready should WIIN Act (Water Infrastructure Improvements for the Nations Act) funds become available. She stated raising the dam six feet will add an additional 29,000 acre feet of water storage to the Boise River Basin.

In response to questions regarding the Fiscal Note and the \$20 million from the General Fund, **Rep. Blanksma** explained the project is a 50-50 split between state and federal, with the Idaho Water Resources Board being the non-federal partner and the Bureau of Reclamation being the federal partner with federal funds coming through the WIIN Act. She explained the state would eventually be able to recoup most of its share of the project costs through permits for the new water the Water Board would contract out to organizations such as irrigation districts, canal companies, or cities. Money eventually generated from these contracts would go into an account for other water projects and not back into the General Fund. She concluded by stating with Idaho being proactive in setting aside one-time money for this project, it will show the state is serious and ready to move forward with this project.

**Doug Jones**, Lost Valley Reservoir Company and **Paul Arrington**, Idaho Water Users Association both spoke **in support** stating **HJM 4** is good legislation.

**Marie Callaway Kellner**, Idaho Conservation League, stated they are not taking a position on **HJM 4** but wanted to identify when discussing new dams, raising existing dams, or any other water storage project not to forget with additional water storage comes the need to also create protections for rivers below dams.

**Kira Finkler**, Trout Unlimited, stated they are taking a neutral position on **HJM 4** and offered suggestions regarding the process to consider with this project including bringing stakeholders together in a collaborative process to work on solutions to meet the long term needs of communities.

**MOTION:**

**Rep. Addis** made a motion to send **HJM 4** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Blanksma** will sponsor the bill on the floor.

**S 1039:**

**Carl Rey**, Idaho Wolf Depredation Control Board, stated the purpose of the bill is to reauthorize the Board by eliminating the sunset provision date of June 30, 2020 and reauthorizing the funding mechanism. This bill does not change the scope or authority of the Board.

In response to questions regarding \$200,000 appropriated from the General Fund for fiscal year 2020 rather than \$400,000 they had been appropriated in previous fiscal years, **Mr. Rey** explained due to the current state deficit coupled with the Board carrying a surplus, **Governor Little** recommended \$200,000 and the Board supported the recommendation for this one year. He further explained in order for the program to be sustainable, they will need at least \$400,000 annually, and maybe even more, in order to meet the increasing number of complaints and investigations the Board receives.

**MOTION:**

**Rep. Lickley** declared Rule 38 and made a motion to send **S 1039** to the floor with a **DO PASS** recommendation.

**Wyatt Prescott**, Idaho Cattle Association; **Ben Brocksome**, Idaho Sportsman's Alliance; and **Braden Jensen**, Idaho Farm Bureau, all stated they were **in support** of this bill because they believe the wolf problem is not going away.

In response to a question directed to **Mr. Prescott** as to why the word "nonlethal" was not included in the bill, he responded when dealing with problem wolves, nonlethal methods have been proven ineffective and therefore are not an option. He stated because problem wolves have already depredated, they know where to find food and will either keep coming back to the livestock they know about or will find a new source of food from another nearby herd.

**Brandy Kay**, Idaho Wool Growers, stated she is **in support** of this bill and does not want to see the inclusion of the word "nonlethal" in the bill.

In response to a request for an explanation about wolves killing guard dogs and the costs of those dogs, **Ms. Kay** explained guard dogs are very large dogs, cost approximately \$1,000 per dog and are very expensive to train and feed. She stated they wear spiked collars to help protect their necks if attacked by a wolf, but if a wolf pack attacks a guard dog, they generally succumb to the pack and are "ripped to shreds."

**Ed Schriever**, Director, Idaho Department of Fish and Game, stated the Fish and Game Commission was in support of **H 470**, passed in 2014 creating the Wolf Depredation Control Board, and the Commission remains **in support** of efforts to continue the Board as outlined in **S 1039**. He stated the Commission is fully aware it is their responsibility to manage wolves throughout the state and are actively looking at additional ways to manage wolves such as more opportunities and methods to increase wolf hunts.

In response to a question regarding collaring wolves, **Mr. Schriever** stated the collaring work has been increasing every year. They are maintaining active collars around the state and working with Wildlife Services to monitor collared wolves' activities to help with conflict management. He explained the determining factor for which funding source pays for the collars and tracking depends on where the work is being done and what is being targeted.

**VOTE ON THE MOTION:**

**Chairman Gibbs** called for a vote on the motion to send **S 1039** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Reps. Erpelding and Mason** requested to be recorded as voting **NAY. Rep. Lickley** will sponsor the bill on the floor.

**S 1041:**

**Lynn Tominaga**, Executive Director, Idaho Ground Water Appropriators, stated this bill meets two operational needs of ground water districts. The first establishes the ability for districts to issue a special assessment to pay for unexpected expenses in order to avoid a curtailment order from the Idaho Department of Water Resources Director. The second provides a means for districts to enforce compliance when water users willfully disregard their responsibilities based on mitigation plans approved by the Department. He explained this bill will allow the districts to levy an assessment against non-compliant users equal to 125% of the cost incurred by the district to cover the expense of the non-compliant user. It would also allow the district to issue an assessment of \$100 per acre foot of excess water used based on the non-compliant user's water right.

**Paul Arrington**, Idaho Water Users Association and **Matt Weaver**, Idaho Department of Water Resources stated they both were **in support** of **S 1041** because the various water users finally came together to address issues and concerns and this bill is a result of that work.

**MOTION:**

**Rep. Raybould** made a motion to send **S 1041** to the floor with a **DO PASS** recommendation. **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 2:50pm.

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Representative Gibbs  
Chair

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Tracey McDonnell  
Secretary

AGENDA  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**  
1:30 P.M.  
Room EW40  
Tuesday, February 19, 2019

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">HCR 12</a>	Interim Natural Resources Committee	Rep. Gibbs
<a href="#">HJM 8</a>	Wilderness Study Areas	Rep. Giddings
<a href="#">HCR 8</a>	Bunker Hill Superfund Site	Rep. Giddings
<a href="#">HJM 5</a>	Federal Lands, Selling	Seth Grigg, Idaho Association of Counties and Wayne Butts, Custer County Commissioner

***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 Gibbs	Rep Vander Woude	Rep Moon
Vice Chairman Gestrin	Rep Mendive	Rep Raybould
Rep Moyle	Rep Kauffman	Rep Erpelding
Rep Shepherd	Rep Blanksma	Rep Rubel
Rep Wood	Rep Addis	Rep Toone
Rep Boyle	Rep Lickley	Rep Mason

COMMITTEE SECRETARY

Tracey McDonnell  
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Phone: 332-1136  
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MINUTES  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**

**DATE:** Tuesday, February 19, 2019

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

**PLACE:** Room EW40

**MEMBERS:** Chairman Gibbs, Vice Chairman Gestrin, Representatives Moyle, Shepherd, Wood, Boyle, Vander Woude, Mendive, Kauffman, Blanksma, Addis, Lickley, Moon, Raybould, Erpelding, Rubel, Toone, Mason

**ABSENT/  
EXCUSED:** Representative(s) Rubel

**GUESTS:** Rialin Flores and Ryan McGoldrick, Conservation Voters of Idaho; John Williams, BPA; Wayne Butts, Custer County Commissioner; Jann Higdem, self; Jonathan Oppenheimer, Idaho Conservation League; Mike Medberry, self; Russ Hendricks, Idaho Farm Bureau

**Chairman Gibbs** called the meeting to order at 1:30pm.

**MOTION:** **Rep. Kauffman** made a motion to approve the minutes of the February 7, 2019 meeting. **Motion carried by voice vote.**

**Chairman Gibbs** welcomed the committee's new Page, **Elbia Christensen**, and had her introduce herself.

**Chairman Gibbs** turned the gavel over to **Vice Chairman Gestrin**.

**HCR 12:** **Rep. Gibbs**, District 32, stated this Continuing Resolution authorizes the formation of the Natural Resources Interim Committee for the next two years to undertake the issues of natural resources, in particular water resource issues, of the state.

**MOTION:** **Rep. Raybould** made a motion to send **HCR 12** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Gibbs** will sponsor the bill on the floor.

**Vice Chairman Gestrin** turned the gavel over to **Chairman Gibbs**.

**HJM 8:** **Rep. Giddings**, District 7, stated this Memorial would make a request to Congress to release all wilderness study areas (WSAs) acreage which have already been listed as "not suitable for wilderness" by the BLM and relayed to **President George H.W. Bush** in 1992. By releasing these WSAs, this allows the opportunity for state, political subdivisions, businesses, and citizens to provide input as to how those acres should be managed. Rep. Giddings explained when multiple use is established, it is then these entities can derive financial benefit from the public lands. Additionally, wildfires, which are allowed to burn in wilderness areas, could be properly managed promoting healthy forests, clean water, wildlife survival, and reduce the risks to human life and property.

In response to questions regarding concerns about the WSAs listed as suitable but not yet designated by Congress as wilderness, and if those too would be considered by Congress to list as wilderness by virtue of this Joint Memorial, **Rep. Giddings** explained this Memorial doesn't address those areas, just the areas deemed "not suitable for wilderness."

**MOTION:** **Rep. Moon** made a motion to send **HJM 8** to the floor with a **DO PASS** recommendation.

**Jann Higdem**, an environmental research analyst representing herself, from Pinehurst Idaho, stated in Shoshone County where she lives, 73% of the lands are federal, leaving only 27% of the county as a tax base. She stated all suitable WSA recommendations for designation as wilderness must be managed as if they were wilderness and explained the reason areas were determined "not suitable for wilderness" was because there were too many man-made impacts such as buildings, and mining and logging equipment within those areas. This bill only addresses the areas deemed unsuitable, and is requesting those acres be released in order for the public, local businesses, and municipalities to be able to benefit from multiple use activities on those lands. Additionally, wildfires would be better managed.

**Jonathan Oppenheimer**, Idaho Conservation League, stated he appreciates **Rep. Giddings** bringing this Memorial forward, but stated the best way to resolve issues regarding concerns over WSAs is by coming together at the local level with concerned stakeholders. Therefore, Mr. Oppenheimer requested **HJM 8** be held in committee.

**Russ Hendricks**, Idaho Farm Bureau, stated they are **in support of HJM 8**. He explained many of their members have been negatively impacted by WSAs, and concurred those areas listed as unsuitable for wilderness should be released back to the BLM to be managed for multiple use activities.

**Rep. Mason** declared Rule 38 due to his work in public lands conservation. To clarify a discussion point regarding various uses not authorized in WSAs, he provided the example of motorized uses as an activity generally not allowed in wilderness, which could be allowed in a WSA. He explained if motorized use was already authorized before the area was designated as a WSA, that use is allowed to continue. He further explained the law states WSAs cannot have degradation of wilderness character once they are set aside as WSAs, so for example, if motorized use was not allowed before designation, it would remain an unauthorized use.

**Mike Medberry**, representing himself, Garden City Idaho, stated he is **in opposition to HJM 8** because this Memorial only represents one side of the issue. He explained FLPMA (Federal Land Policy and Management Act), which directs BLM's management of lands under its jurisdiction, is a conservative law which states unimpaired lands will remain unimpaired until Congress makes a determination otherwise.

**Rep. Giddings** stated she did not have any closing remarks.

**Rep. Boyle** reminded the committee this Memorial only addresses the "not suitable for wilderness" acres. She stated at least two of the impacted counties in the state have taken votes from their citizens and they are not in favor of more wilderness in their counties. She suggested maybe more counties should do the same. For the record, she spoke **in support** of this Memorial.

**Rep. Mason** spoke **in opposition to HJM 8**. He stated Idaho is a proven leader in collaborative efforts and has studied WSAs for decades by bringing various parties together to codify legislation. He stated since 2009, 28 of the 67 areas listed have been addressed, or 46% of the total WSAs. Rep. Mason explained Congress takes actions on legislation, and stated this Memorial will undermine the hard work many Idahoans are doing across the state to reach consensus on natural resource issues.

**Rep. Wood** stated there could be consequences sending this Memorial forward because Congress could also look at the list of WSAs suitable for listing as wilderness in addition to those areas identified as unsuitable for wilderness.



**Rep. Moon** stated the BLM in her district relies on the collaborative process but it was all environmental groups, not local citizens representing miners, foresters, and ranchers. She stated it sounds good in theory but the local citizens' voices are being silenced, so she is **in support** of **HJM 8** even if it doesn't cause Congressional action.

**VOTE ON THE MOTION:**

**Chairman Gibbs** stated he was in doubt regarding the voice vote and requested a roll call vote.

**ROLL CALL VOTE:**

**Chairman Gibbs** requested a roll call vote on **HJM 8**. **Motion carried by voice vote of 10 AYE, 7 NAY, 1 Absent/Excused. Voting in favor of the motion: Chairman Gibbs and Reps. Gestrin, Moyle, Shepherd, Boyle, Vander Woude, Mendive, Blanksma, Addis, and Moon. Voting in opposition to the motion: Reps. Wood, Kauffman, Lickley, Raybould, Erpelding, Mason, and Toone. Rep. Rubel was Absent/Excused. Rep. Giddings** will sponsor the bill on the floor.

**HCR 8:**

**Rep. Giddings**, District 7, stated this Resolution would request the Idaho Department of Environmental Quality (DEQ) petition the Environmental Protection Agency (EPA) requesting the Residential Soils Operable Unit 1 (OU1) be delisted from the overall Superfund site in Shoshone County. In order to understand the complexity of this issue, Rep. Giddings provided a background to this Superfund site. She stated this mining district has one of the world's largest concentrations of silver, lead, zinc, copper, antimony, and gold. Almost \$3 billion worth of metal has been produced from veins in the district. Mining practices in the early years polluted the local waters with waste rock in addition to tailing dumps, impoundment dams, settlement ponds, and back-filling practices. At one point, the bag plant at a smelter on the Bunker Hill mining site malfunctioned and sent massive amounts of pollutants into the air, which settled on the ground around the site. In 1983, the EPA placed this site on the Superfund registry. The area considered most polluted was within 21 square miles of the smelter, and was referred to as "the Box." The Box was split into two Operational Units with OU1 being the populated areas and OU2 being the non-populated areas. The EPA began remediation on all the areas within OU1 first with approximately 3,520 private and commercial properties and wells sampled and any violations of established standards remediated with full documentation. As of 2008, the communities within OU1 have been certified with no further action planned or needed.

**Rep. Giddings** also explained Idaho has to pick up approximately 10% of all costs associated with mitigation of the Superfund site as well as costs for the water treatment plant in the Bunker Hill site in perpetuity. Additionally, Idaho is required to pay all costs associated with the operations and maintenance of the entire site in perpetuity. As a result, a trust fund was established so the interest earned from the trust would pay the costs for operations and maintenance. The Institutional Controls Program (ICP) was established to protect public health and regulates the long term stability of the barriers put in place as well as property owners' obligations. The ICP is funded from state and federal dollars as well as responsible parties.

**Rep. Giddings** explained that if OU1 was delisted it would lower interest rates on bank loans, it would give local government more control in decision making, it would reduce the stigma associated with the area, and it would overall increase economic development in the area. She further explained to even consider a delisting, there first must be concurrence from the state, which is why **HCR 8** is before the committee.

In response to questions regarding EPA and considerations for delisting, **Rep. Giddings** explained anyone can request a delisting, i.e. an individual or the state, but when it is a partial delisting, as is the case in this situation since the request is only for OU1, the delisting request must be initiated by the state.

In response to questions regarding the Lead Health Intervention Program, which is funded by the EPA and DEQ, and would that funding stop if OU1 is delisted, **Rep. Giddings** explained that program is run in part through the ICP and that funding would end, but could be addressed and negotiated with EPA during the delisting process. That said, she stated OU2 and OU3 (which is outside of the Box) will never go away, so will never lose funding for programs such as Lead Health Intervention.

**MOTION:** **Rep. Raybould** made a motion to **HOLD HCR 8** in committee and wished to speak to her motion. She stated this is a very complex issue so it may be beneficial to take more time in order to get clarification on the liabilities the state might hold should the delisting move forward and to learn more about what the true consensus is within the communities regarding how they wish to proceed since there are very strong opinions on both sides of the issue.

**VOTE ON THE MOTION:** **Chairman Gibbs** called for a vote on the motion to **HOLD HCR 8** in committee. **Motion carried by voice vote. Rep. Vander Woude and Shepherd** requested to be recorded as voting **NAY**.

**HJM 5:** **Seth Grigg**, Idaho Association of Counties, stated this Joint Memorial calls on Congress to enact federal legislation to require when private lands are exchanged, purchased, or transferred to the federal government, that other federal lands within the county be sold for a no net loss balance.

**Wayne Butts**, Custer County Commissioner, stated this issue is a top priority of the Board of Public Lands and the county commissioners and impacts the entire state as well as many other western states. In Custer County, there are conservation groups purchasing private lands and then transferring them to the Sawtooth National Recreation Area, which removes those acres from the county tax base. He stated **Governor Little** mentioned no net loss of taxable lands two times in his inaugural speech, so no net loss of private lands is the goal.

In response to concerns regarding the land selling process, **Mr. Butts** stated they understand the willing seller and buyer concept and the concerns last year with private property rights. What they are hoping to achieve is when land is sold to a federal agency that land of equal value, not acre per acre, be sold back to the county.

**DeLon Lee**, Idaho Farm Bureau, stated they are **in support** of **HJM 5**. He stated 63% of Idaho is federal lands and what private lands there are, are a valuable asset and should be protected.

**MOTION:** **Rep. Moon** made a motion to send **HJM 5** to the floor with a **DO PASS** recommendation.

**Rep. Mason** declared Rule 38 due to his work in public lands conservation.

**ROLL CALL VOTE:** **Rep. Erpelding** requested a roll call vote on **HJM 5**. **Motion carried by a vote of 11 AYE, 4 NAY, 3 Absent/Excused. Voting in favor** of the motion: **Chairman Gibbs and Reps. Gestrin, Moyle, Boyle, Vander Woude, Mendive, Kauffman, Addis, Lickley, Moon, and Raybould. Voting in opposition** to the motion: **Reps. Wood, Erpelding, Mason, and Toone. Reps. Shepherd, Blanksma, and Rubel were Absent/Excused. Reps. Moon and Shepherd** will sponsor the bill on the floor.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 3:30pm.

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Representative Gibbs

Chair

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Tracey McDonnell

Secretary

**AMENDED AGENDA #1**  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**  
**1:45 P.M.**  
**Room EW40**  
**Thursday, February 21, 2019**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">H 97</a>	Land Owners, Liability	Emily McClure, McClure Policy LLC and Rep. Addis
<a href="#">H 141</a>	Mines, Financial Assurance	Rep. Addis

***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 Gibbs	Rep Vander Woude	Rep Moon
Vice Chairman Gestrin	Rep Mendive	Rep Raybould
Rep Moyle	Rep Kauffman	Rep Erpelding
Rep Shepherd	Rep Blanksma	Rep Rubel
Rep Wood	Rep Addis	Rep Toone
Rep Boyle	Rep Lickley	Rep Mason

COMMITTEE SECRETARY

Tracey McDonnell  
Room: EW62  
Phone: 332-1136  
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MINUTES  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**

**DATE:** Thursday, February 21, 2019

**TIME:** 1:45 P.M.

**PLACE:** Room EW40

**MEMBERS:** Chairman Gibbs, Vice Chairman Gestrin, Representatives Moyle, Shepherd, Wood, Boyle, Vander Woude, Mendive, Kauffman, Blanksma, Addis, Lickley, Moon, Raybould, Erpelding, Rubel, Toone, Mason

**ABSENT/  
EXCUSED:** Representative(s) Vander Woude, Erpelding

**GUESTS:** Marsha Grand, self; Paul Kline and Sharon Kiefer, Idaho Department of Fish and Game; Allan Walburger and students, BYU-Idaho; Glen Prouty, Simplot/IMA; Lisa Anderson, Idaho Cumo Mining; John Eaton, Idaho Association of Commerce and Industry; Alli Olson and Jonathan Oppenheimer, Idaho Conservation League; Kevin Beaton, Stoel Rives/IMA; Benjamin Davenport, Idaho Mining Association; Michael Gibson, Trout Unlimited; Suzanne Budge, SBS Associates LLC

**Chairman Gibbs** called the meeting to order at 1:45pm.

**MOTION:** **Rep. Kauffman** made a motion to approve the minutes of the February 11, 2019 meeting. **Motion carried by voice vote.**

**H 97:** **Rep. Addis**, District 4, stated **H 97** builds upon **H 476**, which passed in 2018 and provides recreational immunity protections to governmental entities. **H 97** further clarifies recreational immunity protections also applies to private landowners that enter into agreements with government entities for recreational purposes when they do not charge individual members of the public for access. Rep. Addis explained currently private landowners can work with Idaho Department of Fish and Game to allow public access on or through their private property through the Department's existing voluntary Access YES! program. The Department is adding a new program for landowners with large tracts of property, 50,000 acres or more, that will also provide public access for recreational purposes. **H 97** will provide recreational immunity protections for landowners in both of these programs.

**Emily McClure**, Lawyer and Lobbyist, Riley Stegner and Associates, representing several large timber land owners in North Idaho, stated there are private landowners interested in participating in the public access programs and believe they would have recreational immunity protections based on case law, but prefer it be clarified in statute and **H 97** takes care of that issue.

**Sharon Kiefer**, Idaho Department of Fish and Game, stated the Idaho Fish and Game Commission is **in support** of **H 97**.

**MOTION:** **Rep. Moon** made a motion to send **H 97** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Addis** will sponsor the bill on the floor.

**H 141:** **Rep. Addis**, District 4, stated the Surface Mining Act, enacted in 1971, has a primary purpose to protect the taxpayers and the lands of Idaho by providing for reclamation activities and bonds for lands disturbed by surface mining activities. He said this bill will more accurately reflect the current mining industry and regulatory practices including addressing the surface impacts of underground mines and providing for actual cost estimation of reclamation and related environmental activities. He further explained this bill would update financial assurance methods requiring financial assurance for reclamation and long term post closure management activities, requiring reclamation plans and financial assurance reviews, and the ability to require reasonable fees to pay for any additional workload.

**MOTION:** **Rep. Mendive** made a motion to send **H 141** to the floor with a **DO PASS** recommendation.

**Ben Davenport**, Idaho Mining Association, stated they are **in support** of **H 141** because it is necessary to protect the viability of the industry. He explained this bill pushes back against threats from federal litigation, federal regulators, and anti-mining activists by creating an Idaho standard that works for the industry while protecting the taxpayers from potential liabilities.

**Michael Gibson**, Trout Unlimited, stated they have some concerns with this bill as they have worked on abandoned mines across the country and have seen the impacts to human health, watersheds, and trout. He stated they are not against mining but want to assure the proper bonding is in place when a mine closes down and are not leaving the taxpayers with the bill. He explained their concerns are with corporate guarantees being used for financial assurances because these assurances do not survive bankruptcy leaving taxpayers holding the bill to complete the clean up. Mr. Gibson stated after discussions with **Mr. Davenport**, they were assured if this bill passes, the financial assurances would be addressed through the rule making process.

**Jonathan Oppenheimer**, Idaho Conservation League, stated they have concerns regarding bonding, specifically with corporate guarantees and letters of credit. He stated they've seen in a number of instances when mining companies come into Idaho, they develop their mines, then eventually go bankrupt leaving the state holding the bill for clean up. On federal lands in Idaho, there are reports estimating over 5,000 abandoned mines with a liability in excess of over \$500 million dollars. Mr. Oppenheimer stated they would like to see more of a public process when reviewing bonds, and that those bonds be in perpetuity, rather than just 30 years, so taxpayers and future generations are not left with costs associated with clean-up. For these reasons, he requested **H 141** be held in committee.

**Chairman Gibbs** requested the record reflect nobody else came forward to testify on **H 141**.

**Ben Davenport** provided closing comments by stating although they recognize there were some concerns, they left the corporate guarantees in the bill because 19 other states use corporate guarantees as a tool for financial assurances. Additionally, using corporate guarantees as a financial assurance is acceptable with both DEQ and EPA. He stated he has full faith and confidence the Department of Lands and the Land Board will follow the procedures 19 other states used during the rulemaking process by establishing appropriate sideboards to financial assurances. The final point Mr. Davenport made was with the concerns over the 30 year limit. He stated the Land Board can continue to require longer than 30 years if they deem it necessary.

**VOTE ON THE MOTION:** **Chairman Gibbs** called for a vote on the motion to send **H 141** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Reps. Addis and Moon** will sponsor the bill on the floor.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 2:23pm.

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Representative Gibbs  
Chair

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Tracey McDonnell  
Secretary

AGENDA  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**  
**1:30 P.M.**  
**Room EW40**  
**Monday, February 25, 2019**

SUBJECT	DESCRIPTION	PRESENTER
<a href="#">H 189</a>	Fish and Game Inspections, Search	Rep. Scott
	Annual Reports - Idaho Soil and Water Conservation Commission and Idaho Association of Soil and Water Conservation Districts	Teri Murrison, Administrator, ISWCC and Steve Becker, President, IASWCD

***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 Gibbs	Rep Vander Woude	Rep Moon
Vice Chairman Gestrin	Rep Mendive	Rep Raybould
Rep Moyle	Rep Kauffman	Rep Erpelding
Rep Shepherd	Rep Blanksma	Rep Rubel
Rep Wood	Rep Addis	Rep Toone
Rep Boyle	Rep Lickley	Rep Mason

COMMITTEE SECRETARY

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MINUTES  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**

- DATE:** Monday, February 25, 2019
- TIME:** 1:30 P.M.
- PLACE:** Room EW40
- MEMBERS:** Chairman Gibbs, Vice Chairman Gestrin, Representatives Moyle, Shepherd, Wood, Boyle, Vander Woude, Mendive, Kauffman, Blanksma, Addis, Lickley, Moon, Raybould, Erpelding, Rubel, Toone, Mason
- ABSENT/  
EXCUSED:** Representative(s) Vander Woude, Rubel
- GUESTS:** Forrest Goodrum, Ada County Fish and Game League; Garret Visser, Idaho Wildlife Federation; Greg Wooten, Scott Reinecker, and Paul Kline, Idaho Department of Fish and Game; Jeff Barney, self; Mike Somerville, Idaho Association of Soil Conservation Districts; Teri Murrison and Crystal Rosen, Idaho Soil and Water Conservation Commission; Becca Aceto, Idaho Wildlife Federation
- Chairman Gibbs** called the meeting to order at 1:30pm.
- H 189:** **Rep. Scott**, District 1, stated this bill would clarify **36-1303, Idaho Code** which has not been updated since 1976. The intent is to preserve the presumption of privacy for all citizens by clarifying before any search or inspection is conducted under the provisions of this section, a warrant must be obtained, or consent must be given. She stated the main change is the language in the new section (3), which outlines how and when searches shall be conducted. Rep. Scott explained there are three ways a Fish and Game Officer can search and inspect a person's property. The first is with consent, the second is with a warrant, and the third is when the officer has reasonable suspicion that leads to probable cause based on the totality of the circumstances.
- MOTION:** **Rep. Moon** made a motion to send **H 189** to the floor with a **DO PASS** recommendation.
- In response to concerns regarding probable cause for when a Fish and Game officer pulls an individual over in a vehicle, and what has to transpire for the officer to conduct a warrantless search, **Rep. Scott** replied probable cause is an officer's reasonable suspicion that a crime has been committed, which leads them to believe a warrantless search will result in evidence of a crime being discovered.
- Greg Wooten**, Chief of Enforcement, Idaho Department of Fish and Game, stated this bill would amend elements of Idaho Code creating a standard for investigating wildlife crimes different from the standard for investigating and enforcing other crimes in Idaho, making wildlife crime enforcement more difficult. He explained **H 189** would prohibit at least one existing court recognized grounds for warrantless searches, specifically the ability to search movable vehicles such as automobiles, boats, and trailers when there is probable cause for a search. Mr. Wooten continued by stating the outcome of this bill would make wildlife law enforcement less effective and set up different warrant requirements for officers to search movable vehicles related to enforcing wildlife violations versus searches related to enforcement of other crimes in Idaho.



**Mr. Wooten** provided an example by stating if an officer has probable cause a person has unlawfully taken a deer, and the deer is in the trunk of the vehicle, the officer typically asks for consent to search the vehicle, and failing to receive consent, has probable cause to proceed with a constitutional search and seizure without a warrant because of the mobility of the vehicle. Once the evidence is seized, the officer provides the individual with an evidence receipt and a citation. **H 189** proposes to remove the court recognized allowance for warrantless searches of mobile conveyances with probable cause.

**Mr. Wooten** stated the Fish and Game Commission previously reviewed a similar bill, **H 110**, and did not support it for the same reasons he just explained. He stated the Commission has not reviewed **H 189**, but as discussed, this bill also creates unequal standards for searches for wildlife enforcement versus enforcement of other crimes in Idaho.

**Forrest Goodrum**, Ada County Fish and Game League, stated they are **in opposition** to **H 189** because they don't believe this statute is broken, therefore it does not need to be fixed. He stated there have been over two centuries of case law and the 4th Amendment protects against unreasonable searches and seizures.

**Garret Visser**, Idaho Wildlife Federation, stated they are **in opposition** to **H 189** because this bill only seeks to eliminate the ability for officers to address wildlife crimes.

**Jeff Barney**, representing himself, spoke **in opposition** to **H 189** because it would set unequal laws between wildlife laws and other laws. He also stated the changes in this bill would make poaching easier to get away with.

**Michael Gibson**, Trout Unlimited, stated they are **in opposition** to **H 189** because this bill would make it more difficult for wildlife officers to enforce wildlife violations.

**Rep. Scott** provided closing remarks to include that most testimony heard today is false. She stated **H 189** will not promote poachers nor make Fish and Game officers' jobs harder. She explained the Fish and Game is not doing anything illegal and they do have the authority to search with consent, with a warrant, and with reasonable suspicion leading to probable cause. The new language being proposed in this bill will correct the current language to clarify vehicles, boats, trailers, etc are not an exception from having to obtain a warrant.

**VOTE ON THE MOTION:**

**Chairman Gibbs** stated there is a motion before the committee to send **H 189** to the floor with a **DO PASS** recommendation.

**Rep. Erpelding** asked **Mr. Wooten** if the Fish and Game's Attorney General had reviewed this bill. Mr. Wooten replied he has reviewed the bill and agreed a warrant would become necessary even with probable cause. Rep. Erpelding stated a little word-smithing could make this bill better but without that, it is taking away the officer's right to search a mobile vehicle based on probable cause, which makes their jobs really hard.

**SUBSTITUTE MOTION:**

**Rep. Erpelding** made a substitute motion to **HOLD H 189** in committee.

**ROLL CALL VOTE ON THE SUBSTITUTE MOTION:**

**Rep. Boyle** requested a roll call vote on the substitute motion to **HOLD H 189** in committee. **Motion failed by a vote of 4 AYE, 12 NAY, 2 Absent/Excused.** **Voting in favor** of the motion: **Reps. Kauffman, Erpelding, Mason, and Toone.** **Voting in opposition** to the motion: **Chairman Gibbs and Reps. Gestrin, Moyle, Shepherd, Wood, Boyle, Mendive, Blanksma, Addis, Lickley, Moon, and Raybould.** **Reps. Vander Woude and Rubel** were Absent/Excused.

**VOTE ON THE ORIGINAL MOTION:**

**Chairman Gibbs** called for a vote on the original motion to send **H 189** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Reps. Kauffman, Erpelding, Mason, and Toone** requested to be recorded as voting **NAY. Rep. Scott** will sponsor the bill on the floor.

**Teri Murrison**, Administrator, Idaho Soil and Water Conservation Commission, stated the Commission is a small but effective agency with a modest spending authority of dedicated funds and grants funding. Their core functions include providing financial and technical assistance to conservation districts, providing incentive-based and other conservation programs, and educating people on voluntary conservation. They also serve Idaho's 50 conservation districts, providing financial and technical assistance. Ms. Murrison stated just under 30% of all lands in Idaho are privately owned. Conservation the Idaho Way voluntarily implements projects improving water quality, restores streams, rivers, forests, range, and croplands all while contributing to healthy soils and helps Idaho satisfy environmental laws and regulations.

**Ms. Murrison** stated one of their big accomplishments this past year is the launch of a new online conservation project website which tells the Idaho conservation story. Previous to this website they had to rely on spreadsheets containing project records going back to 1985 without any good method to present the information to partners, decision makers, and the public. She stated now with the Conservation the Idaho Way Project Tracker (Tracker), their technical assistance projects as well as old databases with projects will all be available in Tracker. They are training the Districts to enter projects and also inviting a number of state and federal agencies to use Tracker as well. At this time there are already 3,300 projects loaded into Tracker.

**Mike Somerville**, Secretary, Idaho Association of Soil Conservation Districts, stated their mission is to represent Idaho's conservation districts as the primary entity to coordinate voluntary, locally led efforts to sustain and enhance Idaho's natural resources through a non-regulatory approach to conservation. Idaho has 50 conservation districts that work directly with landowners, as well as working together to address soil and water problems that extend beyond the boundaries of their individual districts, to conserve and promote healthy soils, water, forests, and wildlife in Idaho.

**ADJOURN:**

There being no further business to come before the committee, the meeting was adjourned at 2:57pm.

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Representative Gibbs  
Chair

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Tracey McDonnell  
Secretary

JOINT AGENDA  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**  
**AND**  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**  
 1:30 P.M.  
 Lincoln Auditorium  
 Wednesday, February 27, 2019

SUBJECT	DESCRIPTION	PRESENTER
	The Health of Idaho's Forests	Tom Schultz, Vice President Government Affairs, Idaho Forest Group
	Idaho Department of Lands' Agency Overview	Dustin Miller, Director, Idaho Department of Lands
	Idaho's Good Neighbor and Shared Stewardship Efforts	David Groeschl, Deputy Director, Idaho Department of Lands
	Status of Oil and Gas in Idaho	Mick Thomas, Oil and Gas Administrator, Idaho Department of Lands

COMMITTEE MEMBERS

Chairman Gibbs	Rep Vander Woude	Rep Moon
Vice Chairman Gestrin	Rep Mendive	Rep Raybould
Rep Moyle	Rep Kauffman	Rep Erpelding
Rep Shepherd	Rep Blanksma	Rep Rubel
Rep Wood	Rep Addis	Rep Toone
Rep Boyle	Rep Lickley	Rep Mason

COMMITTEE SECRETARY

Tracey McDonnell  
 Room: EW62  
 Phone: 332-1136  
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MINUTES  
JOINT MEETING

**HOUSE RESOURCES & CONSERVATION COMMITTEE  
SENATE RESOURCES & ENVIRONMENT COMMITTEE**

**DATE:** Wednesday, February 27, 2019

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

**PLACE:** Lincoln Auditorium

**MEMBERS:** Chairman Gibbs, Vice Chairman Gestrin, Representative(s) Moyle, Shepherd, Wood, Boyle, Vander Woude, Mendive, Kauffman, Blanksma, Addis, Lickley, Moon, Raybould, Erpelding, Rubel, Toone, Mason

Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer, Patrick, Guthrie, Stennett, Jordan

**ABSENT/  
EXCUSED:** Representative(s) Moyle, Wood, Rubel

**GUESTS:** Shawn Keough, Associated Logging Contractors of Idaho; Norm Semanko, Parsons Behle and Latimer; Andy Brunelle and Julie Thomas, U.S. Forest Service; Morgan Howard, Idaho Water Users Association

**Chairman Heider** called the meeting to order at 1:31pm.

**Tom Schultz**, Vice President-Government Affairs, Idaho Forest Group, gave a presentation on the health of forests in Idaho. He stated Idaho's forests are on the brink of a crisis. Years of fire suppression, drought, and lack of forest management have resulted in overly dense forests. He stated Idaho ranks first nationally for the percentage of treed acres at risk, with 28% of the 27 million forested acres at risk of losing at least a quarter of the trees to catastrophic wildfires, insects, and disease. He stated federal forests are in the greatest danger. Data shows the lowest rates of growth statewide are occurring on Forest Service lands; in some forests, the trees are dying faster than they are growing, creating more fuels. Unhealthy forests burn with speeds and intensity that have devastating consequences. Between 2008-2017, growth rates on state and private lands were nearly three times as high as on federal lands. He explained, according to Forest Service estimates, almost 70% of federal forests need some treatment, including prescribed fires, harvest, thinning, and replanting.

**Mr. Schultz** stated since 1991, harvested board feet declined by 80% (12 billion board feet down to 2 billion board feet) and there is a correlation with increased wildfires since that time. He stated it is Idaho Forest Group's goal, along with the U.S. Department of Agriculture to have the Forest Service allow the harvest of over three billion board feet in the short term, with the ultimate goal to allow the harvest of six billion board feet on federal lands across the nation; and stated lack of management action leaves forests vulnerable. Mr. Schultz emphasized this issue threatens industrial, private, and public assets, as well as rural economies. He stated the Good Neighbor Authority (GNA) is one of the tools they can use to accomplish this work on the ground. He explained GNA is designed to be self-funding over time, through timber sale revenue, which will lead to increased restoration and management in the forest. Currently, there are 14 GNA projects underway in Idaho, and an additional 29 projects not directly related to commercial timber harvest. GNA enables the Forest Service to partner with the state to increase the pace and scale of forest and watershed restoration activities on federal forests. Mr. Schultz concluded by stating their goal is to double the commercial acres treated as well as reduce hazardous fuel deposits, to expect a significant

cost to treat the land, greater collaboration between agencies, and ultimately a measurable increase in the pace and scale of treatment on public lands.

**Dustin Miller**, Director, Idaho Department of Lands, provided an overview of the Department. He stated the Department is responsible for the management of 2.4 million acres of state endowment lands and 3.3 million acres of endowment mineral estate, with a constitutional mandate to maximize the long term financial return to the beneficiaries. He stated Idaho's public school system is the primary beneficiary of state endowment trust lands, with the goal to provide a perpetual stream of income. He stated in 2020, \$80,918,000 will be distributed. Revenue is generated from timber sales, and leasing endowment lands for grazing, agriculture, oil, gas, minerals, residential, commercial sites, and more. Mr. Miller discussed the fire management program and the Department's responsibility to protect 6.3 million acres of private, state, and federal lands. He explained there are ten Department Forest Protective Districts, two Timber Protection Associations, and nine Rangeland Fire Protection Associations. Mr. Miller concluded by stating the Department administers many protective laws which regulate actions like mining, forestry, oil and gas, and the public trust land administration.

**David Groeschl**, Deputy Director, Idaho Department of Lands, gave a presentation on the Good Neighbor Authority (GNA). He noted the program was founded with the passage of the 2014 Farm Bill which authorizes the state to enter into cooperative agreements with federal agencies to complete work across ownership boundaries. Mr. Groeschl stated in Idaho, they focus primarily on working with the Forest Service to mitigate the growth/harvest/mortality rates that are occurring. Of the 20 million acres of federal forest lands in Idaho, 12.6 million acres are under active management, with the remaining 8 million acres in wilderness or roadless areas. He stated 8.8 million acres within the 12.6 million active management acres are at high risk, and of that area, 6.1 million acres are designated as Healthy Forest Restoration Act lands, so those are the acres targeted for treatment under the GNA authority.

**Mr. Groeschl** stated the GNA authorizes the state to sign a cooperative agreement with the Forest Service, which allows the Department to use their contracting mechanism on federal lands, while the Forest Service retains NEPA decision making authority on all actions occurring on federal lands. Once the decision is made on a project, they all work together on the ground. He explained the state manages receipts from commercial activity proceeds, such as timber harvest, and can use that revenue to work with the Forest Service to prioritize projects and reinvest those proceeds back onto Forest Service lands. Mr. Groeschl explained to get this program up and running they needed seed money. Over a five year period, forest industry partners and the Forest Service each provided \$1 million, and the state provided \$250,000 annually out of the General Fund. The goal is to make this program self-sustaining, with a consistent revenue flow from receipts generated. He stated the GNA is important because the program will reduce fuels and risks to communities, it improves forest and watershed health, and sustains and creates jobs. He concluded by stating Idaho is leading the way as the first state in the nation to have a shared stewardship agreement.

**Mick Thomas**, Oil and Gas Administrator, Idaho Department of Lands, explained in southwest Idaho, the Payette Basin continues to be the most economically viable area in the state. Five wells have been drilled in the past three years, and there are 20 active drilling permits with ten shut-ins, eight producing, one uncompleted drilling, and one pending. The oldest field in the state is the Hamilton Field, made up of mostly gas wells, which have all completed their life cycle and will be plugged and abandoned this year. Mr. Thomas explained production in the state has declined in part due to no new development in the past five years. In addition, commodity prices have declined over the last several years, and the market is still rebounding from that, impacting volume and production in the state. He wanted to be clear this current situation does not indicate there are problems with the state program. He stated even though production and volumes have gone down, the revenue for the state has stabilized and is starting to increase. This is the result of the operator changing the point of sale where they work and pay a severance tax to the state; they are farther downstream so the 2.5% tax is on a larger dollar amount. Additionally, the Department has been more diligent on following through with notice of violations and fee structures, adding additional income to the state.

**Mr. Thomas** discussed the December ruling in the Kauffman complaint, regarding the sharing and disclosure of information, and the decision by the Oil and Gas Commission to decline to adopt the hearing officer's recommended order. There will be a meeting in March with the Commission, the complainant, and the operator to discuss how the information will be given to the complainant. Then, recently the Commission held an executive session and decided not to appeal the ruling in the CAIA vs Commission lawsuit. As a result of that decision, the Commission directed Mr. Thomas to explore avenues to comply with the judge's ruling. He stated this means the integration order will be vacated for Section 004, which is where two of the most recent wells have been drilled. Mr. Thomas provided an update on the Class II Permit status stating the operator and the EPA are working through the technical aspects of the permit and the initial "completeness" review has been finished. The target date for the final decision is early summer 2019. Finally, Mr. Thomas discussed ownership of future development is shifting from Alta Mesa Resources to High Mesa Holdings, and all ties with Alta Mesa Resources will be removed.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 2:57pm.

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Representative Gibbs  
Chair

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Tracey McDonnell  
Secretary

AGENDA  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**  
Upon Adjournment  
Room EW40  
Friday, March 01, 2019

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">H 207</a>	Wetlands, Compensatory Mitigation	Norman Semanko, Attorney, Parsons Behle & Latimer

***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 Gibbs	Rep Vander Woude	Rep Moon
Vice Chairman Gestrin	Rep Mendive	Rep Raybould
Rep Moyle	Rep Kauffman	Rep Erpelding
Rep Shepherd	Rep Blanksma	Rep Rubel
Rep Wood	Rep Addis	Rep Toone
Rep Boyle	Rep Lickley	Rep Mason

COMMITTEE SECRETARY

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MINUTES  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**

**DATE:** Friday, March 01, 2019

**TIME:** 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, Erpelding, Rubel, Toone, Mason

**ABSENT/  
EXCUSED:** Representative(s) Moyle, Boyle, Raybould

**GUESTS:** Norm Semanko, Parsons Behle and Latimer; Donna Collier, Valencia Wetlands Trust; Elizabeth Criner, J.R. Simplot Company

**Chairman Gibbs** called the meeting to order at 12:39pm.

**MOTION:** **Rep. Kauffman** made a motion to approve the minutes of the February 13, 2019 meeting. **Motion carried by voice vote.**

**H 207:** **Norm Semanko**, Attorney, Parsons Behle and Latimer, stated **H 207** replaces **H 111**. He stated this bill promotes the availability of mitigation alternatives for projects such as highways and golf courses, which impact wetlands. When a Clean Water Act, Section 404 wetlands permit is required from the Corps of Engineers for a project, state agencies often play a role in that process. Mr. Semanko explained this bill does not incorporate or adopt federal law, instead it promotes all of the options available for mitigation and recognizes state agencies are prohibited from mandating any particular type of mitigation. That decision must be left up to the project applicants based on what makes the most sense for their project. He stated this is a consensus piece of legislation, developed through collaborative meetings with industry and state agency representatives and will promote consistency in dealing with wetlands mitigation in Idaho.

**Mr. Semanko** explained there are eight accredited wetland mitigation banks in Idaho, built by the private sector. If an applicant chooses to use a wetlands mitigation bank, they can purchase credits through one of those banks. The use of mitigation banks is recognized as the preferential method since they have already created approved wetlands available for credit purchase. He then turned the podium over to **Donna Collier** to provide more details about wetland mitigation banks.

**Donna Collier**, Developer and Manager of Valencia Wetlands Trust, stated in 2008, the EPA and the Corps of Engineers revised regulations governing compensatory mitigation establishing equivalent and effective standards for all three compensatory mitigation methods: mitigation banks, in-lieu fee mitigation, and applicant responsible mitigation. She stated since mitigation banking is the most reliable form of compensatory mitigation, these regulations establish a preference for the use of banks when appropriate credits are available, and this bill promotes a fair playing field for the eight wetland mitigation banks in Idaho.



**Ms. Collier** explained agencies in Washington D.C. introduced this concept in an effort to improve the success of the mitigation program since over half of the projects around the country were failing to be successful in restoring wetlands. Without healthy wetlands the overall water quality and supply would continue to degrade. As a result, government agencies allowed the private industry to do this work. She stated mitigation banks must go through a stringent approval process under the supervision of several governmental agencies on an inter-agency review team. Large amounts of money are spent doing the work in advance of credit sales and annual monitoring reports and inspections are conducted to ensure performance standards are met. She concluded by stating according to the Corps of Engineers, wetland mitigation banks reduce the permit time by at least half and are the most cost effective option for applicants. They assume all legal liability and long term management while freeing developers to boost the economy.

**MOTION:** **Rep. Lickley** made a motion to send **H 207** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Mendive** will sponsor the bill on the floor.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 1:03pm.

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Representative Gibbs  
Chair

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Tracey McDonnell  
Secretary

AGENDA  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**  
1:30pm or Upon Afternoon Adjournment  
Room EW40  
Tuesday, March 05, 2019

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">H 192</a>	Outfitters and Guides	Jeremy Pisca, Idaho Outfitters and Guides 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 Gibbs	Rep Vander Woude	Rep Moon
Vice Chairman Gestrin	Rep Mendive	Rep Raybould
Rep Moyle	Rep Kauffman	Rep Erpelding
Rep Shepherd	Rep Blanksma	Rep Rubel
Rep Wood	Rep Addis	Rep Toone
Rep Boyle	Rep Lickley	Rep Mason

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MINUTES  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**

**DATE:** Tuesday, March 05, 2019

**TIME:** 1:30pm or Upon Afternoon 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, Erpelding, Rubel, Toone, Mason

**ABSENT/  
EXCUSED:** Representative(s) Moyle, Vander Woude, Kauffman

**GUESTS:** Jeff Bitton, Darl Allred, Deven Jackson, Daniel Butler, Grant Simonds, and Jeremy Pisca, Idaho Outfitters and Guides Association; Benn Brocksome, Idaho Sportsmen's Alliance; Hoby Gartner, Deadline Outfitters; Paul Kline and Sharon Kiefer, Idaho Department of Fish and Game; John Watts, Boulder Creek Outfitters and Scotlyn Ranch Adventures

**Chairman Gibbs** called the meeting to order at 1:30pm.

**MOTION:** **Rep. Toone** made a motion to approve the minutes of the February 21, 2019 meeting. **Motion carried by voice vote.**

**H 192:** **Jeremy Pisca**, Attorney, Risch Pisca, representing the Idaho Outfitters and Guides Association (IOGA) provided a brief background on **H 192**. He stated as a result of the recent rejection of the Idaho Outfitters and Guides Licensing Board's (IOGLB) Temporary Rules for deer and elk tag allocation for hunters using licensed outfitters, the IOGA introduced **H 96**. Several groups identified problems with language in the bill, so after meetings with all interested parties, changes were agreed upon resulting in **H 192**.

**Mr. Pisca** explained there are two classifications of licenses: in-state, which is a large number, and out-of-state, which is a much smaller number. Within the out-of-state hunting tags is an even smaller category of set-aside tags, which are distributed to the IOGLB for use by outfitters. The IOGLB allocates these set-aside tags following a statutory process which is based on a five year average of historic use for each outfitter. He stated this process has been in place for more than 20 years and outfitters have realized their average cannot go up, but rather it can only go down. As a result, outfitters are being allocated approximately half of the tags they were being allocated at the inception of this process. Mr. Pisca further explained historic use is not the same as actual use by providing the example if a resident hunter gets his own tag and hires an outfitter, the resident hunter's tag is not counted in historic use since that tag did not come from the set-aside pool. He stated **H 192** fixes that by changing the reporting criteria to Idaho Department of Fish and Game to actual use, which includes all tags used with an outfitter. Additionally, **H 192** will record historic use every two years rather than five, which is consistent with the Fish and Game Commission setting big game seasons.

**Jeff Bitton**, President, Idaho Outfitters and Guides Association, stated the main reason for **H 192** is due to the fact 61% of the allocated tags are no longer being assigned to the original outfitters. This is a result of non-use over the years resulting in the unused tags becoming part of the surplus pool. He stated as businesses improve, it is difficult for those outfitters to access the surplus pool. The loss of those tags reduces the value of their businesses and makes it more difficult for individuals to access a tag to go out with an outfitter. **H 192** would change that scenario and better reflect the public demand for outfitter services. Mr. Bitton stated currently the system doesn't track where the tags are used. He explained there are three zones where a good portion of the tags go but the elk populations have declined so tags go unused, and there are seven capped zones where the elk have migrated so hunters are following the elk, but the data being used for tags hasn't been updated to reflect where the hunters are going.

**Mr. Bitton** stated in the general hunt, which makes up about half of the hunts in the state, nothing has changed. The only change for resident hunters is now they can utilize allocated tags, at the resident price, providing additional opportunities for resident hunters. He explained some of the provisions in **H 192** include the requirement of signed agreements to verify tags are used by outfitter hunters, and that allocated tags will go up or down in both capped zones and controlled hunts depending on what the last two years of history shows. He added this industry is very fluid and should adjust the number of tags reflecting the elk and deer herd population trends and movement. There will also be a cap on nonresident outfitter tags so that over the years the nonresident tags don't all end up in the outfitter category. Mr. Bitton explained the Department will continue to distribute allocated tags, will record tags through their point of sale system, and the IOGLB will continue to designate how many outfitter tags are allocated to each outfitter based on their historic use. He stated the Department will be able to adjust the number of nonresident tags up or down every two years, which will follow the true use of the tags and will allow the sale of surplus nonresident tags earlier if they are not being used. The Department's point of sale system will record and verify the use of allocated tags and will now include an administrative fee to cover the costs associated with that service. The effect of this bill will be an improved process of how many outfitter tags are allocated and how they're distributed and counted.

**Sharon Kiefer**, Deputy Director, Idaho Department of Fish and Game, stated **H 192** is responsive to Fish and Game Commission concerns regarding **H 96** and appreciates the work that went into this rewrite. She explained this bill deals with outfitter set-aside and allocated tags. By law, the Commission establishes a nonresident quota of tags and then sets aside a component of the nonresident quota specifically for hunters who have contracted for outfitter services in a general hunt, capped zone, or controlled hunt. Because capped zones and controlled hunts have limited numbers of tags, these are referred to as outfitter allocated tags.

**Ms. Kiefer** stated **H 192** has three substantive elements, two of which directly relate to the Commission and the Department. The first adds a new option for Commission consideration when establishing outfitter allocation for capped zones and controlled hunts, which will be based on the highest number within each of the last two years of all elk and deer tags held by hunters using the services of an outfitter. This is a new way to allocate that also incorporates the use of personal tags rather than just purchasing an outfitter allocated tag. Using this new allocation could result in an increase in allocated outfitter tags over time particularly if there is business growth from hunters bringing their own tags with outfitter services. To satisfy any increase in the outfitter capped zone or controlled hunt allocations, tags can come from unallocated tags in the outfitter set-aside or from the nonresident capped zone or controlled hunt pools that are not allocated to outfitters. She explained because capped zones and controlled hunts are not designed for an unlimited number of tags, **H 192** also directs if there is a reduction of tags in a

capped zone or a controlled hunt, the reduction will be applied proportionally to all user groups (outfitted, non-outfitted, resident, and nonresident). Additionally, allocation of tags cannot exceed 50% of the nonresident quota for each capped zone or controlled hunt to ensure any growth using this new model does not take away the ability of nonresidents not using outfitter services to access tags for a capped zone or controlled hunt.

**Ms. Kiefer** stated the second element creates a new role for the Department to provide records that will be used to calculate the outfitter tag use history to include tracking the personal tags hunters acquire on their own and then use in conjunction with outfitter services. She explained because they do not have a mechanism in their license system to link a hunter's tag to the outfitter who provided the service, new programming within their licensing system and additional outfitter reporting will be necessary. As a result, **H 192** adds a \$5.00 administrative fee for issuance of outfitter set-aside, outfitter allocated capped zone, and outfitter allocated controlled hunt tags, and an administrative fee of \$20.00 will be assessed for the recording of the personal tags used with outfitter services linked to the specific outfitter. Ms. Kiefer concluded by stating the Commission has reviewed **H 192** and their position is to monitor the bill.

In response to concerns this could be a way of increasing the nonresident tags, **Ms. Kiefer** stated the set-aside tags are a subset of the nonresident quota and the original total number of tags has not changed in 30 years. She also clarified a general hunter cannot purchase an outfitter allocated controlled or capped zone hunt tag unless they have a voucher verifying they have hired outfitter services.

**Ben Brocksome**, Idaho Sportsmen's Alliance; **Darl Allred**, Sawtooth Wilderness Outfitters; **Deven Jackson**, Pioneer Outfitters; **Daniel Butler**, Spring Cove Ranch and Outfitters; **Hoby Gartner**, Deadline Outfitters; **Grant Simonds**, Idaho Outfitters and Guides Association; and **John Watts**, Boulder Creek Outfitters and Scotlyn Ranch Adventures all spoke **in support** of **H 192** because the new process will better reflect the current trends, all uses will be counted, and the new process will allow both new and established outfitter businesses to grow.

**Roger Hales**, Legal Counsel, Idaho Outfitters and Guides Licensing Board, stated there hasn't been a Board meeting since the introduction of **H 96** or **H 192**, so they cannot take a position. If this bill becomes law they will do their best to make it work.

**Chairman Gibbs** requested the record reflect nobody came forward to testify **in opposition** to **H 192**.

**MOTION:** **Rep. Lickley** made a motion to send **H 192** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Gestrin** will sponsor the bill on the floor.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 2:30pm.

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Representative Gibbs  
Chair

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Tracey McDonnell  
Secretary

AGENDA  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**  
 1:30pm or Upon Adjournment  
 Room EW40  
 Thursday, March 07, 2019

SUBJECT	DESCRIPTION	PRESENTER
<a href="#">S 1083</a>	Irrigation, Encroachments	Paul Arrington, Idaho Water Users Association
<a href="#">S 1085</a>	Irrigation Districts, Board Meeting	Paul Arrington, Idaho Water Users Association
<a href="#">SJM 101</a>	Water, 1866 Mining Act	Senator Brackett
	Annual Update - Idaho Department of Water Resources and Idaho Water Resources Board	Gary Spackman, Director, IDWR and Roger Chase, Chairman, IWRB

***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 Gibbs	Rep Vander Woude	Rep Moon
Vice Chairman Gestrin	Rep Mendive	Rep Raybould
Rep Moyle	Rep Kauffman	Rep Erpelding
Rep Shepherd	Rep Blanksma	Rep Rubel
Rep Wood	Rep Addis	Rep Toone
Rep Boyle	Rep Lickley	Rep Mason

COMMITTEE SECRETARY

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MINUTES  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**

- DATE:** Thursday, March 07, 2019
- TIME:** 1:30pm or Upon Adjournment
- PLACE:** Room EW40
- MEMBERS:** Chairman Gibbs, Vice Chairman Gestrin, Representatives Moyle, Shepherd, Wood, Boyle, Vander Woude, Mendive, Kauffman, Blanksma, Addis, Lickley, Moon, Raybould, Erpelding, Rubel, Toone, Mason
- ABSENT/  
EXCUSED:** None
- GUESTS:** Roger Chase, Idaho Water Resource Board; Brian Patton, Idaho Department of Water Resources; Marie Kellner, Idaho Conservation League; Braden Jensen, Idaho Farm Bureau; Norm Semanko, Parson Behle and Latimer; Nathan Helm, self; Paul Arrington, Idaho Water Users Association; Albert Barker, Barker Rosholt & Simpson
- Chairman Gibbs** called the meeting to order at 1:30pm.
- MOTION:** **Rep. Kauffman** made a motion to approve the minutes of the February 19, 2019 meeting. **Motion carried by voice vote.**
- S 1083:** **Paul Arrington**, Executive Director, Idaho Water Users Association, stated **S 1083** seeks to make a simple change to Idaho Code to align what happens on the ground with what is stated in Code. He explained Idaho Code provides for rights and obligations to irrigation facility owners, yet the owner often does not operate or manage the facilities, for example, the Bureau of Reclamation facilities are generally operated by local irrigation entities. This change would clarify operators of irrigation facilities have the same rights and obligations as the owners.
- MOTION:** **Rep. Mason** made a motion to send **S 1083** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Mason** will sponsor the bill on the floor.
- S 1085:** **Paul Arrington**, Executive Director, Idaho Water Users Association, stated **S 1085** amends **Idaho Code, Section 43-303** in two ways to make it consistent with current law. The first is to align timeframes with Idaho's open meetings law and to clarify decisions at board meetings are based on a majority of the board members present (when a quorum exists). The second amends language to codify prior case law as the exclusive method for reviewing irrigation district records.
- Rep. Blanksma** declared Rule 38.
- MOTION:** **Rep. Addis** made a motion to send **S 1085** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Blanksma** will sponsor the bill on the floor.
- Chairman Gibbs** announced due to the absence of the sponsor for **SJM 101**, the committee will proceed to the next agenda item and will return to **SJM 101** after the presentation.

**Roger Chase**, Chairman, Idaho Water Resource Board, began his presentation by discussing the Eastern Snake Plain Aquifer recharge program. He stated the goal of the program is 250,000 acre feet/year of managed recharge by 2024, through partnerships with canal and irrigation districts to use and improve their current infrastructure to deliver and recharge water. He stated the four year average (2014-2018) is 249,000 acre feet, so the program is doing very well and has been nationally recognized. More recently, the aquifer is showing a positive response in part due to two very good wet years, reduced consumptive use, and the managed recharge program. He explained they probably cannot completely bring back the aquifer, but will try and stop the drop. Mr. Chase concluded the presentation by stating due to Idaho's growth rate, the water demands are increasing and the needs are becoming more diverse, so they must be diligent to assure water laws work for everyone.

**Gary Spackman**, Director, Idaho Department of Water Resources, commended the Board for all the work they've accomplished. He stated as of March 4, 2019, Idaho's mountain snow water equivalent is at 100% or greater in all areas of the state with the exception of the northern panhandle. Mr. Spackman explained last year was the deadline for the installation of measuring devices on approximately 5,000 wells across the Eastern Snake Plain. This was a three year effort where the Department contacted people and assisted with installation and verified installation. He explained there were approximately 200 individuals who did not comply; as a result the Department prepared notices of violation with possible curtailment and began working with all of those individuals to bring them into compliance. All of the water users across Southern Idaho agreed it was important for individuals with water rights to measure and be accountable for the amount of water they are diverting and to ensure they are complying. Another effort of the Department is construction of monitoring wells across the Eastern Snake Plain. Mr. Spackman concluded by stating his staff finished the last of the 8,000 recommendations for the Coeur d'Alene Basin, the largest recommendation to the court for adjudication. Next, the Department will begin sending out adjudication notices for the Palouse Basin. He stated after the Palouse Basin adjudication is complete there will only be three basins left; Pend Oreille, Kootenai, and Bear Lake, and then the entire state will be adjudicated.

**SJM 101:**

**Al Barker**, Attorney, representing a number of ranchers in the Sawtooth Valley, presented for **Senator Brackett**. He stated this Memorial arises out of a dispute that has occurred over time in several places around the state, but currently in the Sawtooth Valley. The dispute focuses around the 1866 Mining Act, which has a provision allowing individuals to obtain a right-of-way for their water to pass over federal lands without having to obtain permission from the federal government. In 2014, the final decree was issued out of the SRBA Court which confirmed the federal government must recognize the state's water rights. Mr. Barker explained what has happened in the Sawtooth Valley, as well as in other places, is an effort to restrict the ability of the water users to use their water. He said ranchers have been trying to get recognition they have the right for their water to cross federal lands but the Department of Agriculture and Forest Service attorneys are telling them they do not have the authority to recognize those rights. So the first purpose of this Memorial is to ask the Legislature to complain to Congress, on behalf of the ranchers in Idaho, that their rights are being restricted by the federal government and they do have the right to run their water through their ditches and canals on federal lands.



**Mr. Barker** explained ranchers are being forced to file lawsuits against the federal government even though their rights are already protected by law. He explained any ditches in place before the passage of FLPMA (Federal Land Policy and Management Act) in 1976 have the right to be there. Then, in 1986, the Ditch Bill was passed, which allowed individuals to file requests to have the federal government recognize the rights-of-way to use their water rights across federal lands. The deadline for filing those requests was in 1996, but the federal government never acted on those requests, leaving some doubt for the ranchers to use those rights-of-way across federal lands. As a result of the amount of time that passed since ranchers filed their original requests, another purpose of this Memorial is to ask for additional time for individuals to file new requests/applications to better document and prove their claims. Finally, this Memorial asks Congress to acknowledge the state's decreed water rights and refrain from using their purported authority to regulate ditches that would interfere with ranchers' abilities to use their water rights.

**Marie Kellner**, Idaho Conservation League, stated they agree and support efforts for the federal government to grant rights-of-way; this is long overdue, and also agree the Ditch Bill application deadline should be extended, but they do not support lines 4-10 on page 3 of the Memorial because when rights-of-way or easements are granted, the ESA (Endangered Species Act) consultation process is triggered. This consultation process is when scientists look at the use of the public resource and many times suggest conditions on the use of the permit. They believe this paragraph encourages the federal government not to do the ESA analysis which would ignore any potential conditions that should be attached to the permit. For that reason, Ms. Kellner requested the Memorial be held in committee.

In response to concerns regarding statements about the ESA consultation process made by **Ms. Kellner, Rep. Boyle** stated based on the Matejko Decision in the 9th Circuit Court, rights-of-way on federal lands held by private parties to access and use water are perpetual vested rights under the 1866 Mining Act, the BLM and Forest Service cannot terminate them, and ditches and canals constructed on public lands under the authority of the 1866 Mining Act should be recognized as an authorized use of public land. Rep. Boyle stated the Matejko Decision determined federal regulations do not apply to reservoirs, canals, and ditches constructed under the 1866 Mining Act, so the requirement to consult under ESA would not apply in this situation. Ms. Kellner stated because she doesn't have the Matejko Decision in front of her, she could not provide a response to Rep. Boyle's statements.

**Braden Jensen**, Idaho Farm Bureau, stated they are **in support** of **SJM 101** and would like to see the Forest Service take action and recognize these permanent easements. Additionally, the Idaho Farm Bureau has policy supporting the state's sovereignty and control over its water resources.

**Nathan Helm**, ranch owner from Melba, stated he is **in support** of **SJM 101**. He explained his family kept many records regarding their ranch, including documentation of their water rights and rights-of-way per the 1866 Mining Act. He stated most of the improvements to their property were done before the Forest Service came into the area, yet they have had to fight and defend their water rights from the government that created the laws establishing their rights. He explained the most current issue they are dealing with is the lawsuit between the Idaho Conservation League (ICL) and the Forest Service because the ICL believes there must be consultation under the ESA for private diversions on Forest Service lands. Mr. Helm along with 23 other irrigators with diversions on Forest Service lands in the Sawtooth Valley are included in the lawsuit and are working to show the attempted circumvention of the Matejko Decision.

**Paul Arrington**, Idaho Water Users Association, stated they are **in support of SJM 101**.

**MOTION:** **Rep. Lickley** made a motion to send **SJM 101** to the floor with a **DO PASS** recommendation.

**Rep. Boyle** stated she was concerned with some of the wording in **SJM 101** and explained the Secretary of Agriculture has been very easy to talk to and because he hasn't been contacted to discuss this issue believes **SJM 101** as written is "poking a stick in his eye."

**SUBSTITUTE MOTION:** **Rep. Boyle** made a substitute motion to **HOLD SJM 101** time certain, March 11, 2019.

Speaking to her motion, **Rep. Boyle** stated she wanted time to consider making some amendments.

**Chairman Gibbs** put the committee at ease at 2:53pm.

**Chairman Gibbs** resumed the meeting at 2:56pm and explained with Resolutions and Memorials only the originating body can make amendments.

**Rep. Boyle** clarified her substitute motion is to give **Senator Brackett**, who is the sponsor of the bill but couldn't be here today, time to consider making any amendments in the Senate.

**VOTE ON THE SUBSTITUTE MOTION:** **Chairman Gibbs** called for a vote on the substitute motion to **HOLD SJM 101** time certain, March 11, 2019. **Motion carried by voice vote.**

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 3:01pm.

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Representative Gibbs  
Chair

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Tracey McDonnell  
Secretary

**AMENDED AGENDA #1**  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**  
**1:30pm or Upon Adjournment**  
**Room EW40**  
**Monday, March 11, 2019**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>SJM 101</u></a>	Water, 1886 Mining Act	Senator Brackett
<a href="#"><u>S 1084</u></a>	Irrigation, Water Rights	Morgan Howard, Idaho Water Users Association
<a href="#"><u>S 1086</u></a>	Irrigation, Rights of Way	Paul Arrington, Idaho Water Users Association
<a href="#"><u>H 252</u></a>	Fish and Game, Inspections	Rep. Scott

***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 Gibbs	Rep Vander Woude	Rep Moon
Vice Chairman Gestrin	Rep Mendive	Rep Raybould
Rep Moyle	Rep Kauffman	Rep Erpelding
Rep Shepherd	Rep Blanksma	Rep Rubel
Rep Wood	Rep Addis	Rep Toone
Rep Boyle	Rep Lickley	Rep Mason

COMMITTEE SECRETARY

Tracey McDonnell  
Room: EW62  
Phone: 332-1136  
email: hres@house.idaho.gov

MINUTES  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**

**DATE:** Monday, March 11, 2019

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

**PLACE:** Room EW40

**MEMBERS:** Chairman Gibbs, Vice Chairman Gestrin, Representatives Moyle, Shepherd, Wood, Boyle, Vander Woude, Mendive, Kauffman, Blanksma, Addis, Lickley, Moon, Raybould, Erpelding, Rubel, Toone, Mason

**ABSENT/  
EXCUSED:** Representative(s) Boyle, Moon

**GUESTS:** Donald Barksdale, Bryce Farris, and Greg Curtis, Nampa Meridian Irrigation District; Russell Westerberg, RMP; Greg Wooten, Idaho Department of Fish and Game; Morgan Howard and Paul Arrington; Idaho Water Users Association

**Chairman Gibbs** called the meeting to order at 1:30pm.

**MOTION:** **Rep. Toone** made a motion to approve the minutes of the February 25, 2019 meeting. **Motion carried by voice vote.**

**Chairman Gibbs** announced the sponsor of **H 252** requested the bill be held in committee.

**UNANIMOUS  
CONSENT  
REQUEST:** **Chairman Gibbs** made a unanimous consent request to **HOLD SJM 101** in committee, time certain, March 19, 2019. **Motion carried by voice vote.**

**S 1084:** **Morgan Howard**, Legislative Intern, Idaho Water Users Association, stated this bill repeals certain reporting requirements in Idaho Code. Historically, these reports from irrigation entities have never been implemented and many are now inconsistent with water management practices today. Reporting that is necessary for water rights regulations are not affected by this amendment.

**MOTION:** **Rep. Blanksma** made a motion to send **S 1084** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Mason** will sponsor the bill on the floor.

**S 1086:** **Paul Arrington**, Executive Director, Idaho Water Users Association, stated this bill amends Idaho Code to clarify the rights to remove and/or deposit debris from water delivery ditches and canals includes vegetation and trees within the rights-of-way.

**Bryce Farris**, Attorney, representing the Nampa Meridian Irrigation District, stated the local irrigation districts have the right to remove debris, including vegetation from canals and ditches that impede the flow of water. They also have the right to deposit that debris and vegetation onto the banks. **S 1086** will add landscaping, vegetation and trees to clarify those items are authorized for removal when necessary.

In response to questions regarding irrigation districts' rights to remove debris and maintain access to canals and ditches, **Mr. Farris** replied landowners still have the right to maintain and trim trees on their property adjacent to ditches and canals, but if any trees, vegetation, gardens, etc. impede access to ditches or canals, the irrigation districts have the right to remove those items.

**Greg Curtis**, Water Superintendent, Nampa Meridian Irrigation District, stated the issue of having to clear and remove debris, including vegetation and trees, has increased with the growth in the Treasure Valley. He requires within his district, that a written notice be provided to any landowner prior to any tree or vegetation removal. This is accomplished by knocking on doors and either hand delivering the notice or leaving the notice in the door. He explained in the past, landowners have become upset when trees are removed and have challenged the District to show where in statute it gives them permission to remove trees. **S 1086** will clarify trees are included when they impede the flow of water in ditches and canals or impede access to maintain ditches or canals.

**MOTION:** **Rep. Raybould** made a motion to send **S 1086** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Kauffman** will sponsor the bill on the floor.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 1:53pm.

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Representative Gibbs  
Chair

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Tracey McDonnell  
Secretary

**AMENDED AGENDA #1**  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**  
**2:00pm or Upon Adjournment**  
**Room EW40**  
**Wednesday, March 13, 2019**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>S 1087</u></a>	Artesian Wells, Cost Sharing	Senator Brackett
<a href="#"><u>S 1050</u></a>	Water Rights, Diversion	Senator Brackett
<a href="#"><u>S 1088aa</u></a>	Free Permits, Tags, Veterans	Senator Brackett

***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 Gibbs	Rep Vander Woude	Rep Moon
Vice Chairman Gestrin	Rep Mendive	Rep Raybould
Rep Moyle	Rep Kauffman	Rep Erpelding
Rep Shepherd	Rep Blanksma	Rep Rubel
Rep Wood	Rep Addis	Rep Toone
Rep Boyle	Rep Lickley	Rep Mason

COMMITTEE SECRETARY

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Phone: 332-1136  
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MINUTES  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**

- DATE:** Wednesday, March 13, 2019
- TIME:** 2:00pm 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, Erpelding, Rubel, Toone, Mason
- ABSENT/  
EXCUSED:** Representative(s) Moyle, Shepherd
- GUESTS:** Brian Patton, Idaho Department of Water Resources; Sharon Kiefer, Idaho Department of Fish and Game; Benn Brocksome, Idaho Sportsmen's Alliance; Morgan Howard and Paul Arrington, Idaho Water Users Association; Marv Patten, Milk Producers of Idaho; Lynn Tominaga, Idaho Ground Water Appropriators; Braden Jensen, Idaho Farm Bureau; Bill Mulder, Tree Top Ranches
- Chairman Gibbs** called the meeting to order at 2:01pm.
- MOTION:** **Rep. Kauffman** made a motion to approve the minutes of the March 1, 2019 meeting. **Motion carried by voice vote.**
- S 1087:** **Senator Brackett**, District 23, stated **S 1087** replaces **S 1001**. He explained **42-1607, Idaho Code** states owners of flowing artesian wells that waste water without beneficial use are responsible to prevent the waste of water through repair or, if necessary, by plugging the wells. He stated **S 1087** and **S 1001** both removed outdated and confusing language, but only **S 1087** retained the option for the Idaho Department of Water Resources to implement a cost-share program to assist owners with repairs. He reiterated **S 1087** does not eliminate the requirement that owners of the flowing artesian wells are ultimately responsible for repairing or plugging the wells.
- Paul Arrington**, Idaho Water Users Association; **Lynn Tominaga**, Idaho Ground Water Appropriators, and **Braden Jensen**, Idaho Farm Bureau, stated this is a good bill, a lot of hard work by many people resulted in these updates, and they are **in support** of **S 1087**.
- MOTION:** **Rep. Raybould** made a motion to send **S 1087** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Blanksma** will sponsor the bill on the floor.
- S 1050:** **Senator Brackett**, District 23, stated **S 1050** allows for ground water, in addition to a natural watercourse, to be diverted and used at any time with or without a water right for the purpose of fire suppression on private or public lands.
- Paul Arrington**, Executive Director, Idaho Water Users Association, stated they are **in support** of **S 1050** because this is a common sense bill adding the use of ground water to fight fires.
- MOTION:** **Rep. Blanksma** made a motion to send **S 1050** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Toone** will sponsor the bill on the floor.

**S 1088aa:** **Senator Brackett**, District 23, stated the purpose of **S 1088aa** is to direct the Idaho Division of Veteran's Services (IDVS) to screen applicants for the five big game tags allocated to disabled veterans to ensure the most deserving are prioritized for those tags. He explained two of the tags will be allocated to a hunt designated by IDVS while the remaining three tags will be designated by the Idaho Department of Fish and Game Commission.

**MOTION:** **Rep. Addis** made a motion to send **S 1088aa** to the floor with a **DO PASS** recommendation.

**Ben Brocksome**, Idaho Sportsmen's Alliance, stated they are **in support of S 1088aa** because it is a good bill.

**Sharon Kiefer**, Idaho Department of Fish and Game, stated this bill deals with provisions of the Department's special big game tag program for Disabled American Veterans (DAV). She explained these tags are free, no license is required, and only qualified organizations can apply on behalf of a resident or nonresident DAV. She explained currently, qualified organizations who wish to sponsor an application make their own decision about eligible disability criteria, but **S 1088aa** shifts this responsibility to the IDVS to certify an applicant. Ms. Kiefer pointed out the amendment to this bill preserves the Fish and Game Commission's authority to adopt rules governing the manner and conditions of using the tags, meaning the Commission continues to determine elements such as which species and hunts are eligible for tags. She stated the Commission's position is to monitor the bill and would revise their existing rules that prescribe issuance should this become law.

**Marv Hagedorn**, Chief Administrator, Idaho Division of Veteran's Services, stated he was not planning on testifying today, but rather just came in to listen. He stated they have a good process in place to screen applicants to select the most deserving Disabled American Veterans should this bill pass.

**Bill Mulder**, Tree Top Ranches, spoke **in support of S 1088aa** because it is an excellent and proven way to handle disabled veteran applicant selection.

**Senator Brackett** returned to the podium to close the discussion by stating this is a good bill and is a small way to honor our veterans and show our appreciation for their sacrifice and service.

In response to a question regarding whether a veteran can be considered for additional tags, **Ms. Kiefer** explained under Commission authority, it's a once in a lifetime draw because that tag can be used for any type of open hunt. She stated they can go through the normal process that the general public follows to obtain a tag in the future.

**VOTE ON MOTION:** **Chairman Gibbs** called for a vote on the motion to send **S 1088aa** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Vander Woude** will sponsor the bill on the floor.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 2:31pm.

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Representative Gibbs  
Chair

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Tracey McDonnell  
Secretary



AGENDA  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**  
1:30pm or Upon Adjournment  
Room EW40  
Tuesday, March 19, 2019

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">SJM 105</a>	Bear Lake	Senator Harris
<a href="#">S 1151</a>	Fish and Game, Depredation Payments	Senator Brackett
<a href="#">SJM 106</a>	Water, 1866 Mining Act	Senator Brackett

***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 Gibbs	Rep Vander Woude	Rep Moon
Vice Chairman Gestrin	Rep Mendive	Rep Raybould
Rep Moyle	Rep Kauffman	Rep Erpelding
Rep Shepherd	Rep Blanksma	Rep Rubel
Rep Wood	Rep Addis	Rep Toone
Rep Boyle	Rep Lickley	Rep Mason

COMMITTEE SECRETARY

Tracey McDonnell  
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MINUTES  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**

- DATE:** Tuesday, March 19, 2019
- TIME:** 1:30pm or Upon Adjournment
- PLACE:** Room EW40
- MEMBERS:** Chairman Gibbs, Vice Chairman Gestrin, Representatives Moyle, Shepherd, Wood, Boyle, Vander Woude, Mendive, Kauffman, Blanksma, Addis, Lickley, Moon, Raybould, Erpelding, Rubel, Toone, Mason
- ABSENT/  
EXCUSED:** Representative(s) Vander Woude
- GUESTS:** Sharon Kiefer, Idaho Department of Fish and Game; Morgan Howard and Paul Arrington, Idaho Water Users Association; Jay Neider, self; Nathan Helm, self; Brian Patton, Idaho Department of Water Resources; Albert Barker, Barker Rosholt & Simpson; Jonathan Oppenheimer, Idaho Conservation League; Benn Brocksome, Idaho Sportsmen's Alliance; Braden Jensen, Idaho Farm Bureau
- Chairman Gibbs** called the meeting to order at 1:31pm.
- MOTION:** **Rep. Toone** made a motion to approve the minutes of the March 5, 2019 meeting. **Motion carried by voice vote.**
- SJM 105:** **Senator Harris**, District 32, stated this Memorial encourages continued cooperation between all stakeholders and to enforce and protect existing Bear Lake water and beneficial use. He explained Bear Lake is unique in many ways including: it sits between two states; Idaho and Utah, it is used by thousands of people for recreation, it is home to seven state parks, it has many endemic fish, and is home to the Bonneville Cutthroat Trout, the state fish for both Idaho and Utah. More importantly, Bear Lake is used as a reservoir for irrigation water and power generation for approximately 150,000 acres of farm ground. In conclusion, Senator Harris explained the reason for this Memorial is due to recent activities by certain groups to fill Salt Lake using waters from Bear Lake and as a result, **SJM 105** encourages the protection of Bear Lake's intended uses of irrigation, power generation, and recreation.
- MOTION:** **Rep. Raybould** made a motion to send **SJM 105** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Gibbs** will sponsor the bill on the floor.
- S 1151:** **Senator Brackett**, District 23, stated the purpose of this bill is to place a cap on the amount paid on any single wildlife caused crop damage claim to not exceed 10% of the annual Expendable Big Game Depredation Trust Account appropriation for that fiscal year. He explained in 2017, **H 230** passed, which added significant financial resources to prevent wildlife crop depredations and pay claims for wildlife damages/losses. In 2018, the Idaho Department of Fish and Game received a claim from a single agricultural producer for specialty organic crops that exceeded the total amount of the other 49 claims received from all agricultural producers combined, including record claims from corn producers. Claims such as this one will inevitably result in pro-rating claims for all producers who file a claim in any given year. He explained, in addition, this bill provides that the total amount paid to any person for approved claims in the aggregate in a fiscal year, including any payment to any pass-through entity from which the claimant or any household member receives income, shall not exceed 10% of the original Expendable Big Game Depredation Trust Account appropriation for the fiscal year.

**MOTION:** **Rep. Wood** made a motion to send **S 1151** to the floor with a **DO PASS** recommendation.

**Sharon Kiefer**, Deputy Director, Idaho Department of Fish and Game, stated as a result of **H 230** the Department has the Expendable Big Game Depredation Trust Account to pay compensation to producers for crop damage from deer, elk, and pronghorn. She explained this account accrues an annual interest of about \$40,000 from the Non-Expendable Trust Account, an annual \$200,000 from license fees, and an additional \$500,000 from the access/depredation fees. Per statute, one half of each eligible claim is paid up front, and the unpaid balance of eligible claims is paid at the end of the fiscal year, all within the resources of cash and appropriation for the account. Ms. Kiefer stated despite more resources and efforts, crop depredation claims have been rising due to increased abundance and distribution of big game animals, primarily elk, along with changes in agriculture crop practices, choice of crops, and increased value of certain agricultural commodities. She explained, in Fiscal Year 2019, the Department received an eligible claim of just over \$1 million from a single agriculture producer of organic crops that exceeded the total amount of the other 49 claims received to date from all agricultural producers combined. This is the first time in the history of the depredation claim program this has occurred. Under current statutory direction, processing "outlier" claims such as this one will inevitably result in pro-rating claims for all producers who file in the same year, and two such "outlier" claims would render the depredation compensation program meaningless to the majority of agricultural producers submitting annual claims.

**Ms. Kiefer** explained **S 1151** creates a solution to this concern by providing a legislative safeguard to avoid exceptionally large claims straining the depredation compensation account resulting in significant pro-rating of claims. She stated the Fish and Game Commission believes **S 1151** is effective and efficient fiscal policy for the use of license fees and is **in support** of this bill.

**Ben Brocksome**, Idaho Sportsmen's Alliance, stated they are **in support** of **S 1151**. He stated they are appreciative that sportsmen can contribute through license fees to assist landowners with depredation claims.

**VOTE ON MOTION:** **Chairman Gibbs** called for a vote on the motion to send **S 1151** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Boyle** requested to be recorded as voting **NAY.** **Rep. Wood** will sponsor the bill on the floor.

**SJM 106:** **Senator Brackett**, District 23, stated **SJM 106** is a rewrite of **SJM 101**. The only change from **SJM 101** is the removal of a paragraph on page 2, on lines 20-23.

**MOTION:** **Rep. Wood** made a motion to send **SJM 106** to the floor with a **DO PASS** recommendation.

**Jay Neider**, ranch owner from Stanley, Idaho, stated he has managed his ranch since 1957 and the Forest Service has given him a hard time for years. They have threatened to bulldoze his ditches and have sent him numerous letters informing him he had to pay for special use permits. He stated he told the Forest Service his rights-of-way were protected under the 1866 Mining Act which says no federal agency can control his ditches, but they still bothered him. He said he's complied with their requests and has fish screens, head gates, and measuring devices on both of his ditches yet he's still concerned the Forest Service will try and take away his water and is seeking help from the Legislature to protect his rights.

**Nathan Helm**, ranch owner from Melba, stated he is interested in this Memorial because it adds another tool they can work with to protect their water rights. He stated he and his father-in-law (**Mr. Neider**) want to be united with the Legislature on this issue and they are hopeful to get some language they can use moving forward. He respects there are competing priorities with water and fish, but in his opinion, their water rights take priority.

**Jonathan Oppenheimer**, Idaho Conservation League, stated they are in support of the sentiment of **SJM 106** relative to encouraging the federal land management agencies to issue the many overdue easements and special use permits related to water use on or across federal lands. They do, however, have issues with **SJM 106** on page 2, lines 45-49 which extends the 1996 Ditch Bill application deadline, and page 3, lines 1-7 which directs the Secretary of Agriculture to not interfere with the use of any decreed water rights by exempting water users from requirements of federal law. Mr. Oppenheimer believes this Memorial is an attempt to force federal agencies to issue easements without following their required process. For those reasons, he requested **SJM 106** be held in committee.

**Al Barker**, Attorney, stated he represents a number of ranchers in the Sawtooth Valley who's rights are the subject of the Idaho Conservation League vs U.S. Forest Service lawsuit. He explained this is not simply about issuing easements, but rather to address the demands that ESA consultation be done for the use of ditches that have been in place before the lands went into public domain. He stated this Memorial requests Congress and the Administration to recognize the existing rights-of-way the ranchers are entitled to based on the 1866 Mining Law and the Colorado Ditch Bill. He concluded by stating he is not asking the Forest Service to ignore federal laws, but rather asking them to apply federal laws, specifically the 1866 Mining Act and the Colorado Ditch Bill. Nothing in those laws allows the federal government to apply discretion or require consultation, nor can the federal government override state water rights.

In response to a question regarding the Idaho Water Resource Board's position on this issue, **Mr. Barker** stated the Board has no position on **SJM 106** and nothing in this Memorial impacts the work of the Board in the Salmon Basin (See Attachment).

**Braden Jensen**, Idaho Farm Bureau, stated they are **in support** of **SJM 106** because they don't want anything to stand in the way of Idaho citizens' water rights.

**Paul Arrington**, Idaho Water Users Association, simply stated they are **in support** of **SJM 106**.

**VOTE ON MOTION:**

**Chairman Gibbs** called for a vote on the motion to send **SJM 106** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Reps. Erpelding, Rubel, Toone, and Mason** requested to be recorded as voting **NAY. Rep. Gestrin** will sponsor the bill on the floor.

**ADJOURN:**

There being no further business to come before the committee, the meeting adjourned at 2:29pm.

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Representative Gibbs  
Chair

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Tracey McDonnell  
Secretary

March 21, 2019

***Via Email: [mgibbs@house.idaho.gov](mailto:mgibbs@house.idaho.gov) & [hres@house.idaho.gov](mailto:hres@house.idaho.gov)***

Representative Marc Gibbs  
Chairman, House Resources & Conservation Committee  
PO Box 83702  
Boise, Idaho 83702-0038

Re: SJM 106

Chairman Gibbs:

I understand that concerns were raised in the House Resources Committee by one of your members this week during testimony over SJM 106 about whether one of our board members, Albert Barker, had a conflict of interest presenting testimony in favor of SJM 106 on behalf of his clients because SJM 106, arguably conflicted the interests of the Water Resource Board.

Please let me assure you on behalf of the Board, that is not the case. The Memorial advocates for protection of state water rights for water users whose diversions and ditches are located on federal land. To that extent the Memorial is consistent with the Board's mandate to protect and preserve existing rights, duties and priorities of water. Idaho Code § 42-1734A(1)(a). Nothing in the Memorial conflicts with or interferes with the Board's voluntary programs to fund habitat improvement projects and the Board does not advocate measures to force water users to give up any of their vested rights. Accordingly, the Board has no conflict with or objection to SJM 106.

Thank you for the opportunity to clear up any misunderstanding on this issue.

  
Roger Chase  
Chairman  
Idaho Water Resource Board

AGENDA  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**  
1:30pm or Upon Adjournment  
Room EW40  
Thursday, March 21, 2019

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">S 1178aa</a>	Exploding Targets	Senator Stennett
<a href="#">S 1056aa</a>	Ground Water Districts, Mitigation	Lynn Tominaga, Idaho Ground Water Appropriators

***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 Gibbs	Rep Vander Woude	Rep Moon
Vice Chairman Gestrin	Rep Mendive	Rep Raybould
Rep Moyle	Rep Kauffman	Rep Erpelding
Rep Shepherd	Rep Blanksma	Rep Rubel
Rep Wood	Rep Addis	Rep Toone
Rep Boyle	Rep Lickley	Rep Mason

COMMITTEE SECRETARY

Tracey McDonnell  
Room: EW62  
Phone: 332-1136  
email: hres@house.idaho.gov

MINUTES  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**

- DATE:** Thursday, March 21, 2019
- TIME:** 1:30pm or Upon Adjournment
- PLACE:** Room EW40
- MEMBERS:** Chairman Gibbs, Vice Chairman Gestrin, Representatives Moyle, Shepherd, Wood, Boyle, Vander Woude, Mendive, Kauffman, Blanksma, Addis, Lickley, Moon, Raybould, Erpelding, Rubel, Toone, Mason
- ABSENT/  
EXCUSED:** Representative(s) Boyle
- GUESTS:** Morgan Howard, Idaho Water Users Association; Julie VanOrden, Garth VanOrden Farms; Jeff Raybould, Henrys Fork Ground Water District; Lynn Tominaga and T.J. Budge, Idaho Ground Water Appropriators; T.J. Bingham, Bingham Farms; Andy Prescott, North Snake Ground Water District; Jeremy Pisca, Potlatch Deltic; Craig Evans, Bingham Ground Water District; Dean Stevenson, Magic Valley Ground Water District
- Chairman Gibbs** called the meeting to order at 1:30pm.
- MOTION:** **Rep. Kauffman** made a motion to approve the minutes of the February 27, March 7, March 11, and March 13, 2019 meetings. **Motion carried by voice vote.**
- S 1178aa:** **Senator Stennett**, District 26, stated the purpose of this bill is to prohibit exploding targets on any state lands during the designated fire season of May 10 through October 20, annually. Exploding targets refers to any device used as a target consisting of a substance or substances capable of exploding, the most popular kind, which can be purchased at most department stores, are binary exploding targets. Senator Stennett explained the use of these devices has caused catastrophic wildfires that have endangered lives, burned hundreds of thousands of acres, and cost millions of dollars. She stated, according to **General Brad Richy**, Director of the Idaho Office of Emergency Management, Idaho ranks as the fifth most fire prone state in the country and fire is listed as Idaho's top risk in the State Hazard Mitigation Plan. In the 2013 Mitigation Plan, approximately 46% of fires were human caused, and that number has increased to close to 70% in the last couple of years.
- Senator Stennett** stated **S 1178aa** classifies the crime as a misdemeanor and reiterates a judge's discretion for sentencing terms and cost recovery for damages, including community service to help repair damages in the affected areas. She explained this only addresses an accidental incident as a misdemeanor since arson is already covered under Idaho Code and is classified as a felony. Additionally, this bill does not apply to private property or any public or private shooting ranges, and does not apply to the rest of the year outside of the designated fire season.
- MOTION:** **Rep. Mason** made a motion to send **S 1178aa** to the floor with a **DO PASS** recommendation.
- In response to a question regarding exploding targets being singled out to ban, **Senator Stennett** explained this bill was brought to her by the Office of Emergency Management and the Idaho Department of Lands because of the increase in use of exploding targets. She stated there are local ordinances that cover many things, such as fireworks bans, but they believed exploding targets were actually more dangerous due to the type of ignition, how hot they are, and the dangers involved with the residue left behind after ignition.

**Jeremy Pisca**, representing Potlatch Deltic, a private forest landowner with over 600,000 acres of private timberland in Idaho. He stated most of the lands are adjacent to public lands and when fires start on public lands, fire knows no boundaries. The timber is Potlatch Deltic's crops, taking up to 50 years to grow, so a fire would be devastating. For that reason, they are **in support of S 1178aa**.

**David Groeschl**, Deputy Director, Idaho Department of Lands, stated they believe this bill will help deter high risk activities starting fires on state lands. Additionally, this bill provides a mechanism for community service in lieu of payment which none of the other statutes allow for when seeking restitution for fire damages.

In closing, **Senator Stennett** stated the reason for this bill was because unlike private and federal lands, both of which have enforcement authority for actions such as shooting exploding targets, there was no statute for law enforcement, Idaho Department of Lands, or Emergency Management to enforce on state lands, so this closes a loophole.

**VOTE ON MOTION:**

**Chairman Gibbs** called for a vote on the motion to send **S 1178aa** to the floor with a **DO PASS** recommendation.

**ROLL CALL VOTE:**

**Rep. Blanksma** requested a roll call vote on **S 1178aa**. **Motion carried by voice vote of 10 AYE, 7 NAY, 1 Absent/Excused. Voting in favor of the motion: Chairman Gibbs, Reps. Wood, Kauffman, Addis, Lickley, Raybould, Erpelding, Rubel, Mason, Toone. Voting in opposition to the motion: Reps. Gestrin, Moyle, Shepherd, Vander Woude, Mendive, Blanksma, and Moon. Rep. Boyle was Absent/Excused. Rep. Gibbs** will sponsor the bill on the floor.

**S 1056aa:**

**Lynn Tominaga**, Executive Director, Idaho Water User Appropriators, provided a background to the causes for the decline in the aquifer which led to the Settlement Agreement. He stated factors included an increase in ground water diversions, changing climate with increased drought cycles and declining precipitation, and an increase in surface water irrigation efficiencies. The final Settlement Agreement objectives included mitigation for material injury to senior water users in the Surface Water Coalition delivery call, providing safe harbor to participating ground water users in participating Ground Water Districts, increased reliability and enforcement of use, measurement, and reporting across the Eastern Snake Plain, and developing an adaptive management plan to stabilize and enhance the Eastern Snake Plain Aquifer (ESPA) ground water levels. He explained, to accomplish this, long term practices included the Ground Water Districts agreeing to reduce their use by 240,000 acre feet annually (12%), an annual storage water delivery of 50,000 acre feet, a reduced irrigation season, installation of mandatory measurement devices, and support for a state sponsored aquifer recharge program of 250,000 acre feet annually. The goal is to stabilize and ultimately reverse the trend of declining ground water levels and return ground water levels equal to the average ground water levels from 1991-2001, and will be monitored/measured using 19 mutually agreed to "sentinel" observation wells. He concluded by stating they need participation from everyone to ensure they are living up to their end of the Agreement.

**T.J. Budge**, Attorney, Idaho Ground Water Appropriators, stated the Settlement Agreement was an historic event in the history of water administration in Southern Idaho. It effected, in an important way, how the Idaho Department of Water Resources administers the ESPA. He explained the reason for **S 1056aa** is because there are still about 2% of the ground water users who have not complied with water reduction. The other 98% have complied by taking off end guns, drying up pivot corners, and sometimes drying up entire pivots or fields. They have sacrificed to conserve water yet are seeing some of their neighbors not doing anything. Mr. Budge stated in order to make the Settlement Agreement a success, all ground water users must comply with their share of the 12% reduction.



**Mr. Budge** explained the solution to this issue is to modify **Idaho Code, 42-5244**. This will ensure all ground water users comply with their share of the 12% water reduction because currently there is no mechanism to enforce the diversion reductions that are required under the Settlement Agreement. He stated currently in code, a ground water user who is delinquent in the payment of any assessment against their water use, or has failed to pay other mitigation costs owed to their District, can be turned over to the Department of Water Resources for enforcement. By splitting this code into Part A and Part B, Part A will continue to address the delinquent assessments, while the new Part B will add in the ability to enforce for excess water use. He explained enforcement of Part B by the Department will occur when Ground Water Districts report the non-compliant users. The consequences of non-compliance is curtailment, regardless if it is a wet year.

**MOTION:**

**Rep. Raybould** made a motion to send **S 1056aa** to the floor with a **DO PASS** recommendation.

**Rep. Bedke**, District 27, stated this bill is completely necessary because Idaho has worked very hard and invested a lot of money into making the Settlement Agreement succeed. He stated there's always a portion that doesn't comply, and if there was 100% compliance, we wouldn't need this bill. He said it is proper to protect this managed recharge program of the Agreement and everyone should comply.

**Chairman Gibbs** announced due to scheduling conflicts, **Mr. Paul Arrington**, Executive Director, Idaho Water Users Association, was unable to attend this hearing, so in his absence submitted a letter **in support** of **S 1056aa** (See Attachment) and **Mr. Gary Spackman**, Director, Idaho Department of Water Resources, was also unable to attend this hearing and wanted to clarify his absence in no way indicated his lack of support for this bill.

**T.J. Bingham**, Bingham Farms, Blackfoot, Idaho, stated he is **in opposition** to **S 1056aa**. He explained there are several reasons for his opposition. The most important is he does not need any protection the Bingham Ground Water District offers because his farm has protection based on their senior priority date. If this bill becomes law, his senior priority date will no longer be able to provide the protections they have enjoyed for 20+ years, which is when his local Ground Water District formed. Instead, it will now be up to whether they are in compliance based on what the District says is their obligation. He stated other concerns he has with this bill is how his senior water rights will be valued by his District and how the District allocates their water, resulting in having to pay the same amount as a junior right water holder in his District. This takes away any benefit he currently has based on his senior priority date. He also stated currently the Director can only curtail his priority date when there is a Water Call made against it. If **S 1056aa** passes, this will no longer be the criteria to enforce curtailments, but rather it will be up to the Districts, therefore, he wants the current enforcement to stay in place.

In response to a question regarding whether Bingham Farms is current in their assessments, **Mr. Bingham** replied they are not and haven't been since 1996 when the Bingham Ground Water District formed. He stated they have never participated in the Ground Water District.

**Julie VanOrden**, Garth VanOrden Farms, District 31, stated they are both ground water and surface water users and have paid their assessments since the inception of the water districts. She stated they came into the program "kicking and screaming" but do see the benefits and are fully participating. She stated they are **in support** of this bill because it provides more tools for enforcement of the Agreement.

**Andy Prescott**, North Snake Ground Water District, stated they are **in support** of this bill because there needs to be a way to preserve the ESPA, and the Agreement is the way to do it. Without a policing mechanism, there will never be a way to make everyone pay.

**Craig Evans**, Chairman, Bingham Ground Water District, gave a brief background on Ground Water Districts and the reasons for their formation. He stated when there are Water Calls in dry years, through agreements, Ground Water Districts provide stability and assurance that everyone will have water from one year to the next rather than taking the chance without Districts there will be enough water to farm.

**Dean Stevenson**, Chairman, Magic Valley Ground Water District, stated his District covers acreage in five different counties. He said without the Agreement in place his District struggled to maintain enough water and without any obligations people just pumped as they wished, and as a result, the aquifer continued to drop. He stated the Agreement preserves the ESPA for all to use. He believes this bill is needed in order to provide the tools to force those that are non-compliant to participate.

In closing, **Lynn Tominaga** stated **Mr. Bingham** and a few others have never complied over the years and **S 1056aa** will protect everyone's water rights, junior and senior.

**Rep. Toone** and **Rep. Raybould** declared Rule 38.

**VOTE ON  
MOTION:**

**Chairman Gibbs** called for a vote on the motion to send **S 1056aa** to the floor with a **DO PASS** recommendation. **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 adjourned at 2:51pm.

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Representative Gibbs  
Chair

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Tracey McDonnell  
Secretary



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March 19, 2019

Members of the House Resources & Conservation Committee:

Please accept my regrets, as I am unable to attend the Committee hearing on Thursday, March 21, as I will be in Kalispell and Seattle attending meetings on the Columbia River Treaty negotiations. On behalf of the Idaho Water Users Association (IWUA), we urge your support of S-1056a.

IWUA represents canal companies, irrigation districts, ground water districts, municipal and public water suppliers, hydroelectric companies, aquaculture interests, agri-businesses, professional firms and individuals throughout Idaho. Our purpose is to promote, aid and assist in the development, control, conservation, preservation and utilization of Idaho's water resources.

Since 2015, water users along the Eastern Snake Plain have worked to implement the monumental settlement agreement resolving water disputes that had embroiled the region in litigation for over a decade. Idaho's Legislature supported the settlement, recognizing that its purpose was to "resolve litigation, avoid curtailment, maintain sustainable ground and surface water supplies on the ESPA and minimize harm to Idaho's economy, and further supports state management to ensure ESPA water supply issues are timely addressed." SCR-135 (2016). IWUA Resolution 2019-10 supports the settlement:

BE IT FURTHER RESOLVED, That the Idaho Water Users Association supports the 2015 Settlement Agreement entered into between the Surface Water Coalition (SWC) and participating members of the Idaho Ground Water Appropriators, Inc. (IGWA), including its continued implementation.

"Continued implementation" of the settlement agreement requires participation by all involved. S-1056a provides ground water districts with the necessary tools to ensure participation. By giving the Director of the Idaho Department of Water Resources (IDWR) authority to curtail water diversions for noncompliance with approved mitigation plans, the State and water users can be assured that all will do their part to restore water levels.

S-1056a was drafted through a workgroup comprised of IDWR, water users and attorneys. This process resulted in a good bill that gives the best opportunity to accomplish the goals of the settlement agreement.

Accordingly, IWUA urges your support of S-1056a. If there are any questions on the bill, I can be reached by cell phone (208-404-9436) or email ([paul@iwua.org](mailto:paul@iwua.org)) at any time.

Sincerely,

Paul Arrington

A handwritten signature in black ink, appearing to read "Paul Arrington", is written over a horizontal line. The signature is fluid and cursive, with a long, sweeping tail that extends to the right.

AGENDA  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**  
1:30pm or Upon Adjournment  
Room EW40  
Wednesday, March 27, 2019

SUBJECT	DESCRIPTION	PRESENTER
	Approval of Minutes	

***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 Gibbs	Rep Vander Woude	Rep Moon
Vice Chairman Gestrin	Rep Mendive	Rep Raybould
Rep Moyle	Rep Kauffman	Rep Erpelding
Rep Shepherd	Rep Blanksma	Rep Rubel
Rep Wood	Rep Addis	Rep Toone
Rep Boyle	Rep Lickley	Rep Mason

COMMITTEE SECRETARY

Tracey McDonnell  
Room: EW62  
Phone: 332-1136  
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MINUTES  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**

**DATE:** Wednesday, March 27, 2019  
**TIME:** 1:30pm or Upon Adjournment  
**PLACE:** Room EW40  
**MEMBERS:** Chairman Gibbs, Vice Chairman Gestrin, Representatives Moyle, Shepherd, Wood, Boyle, Vander Woude, Mendive, Kauffman, Blanksma, Addis, Lickley, Moon, Raybould, Erpelding, Rubel, Toone, Mason  
**ABSENT/  
EXCUSED:** Vice Chairman Gestrin, Representative(s) Boyle, Vander Woude, Kauffman, Blanksma  
**GUESTS:** None  
**Chairman Gibbs** called the meeting to order at 1:30pm.  
**MOTION:** **Rep. Toone** made a motion to approve the minutes of the March 19 and 21, 2019 meetings. **Motion carried by voice vote.**  
On behalf of the committee, **Chairman Gibbs** thanked Committee Page, **Elbia Christensen** for her work this Session and he also thanked the Committee Secretary, **Tracey McDonnell** for her work supporting the committee. Chairman Gibbs expressed his appreciation to the committee members for their attention and participation in committee and for their support of him as Chairman.  
**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 1:35pm.

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Representative Gibbs  
Chair

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Tracey McDonnell  
Secretary