

**AMENDED AGENDA #1**  
**HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE**  
**1:30 P.M.**  
**Room EW41**  
**Thursday, January 14, 2016**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
	Organizational Meeting	
	Welcome to the Session	
	Introductions	

COMMITTEE MEMBERS

Chairman Thompson	Rep Anderson
Vice Chairman Anderst	Rep Mendive
Rep Raybould	Rep Trujillo
Rep Hartgen	Rep Beyeler
Rep Vander Woude	Rep Chaney
Rep Nielsen	Rep Nate

Rep Scott
Rep Smith
Rep Rusche(Van Tassel)
Rep Jordan
Rep Rubel

COMMITTEE SECRETARY

Diana Seba  
Room: EW62  
Phone: 332-1128  
email: [henv@house.idaho.gov](mailto:henv@house.idaho.gov)

MINUTES  
**HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE**

**DATE:** Thursday, January 14, 2016  
**TIME:** 1:30 P.M.  
**PLACE:** Room EW41  
**MEMBERS:** Chairman Thompson, Vice Chairman Anderst, Representatives Raybould, Hartgen, Vander Woude, Nielsen, Anderson, Mendive, Trujillo, Beyeler, Chaney, Nate, Scott, Smith, Rusche (Van Tassel), Jordan, Rubel  
**ABSENT/  
EXCUSED:** None  
**GUESTS:** None

**Chairman Thompson** called the meeting to order at 1:30 p.m. Chairman Thompson welcomed the legislators. The secretary and the page introduced themselves, and the Committee members also introduced themselves.

**Chairman Thompson** discussed the DEQ Administrative Rules. The committee will begin discussing the Rules at next Wednesday's meeting. Some of the rules are intense, and he encouraged members to study them thoroughly.

**ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 1:40 p.m.

---

Representative Thompson  
Chair

---

Diana Seba  
Secretary

AGENDA  
**HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE**  
**1:30 P.M.**  
**Room EW41**  
**Wednesday, January 20, 2016**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
	Introduction to Department of Environmental Quality Review of Rules	Director John Tippetts
Docket No. <a href="#">58-0101-1501</a>	Rules for the Control of Air Pollution in Idaho	Tiffany Floyd
Docket No. <a href="#">58-0105-1501</a>	Rules and Standards for Hazardous Waste	Orville Green

***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 Thompson      Rep Anderson  
Vice Chairman Anderst      Rep Mendive  
Rep Raybould      Rep Trujillo  
Rep Hartgen      Rep Beyeler  
Rep Vander Woude      Rep Chaney  
Rep Nielsen      Rep Nate

COMMITTEE SECRETARY

Diana Seba  
Room: EW62  
Phone: 332-1128  
email: [henv@house.idaho.gov](mailto:henv@house.idaho.gov)

MINUTES

## HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE

**DATE:** Wednesday, January 20, 2016

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

**PLACE:** Room EW41

**MEMBERS:** Chairman Thompson, Vice Chairman Anderst, Representatives Raybould, Hartgen, Vander Woude, Nielsen, Anderson, Mendive, Trujillo, Beyeler, Chaney, Nate, Scott, Smith, Rusche (Cuddy), Jordan, Rubel

**ABSENT/  
EXCUSED:** None

**GUESTS:** Orville Green, Idaho Department of Environmental Quality (IDEQ); Tiffany Floyd (IDEQ); Carl Brown (IDEQ); Matt Alvarado (IDEQ)

**Chairman Thompson** called the meeting to order at 1:30 p.m.

**MOTION:** **Rep. Chaney** made a motion to approve the minutes of January 14, 2016. **Motion carried by voice vote.**

**Chairman Thompson** welcomed **Rep. Cuddy**, who is standing in for **Rep. Rusche**. Rep. Cuddy introduced himself.

**David Landers**, Legislative Intern, introduced himself.

**John Tippetts**, Director of Idaho Department of Environmental Quality (IDEQ), presented opening remarks. He introduced **Jess Byrne**, Deputy Director, **Lisa Carlson**, Deputy Attorney General, **Tiffany Floyd**, Air Quality Division Administrator with the IDEQ, and **Orville Green**, Hazardous Waste and Remediation Division Administrator with the IDEQ. He stated that committee members could call on them at any time with questions about the rules.

**Chairman Thompson** turned the gavel over to **Vice Chairman Anderst**.

**DOCKET NO. 58-0101-1501:** **Tiffany Floyd** presented **Docket No. 58-0101-1501**, the Rules for the Control of Air Pollution in Idaho. The federal rules are incorporated on an annual basis so Idaho is consistent with federal regulations to maintain primacy and freedom from EPA oversight. The purpose of these rules is to protect public health in the environment and monitor pollution levels. This is done primarily through outreach and education, but also through permits, inspections, and compliance. Ms. Floyd reviewed the changes to the rules. The IDEQ recommends we incorporate the rules by reference.

**Ms. Floyd** answered questions from the committee. She addressed concerns regarding the rules on greenhouse gas, stating there is no replacement for the obsolete rule yet, but it is being worked on. It may be more strict or less strict than the previous rule. She explained the word "infrastructure" as used in the introduction on the overview means the IDEQ has the ability and authority to implement the program. The real cost is funded by the General Fund, grants, and federal funds. The IDEQ sees their role as one of outreach and education to comply with the law, not to enforce, fine, or penalize. However, there is a penalty matrix in place for enforcement based on harm to the public and the environment.

**Director Tippetts** further clarified a question regarding "rubber stamping" the rules. The process of approving the rules hasn't changed. The purpose of the annual incorporation by reference is to comply with federal regulation to maintain primacy. The goal is to find the balance between being more stringent or less stringent than federal regulations, so the state maintains control rather than the federal government. This provides better service than federal enforcement would.

**MOTION:** Rep. Anderson made a motion to approve **Docket No. 58-0101-1501**. **Motion carried by voice vote. Reps. Scott, Nielsen, and Nate** requested to be recorded as voting **NAY**.

**DOCKET NO. 58-0105-1501:** **Orville Green** presented **Docket No. 58-0105-1501**, Rules and Standards for Hazardous Waste. He introduced Matt Alvarado, Rules Analyst. Idaho Code requires the IDEQ to: enact and carry out the program, promulgate rules consistent with federal requirements, and avoid duplicative, overlapping, or conflicting regulations. The proposed changes are not broader in scope nor more stringent than federal regulations. The proposed changes do not regulate an activity not regulated by the federal government, and by adopting the federal rules Idaho accepts the management of hazardous waste by the IDEQ. Of three rules, the only one to apply to Idaho is the establishment of an electronic manifest to track hazardous waste through the state. This has not yet been implemented. The only other changes update the date from 2014 to 2015, give links to the rules online, and update language regarding the EPA.

**Mr. Green** answered questions from the Committee. Regarding the electronic manifest rules, currently all tracking is done on paper. The tracking is necessary as the hazardous waste is transported across state lines. Manifests must identify contents, storage, and what must be accompanying the waste in case of accident.

**MOTION:** **Rep. Trujillo** made a motion to approve **Docket No. 58-0105-1501**.

**Mr. Green** answered additional questions from the Committee, stating that IDEQ now uses the EPA tracking system for hazardous waste for national consistency. When the electronic manifest becomes available, Idaho will have access to the tracking database, but will not operate it.

**VOTE ON MOTION:** **Motion carried by voice vote. Reps. Nate and Scott** requested to be recorded as voting **NAY**.

**Vice Chairman Anderst** turned the gavel over to **Chairman Thompson**.

**Chairman Thompson** announced that the meeting for Tuesday, January 26, will be a field trip to tour the Idaho Power Grid Operations Center, with a bus leaving the Capitol at 1:30 p.m..

**ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 2:35 p.m.

---

Representative Thompson  
Chair

---

Diana Seba  
Secretary

AGENDA  
**HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE**  
**1:30 P.M.**  
**Room EW41**  
**Thursday, January 28, 2016**

SUBJECT	DESCRIPTION	PRESENTER
	Presentation: Pending Rule on Water Quality Criteria	Marv Lewallen, Clearwater Paper Corporation
Docket No. <a href="#">58-0102-1501</a>	Water Quality Standards	Barry Burnell, Water Quality Division Administrator
Docket No. <a href="#">58-0111-1501</a>	Ground Water Quality Rule	Barry Burnell
Docket No. <a href="#">58-0108-1501</a>	Idaho Rules for Public Drinking Water Systems	Barry Burnell
Docket No. <a href="#">58-0104-1501</a>	Rules for Administration of Wastewater Treatment Facility Grants	Barry Burnell
Docket No. <a href="#">58-0112-1501</a>	Rules for Administration of Water Pollution Control Loans	Barry Burnell

***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 Thompson      Rep Anderson  
Vice Chairman Anderst      Rep Mendive  
Rep Raybould      Rep Trujillo  
Rep Hartgen      Rep Beyeler  
Rep Vander Woude      Rep Chaney  
Rep Nielsen      Rep Nate

Rep Scott  
Rep Smith  
Rep Rusche(Van Tassel)  
Rep Jordan  
Rep Rubel (Green)

COMMITTEE SECRETARY

Diana Seba  
Room: EW62  
Phone: 332-1128  
email: [henv@house.idaho.gov](mailto:henv@house.idaho.gov)

## MINUTES

# HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE

- DATE:** Thursday, January 28, 2016
- TIME:** 1:30 P.M.
- PLACE:** Room EW41
- MEMBERS:** Chairman Thompson, Vice Chairman Anderst, Representatives Raybould, Hartgen (Hartgen), Vander Woude, Nielsen, Anderson, Mendive, Trujillo, Beyeler, Chaney, Nate, Scott, Smith, Rusche (Van Tassel), Jordan, Rubel (Green)
- ABSENT/  
EXCUSED:** Rep. Vander Woude
- GUESTS:** Kevin Beaton, Stoel Rives; Barry Burnell, Idaho Department of Environmental Quality (IDEQ); Marv Lewallen, CLW/IACI; Brent Olmstead, MPIIdaho; Jane Wittmeyer, Wittmeyer and Assoc.; Paula Wilson, IDEQ; Bryon Welch, Office of Performance Evaluations; Justin Hayes, ICL; Jonathan Oppenheimer, ICL; Jess Byrne, IDEQ; Shelley Roberts, Idaho Rural Water Association; Jack Lyman, Idaho Mining Assoc.; Elizabeth Criner, NWFPA/FWAA; Amanda Watson; Marcia Jedry, IACI; Brad Hunt, O.A.R.C.; Norm Semanko, IWUA; Andy Brimer, IWUA
- Chairman Thompson** called the meeting to order at 1:30 p.m.
- MOTION:** **Rep. Smith** made a motion to approve the minutes of the January 20, 2016, meeting. **Motion carried by voice vote.**

**Marv Lewallen**, Vice President - Environmental, Energy, and Sustainability, Clearwater Paper, gave a presentation on Idaho Water Criteria Rulemaking, Human Health Water Quality Criteria. His goal was to provide background and context associated with Idaho DEQ's work on setting human health water quality criteria, and to provide an understandable overview of Clean Water Act processes and how risks to Idaho's citizens are assessed and considered within this complex collision of science and public policy. The Clean Water Act sets surface water quality criteria. Fish consumption rate and risk policy choices drive the water quality criteria. DEQ asked for data to meet criteria to bring water quality back into compliance. With the EPA's and Oregon's approach, many criteria would be unattainable and lead to impairment for Idaho rivers, ineffective Total Maximum Daily Loads (TMDL), and wasted resources.

DEQ surveyed the population of Idaho to assess how much Idaho fish Idahoans eat, and determined it is an average of 2.3 grams per day without salmon and steelhead. DEQ also needed to determine how much untreated surface water is consumed. DEQ assumed 2.4 liters every day from ponds, lakes, and Idaho streams per EPA requirement standards. Based on scientific data and input, DEQ selected an excess cancer risk of 1 in 100,000 ( $1 \times 10^{-5}$ ). DEQ followed national EPA requirements, and in some instances was more stringent (i.e., salmon). Cancer risks affect us all, and risk factors are important. DEQ chose a target incremental risk level of  $1 \times 10^{-5}$  to set criteria for carcinogens. This is lower than Oregon and EPA standards of  $1 \times 10^{-6}$ . The impact of adopting the  $1 \times 10^{-6}$  level would be that many rivers and streams would be designated as impaired, impairments would lead to a list of non-compliant water bodies, and the cost to Idaho cities, municipalities, and businesses could total tens of billions of dollars, and Idaho would still not meet Total Maximum Daily Loads. There would be almost no health improvements, which would harm public health by diverting resources that could produce real and measurable improvements. DEQ's proposed Human Health Water Quality Criteria risks are very low compared with "real" everyday risks and consistent with case law

and EPA national guidance. DEQ's approach struck an acceptable balance. Based on what is happening in other states, EPA seems likely to disapprove the current proposal. Establishing a balanced and defensible set of criteria and defending the state's choices is sound public policy.

**Mr. Lewallen** answered questions from the committee, saying if the standards set by DEQ are rejected by EPA, he projects there could be litigation. However, DEQ policy choice is defensible and rational. Although Idaho survey results averaged 2.4 grams of fish every day, that number does not include salmon and steelhead. DEQ selected 66.5 grams of fish a day as a reasonable amount with the salmon and steelhead added. If you project litigation, the larger number is more defensible. This is about risk policy, but we have an opportunity to make a reasonable choice about the policy for the long run. A typical carcinogen is polychlorinated biphenyl (PCP), which is no longer manufactured but is persistent, making it a good choice for the study. In Oregon, the Umatilla Tribe was encouraged to look at the perception of risk from consuming fish and to do a toxicology report on salmon.

When asked if tribes supported it, **Barry Burnell** said the tribe would like higher numbers, but he has not had specific dialog with them. There are 104 different toxic man-made pollutants; there are also naturally occurring metals such as selenium, nickel, copper, and zinc. The naturally occurring pollutants are allowed. Regarding the untreated surface water consumed as drinking water, it is part of the EPA health study done for the nation. DEQ assumed 2.4 liters of water per day as an EPA requirement. This is very good for the state of Idaho. All surface water sources of drinking water are treated. Based on all projections DEQ recommends choosing a policy that is  $1 \times 10^{-5}$ .

**DOCKET NO.  
58-0102-1501:**

**Barry Burnell**, Water Quality Division Administrator for the DEQ, presented **Docket No. 58-0102-1501** to the committee. The intent of the rule is to provide a regulatory structure for conducting Water Quality Standards Use Attainability Assessments (UAAs). The language used in this rule comes from the federal Clean Water Act (40 CFR 131.10) and Idaho Code 39-3604. The rule provides DEQ with a basis to develop a guidance document to assist in the development of UAAs. Mr. Burnell said the rule is in response to the performance evaluation audit of DEQ water quality. Costs are dependent upon the water body for which a designated use change is being sought and the associated data collection and analysis needed. UAA costs are expected to be the stakeholders' responsibility. Agency staff time will be used to assist stakeholders through the UAA process and the associated rulemaking adoption activity. Designations are made by water body unit unless designated otherwise. Designations may include uses that are not an existing use, but are attainable. Listed are the factors the department will consider.

Subsection 102.02 is added. This section is the heart of the Use Attainability Analysis requirements. Anytime a fishable or swimmable beneficial use is revised or removed from a water body, then a UAA must be completed. The elements that may be used to justify a use change are listed. Last, a Definition of Use Attainability Analysis is added. DEQ recommends the committee approve **Docket No. 58-0102-1501**.

**Barry Burnell** answered questions from the committee, saying the changes in Rule 301.b and 306 of the Federal Clean Water Act are used in permitting federal point source discharges; this is for changing the program from EPA to DEQ control. The human health criteria for pollutants is a rule that updates 104 pollutants and prepares 208 criteria for consideration; today, we have 6 facilities permitted under a general groundwater remediation permit and 27 facilities being monitored. Clearwater Paper has a permit that allows contaminants which are subject to this rule. Some permits are more, some are less stringent. The economic impact is hard to project. DEQ is seeking primacy to run discharge limits instead of EPA. Measurements are taken after treatment and before discharge.



**MOTION:** Rep. Anderst made a motion to approve **Docket No. 58-0102-1501**. **Motion carried by voice vote.** Rep. Scott, Nate, and Nielson requested to be recorded as voting **NAY**.

**DOCKET NO. 58-0111-1501:** Barry Burnell presented **Docket No. 58-0111-1501** to the committee. This rulemaking was initiated to revise the Ground Water Quality Rule (IDAPA 58.01.11) as directed by the 2015 Legislature under **197** which amended Idaho Code. **197** clarified that degradation of ground water caused by mining activities is allowed within a point of compliance as long as the mine operator implements Best Management Practices. The rule revised sections 150, 301, 400, and 401 to accomplish this direction. Section 401 has language that requires activities to be managed in a manner which maintains or improves existing ground water quality. However, Section 401 was developed to allow for degradation to occur in mining areas and to establish points of compliance for mining activities. To clarify that within points of compliance, ground water may be degraded the exception language was added: "Except when a point of compliance is set pursuant to Section 401." This language is added for all three Aquifer categories.

Barry Burnell answered questions from the committee, saying there was no resistance to the rule. Three comments were received, but no changes were made. Pollutants from mining can be discharged by using tailing ponds. This is Idaho Code that is unique to Idaho. There is no federal equivalent.

**MOTION:** Rep. Beyeler made a motion to approve **Docket No. 58-0111-1501**. **Motion carried by voice vote.**

**DOCKET NO. 58-0108-1501:** Barry Burnell presented **Docket No. 58-0108-1501** to the committee. This rulemaking adopts into state rules the federal Drinking Water Revised Total Coliform Rule (RTCR). The Revised Total Coliform Rule updates the 1989 Total Coliform Rule. This rulemaking is necessary for DEQ to maintain primacy in implementing the drinking water program. If this rule is not adopted, EPA will be implementing this rule in Idaho, and reduced monitoring costs will not be realized by owners of public water systems. Statewide cost estimates using EPA's models based on 1,958 public water systems show there will be costs for the first year of implementation, but in subsequent years costs will be offset through reduced monitoring frequency, leading to savings.

Systems with bacterial contamination will need to conduct Level 1 and possibly Level 2 system assessments. The intent of the rule is to provide increased public health protection by reducing the pathways that pathogens can enter into drinking water systems. This would be done by implementing a find-and-fix approach to bacterial contamination, providing incentives in the form of reduced bacteria monitoring for improved system operations. It adds *E.coli* as the bacteria maximum contaminant level (MCL), and shifts total coliform to be an indicator organism for a system assessment, and it requires start-up procedures for seasonal systems. Level 2 Assessments have reduced the total coliform monitoring from monthly to quarterly, but it has the same conditions.

The goal is to protect public health. *E.coli* is the new bacteria standard; the rule is to make sure owners of public water systems find and fix contamination. Level 1 Assessments are triggered by positive total coliform sample results or failure to take all repeat samples following a routine total coliform positive sample. A Level 1 Assessment is done when there have been problems and coliform is detected in the drinking water. It can be conducted by the owner or operator of a system and is a brief review of the system's operations and conditions.

Level 2 Assessments are triggered by a positive *E. coli* sample result or two Level 1 Assessments in a rolling 12 month period. Level 2 assessments require a more detailed review of the system's operations and conditions and include acute remediation such as boil orders or substitute water sources, followed by testing for safety. Four rule sections address the Revised Total Coliform rule; different monitoring systems apply for different populations.

There are two triggers for the Level 2 Assessments: one is a positive test for *E. coli*, which is an acute contaminant. Also, a second Level 1 trigger in the last 12 months indicates that the problem has not been corrected, so a more in-depth evaluation is needed. Flushing for disinfection allows operators to use flushing as an effective means to remove potential pathogens from systems; this is followed by testing to verify effectiveness. The last section contains seasonal startup procedures for systems that are only active for part of the year, including disinfecting lines, testing, and monitoring.

**Barry Burnell** answered questions from the committee, saying EPA was part of the rulemaking, so there should be no problem with the state maintaining primacy. Changes to the CFR are more stringent and would require additional monitoring. There is a reduced monitoring requirement if the total coliform remains low, which saves money. If water pressure drops below 20 pounds, the system may have depressurized, and bacteria may have entered the system. This is a chronic problem in public water systems, which is solved by adding backup power to prevent depressurization. If there are any changes in the CFR, it would have to come back to this committee for approval.

**MOTION:** **Rep. Chaney** made a motion to approve **Docket No. 58-0108-1501**. **Motion carried by voice vote.** **Rep. Scott and Nate** requested to be recorded as voting **NAY**.

**DOCKET NO. 58-0104-1501:** **Barry Burnell** presented **Docket No. 58-0104-1501** to the committee. This rulemaking has been initiated in order to comply with revisions to the State Revolving Fund portion of the Clean Water Act, passed by Congress on May 20, 2014. This rulemaking is necessary for DEQ to maintain primacy in implementing the drinking water program. If this rule is not adopted, EPA will be implementing this rule in Idaho. The Water Resource and Recovery Development Act revisions require that facility plans include a justification that the selected alternative maximizes the potential for efficient water use, reuse, recapture and conservation, and energy conservation. Current rules only require that the selected alternative be cost effective and environmentally sound. This rule adds a new section (4), to require assessment of the cost and effectiveness, to the maximum extent practicable, of efficient water use, reuse, recapture and conservation, and energy conservation, with cost including construction, operation, maintenance, and replacement.

**MOTION:** **Rep. Trujillo** made a motion to approve **Docket No. 58-0104-1501**. **Motion carried by voice vote.** **Rep. Scott** requested to be recorded as voting **NAY**.

**DOCKET NO. 58-0112-1501:** **Barry Burnell** presented **Docket No. 58-0112-1501** to the committee. This rulemaking has been initiated in order to comply with revisions to the State Revolving Fund portion of the Clean Water Act, passed by Congress on May 20, 2014. The Water Resource and Recovery Development Act revisions require that State loan rules must also include unemployment and population into its Disadvantaged Loan criteria. The EPA may withhold grant monies if this rule is not approved. It creates two tiers of median household income impact. If the impact of paying for the loan on rate payers exceeds 2% of median household income then the community will qualify as disadvantaged. If the impact on rate payers is between 1.5% and 2%, then the community must also have a decreasing population base and unemployment that exceeds the state average.

**MOTION:** **Rep. Smith** made a motion to approve **Docket No. 58-0112-1501**.  
**Barry Burnell** answered questions from the committee, saying the applicants for loans are typically municipalities, subdivisions, sewer districts, or communities. Their designation as disadvantaged is based on unemployment rates and decrease in population. Raising the rate from 1.5% to 2% would raise the cost to a higher monthly payment, so there might be fewer communities that would be able to qualify for the loans. However, the intended use plans are based on economics, so if the rate is greater than 2% they should qualify no matter what.

**VOTE ON MOTION:** **Motion carried by voice vote. Rep. Scott** requested to be recorded as voting **NAY**.

**ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 3:34 p.m.

---

Representative Thompson  
Chair

---

Diana Seba  
Secretary

**AMENDED AGENDA #1**  
**HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE**  
**1:30 P.M.**  
**Room EW41**  
**Tuesday, February 02, 2016**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
Docket No. <a href="#">58-0125-1401</a>	Rules Regulating the Idaho Pollutant Discharge Elimination System Program (IPDES)	Barry Burnell, Water Quality Division Administrator
Docket No. <a href="#">58-0102-1201</a>	Water Quality Standards	Barry Burnell, Water Quality Division Administrator

***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 Thompson      Rep Anderson  
Vice Chairman Anderst      Rep Mendive  
Rep Raybould      Rep Trujillo  
Rep Hartgen      Rep Beyeler  
Rep Vander Woude      Rep Chaney  
Rep Nielsen      Rep Nate

Rep Scott  
Rep Smith  
Rep Rusche  
Rep Jordan  
Rep Rubel

COMMITTEE SECRETARY

Diana Seba  
Room: EW62  
Phone: 332-1128  
email: [henv@house.idaho.gov](mailto:henv@house.idaho.gov)

MINUTES

# HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE

**DATE:** Tuesday, February 02, 2016  
**TIME:** 1:30 P.M.  
**PLACE:** Room EW41  
**MEMBERS:** Chairman Thompson, Vice Chairman Anderst, Representatives Raybould, Hartgen (Hartgen), Vander Woude, Nielsen, Anderson, Mendive, Trujillo, Beyeler, Chaney, Nate, Scott, Smith, Rusche, Jordan, Rubel  
**ABSENT/  
EXCUSED:** None  
**GUESTS:** Barry Burnell, IDEQ; Doug Conde, IDEQ; Steve Rector, Nez Perce; Justin Hayes, ICL; Lana Weber, ICL; Kassandra Townsend, ICL; Paula Wilson, DEQ; Jess Byrne, DEQ; Rialin Flores, CVI; Marcia Jedry, IAU; John Tippets, DEQ; Jim Werntz, US EPA

**Chairman Thompson** called the meeting to order at 1:30 p.m. He explained that we would be reviewing **Docket No. 58-0102-1201** first, and reviewing **Docket No. 58-0125-1401** second.

**DOCKET NO. 58-0102-1201:** **Barry Burnell**, Water Quality Division Administrator for the IDEQ, presented **Docket No. 58-0102-1201**, Human Health Criteria for Toxic Pollutants, to the committee. He began by giving some rule history of the Human Health Criteria (HHC) for Toxic Pollutants in Idaho regarding fish consumption. EPA disapproved the Idaho DEQ Human Health Toxics Criteria in 2012, based on a fish consumption rate of 17.5 grams of fish per day. DEQ found the existing data to be limited in scope for Idaho residents, old data, and it is of questionable quality. DEQ performed a survey development and implementation, which culminated in a fish consumption survey implemented April 2014 to April 2015. Data analysis was performed August 2015, and the proposed rule was completed for board review in December 2015.

The survey tested the general population and Idaho resident anglers. It was a phone survey that met all targeted demographics. EPA engaged with the five tribes in Idaho to do tribal member surveys. Face to face interviews were done with the Nez Perce and Shoshone-Bannock Tribes. Heritage surveys were done with Kootenai, Coeur d'Alene, Shoshone-Paiute, Nez Perce, and Shoshone-Bannock Tribes.

The Dietary Recall survey data was evaluated by the National Cancer Institute (NCI), which is the gold standard for measuring data. Its method enabled consumers to be surveyed twice. It used a deterministic approach, which means a value is selected and run once. On the survey, the Survey/Population columns showing All Idaho and Idaho Angler includes all fish, including deep water marine fish and fresh water fish. The Nez Perce and Shoshone-Bannock fish consumption columns are based on Group 2 collection of fish, which includes anadromous fish such as salmon and steelhead, fresh water fish, and market fish. It does not include deep water marine fish. This most closely meets EPA requirements. The number for the Nez Perce, 66.5 grams, is the number used to derive DEQ criteria. There is not a direct comparison between all Idaho and tribal consumption because the all-Idaho number includes deep water marine fish.

DEQ had nine policy meetings. Several groups participated in the rule-making process: the Association of Idaho Cities, industries, federal agencies, tribal members, environmental groups, and representatives from Washington and Alaska who see Human Health Criteria for toxic pollutant issues on their horizon. The survey found that 89% of the Idaho population are considered fish consumers.

Regarding the Idaho rule-making risk of carcinogens, EPA guidance allows states to choose from a range of  $10^{-5}$  to  $10^{-6}$  for the incremental increase in cancer risk used in calculating criteria for the general population. Higher consumers should be protected at  $10^{-4}$  or lower. DEQ chose to use an incremental increase in cancer risk level of  $10^{-5}$  based on all the data. The general population is generally at a lower risk level, but the risk can never be made the same for everyone.

DEQ identified 105 toxic substances. Due to EPA changes in the understanding of toxicity there are 209 revised or new criteria; for example, copper was added based on drinking water quality. Due to this, approximately 30% of EPA's recommendations have become less stringent. DEQ has until the end of this year to complete and submit a rule. This pending rule is the state's response. EPA must promulgate a rule for Idaho if DEQ fails to take action.

Looking at the changes to the rule itself, the chart showing the Table of Human Health Criteria lists compounds and risk factors for water and fish consumption. The column between B and C is labeled "Carcinogen?" If that pollutant is marked with a yes, it means that formula is used to derive human health criteria. These inputs on cancer potency factors and incremental factors are based on intake over a 70-year period.

**Chairman Thompson** turned the gavel over to **Rep. Raybould**.

**Mr. Burnell** answered questions from the committee, saying the Idaho Association of Commerce & Industry states it will take 90 years for a single extra cancer case to occur in Idaho due to exposure to a chemical in surface water. However, Mr. Burnell stated DEQ data is based on a 70-year exposure to drinking surface water and eating fish, so he was not familiar with that calculation.

**Mr. Burnell** stated the rule the DEQ has developed is fully compliant with EPA rules. The key finding that caused the 2006 disapproval goes away because DEQ had its own surveys done. One of EPA's goals is to have a specific standard for all of the Pacific Northwest. EPA could disapprove this rule, but DEQ is in a strong position because all the research was based on compliance with the guidelines given by EPA. If the tribal fish consumption rates went up, then it would be the obligation of DEQ to address standards again.

**Rep. Raybould** turned the gavel over to **Chairman Thompson**.

**Mr. Burnell** answered further questions, saying the 66.5 number was chosen to follow the EPA guideline stating that the rate should be in the 90th percentile of the total population and the average of the targeted subpopulation. DEQ chose the 95th percentile for the total population and the mean rather than the average for the targeted subgroup, which yields a more conservative number than EPA recommendations. Mr. Burnell believes these are numbers EPA can approve. It is fully compliant with EPA national recommended health requirement standards; however, if they are disapproved, Idahoans should be prepared to defend them and appeal the numbers. DEQ is confident these numbers will fit the national criteria.

The cost of the study included \$300,000 spent on the fish consumption survey, \$75,000 on data analysis, and personnel costs for five or six staff members. The farm-raised fish of Hagerman Valley are a component of the survey. DEQ studied levels of mercury, arsenic, and selenium in fish; results of that study led to a state-wide Fish Consumption Advisory for bass as well as the Health and Welfare's Idaho Fish Consumption Advisory which lists levels of mercury.

**Justin Hayes**, Program Director of the Idaho Conservation League (ICL), spoke **in opposition** to the rule. He participated throughout the study and does not disagree with the science, but with the outcome of the study. The policy proposed is protective of 95% of the non-tribal or white population, but only protective of the mean for the tribal population. It is a policy question.

**MOTION:** **Rep. Rusche** made a motion to approve **Docket No. 58-0102-1201**. He supports this rule so Idaho can maintain primacy; otherwise Idaho will lose control to EPA.

**Mr. Burnell** answered further questions about concerns with EPA. There is some risk of court action, but DEQ can modify the rule as needed. After the rule is submitted to EPA, if they disapprove the rule, they must give directions on how to correct it. The rule was created using good science which is defensible.

**VOTE ON THE MOTION:** After further discussion, **Chairman Thompson** called for a vote. **Rep. Jordan** requested a roll call vote on **Docket No. 58-0102-1201**. **Motion carried by a vote of 15 AYE and 2 NAY. Voting in favor of the motion: Reps. Anderst, Raybould, Hartgen, Vander Woude, Nielsen, Anderson, Mendive, Trujillo, Beyeler, Chaney, Nate, Scott, Smith, Rusche, and Chairman Thompson. Voting in opposition to the motion: Reps. Rubel and Jordan.**

**DOCKET NO. 58-0125-1401:** **Mr. Burnell**, Water Quality Division Administrator for the DEQ, presented **Docket No. 58-0125-1401**, regulation of the Idaho Pollutant Discharge Elimination System Program (IPDES), to the committee. This rulemaking was initiated in response to the 2014 Legislative Session and the passage of House Bill 406. This rulemaking was a direct outgrowth of the need to have appropriate regulations in Idaho administrative code to oversee the implementation of an Idaho Pollutant Discharge Elimination System (IPDES) permitting, compliance, and enforcement program. If this rule is not adopted, then DEQ will not meet the September 2016 National Pollutant Discharge Elimination System (NPDES) application deadline. Participation in the rulemaking was strong; representatives from the cities, industry, EPA, tribes, and environmental groups participated.

There will be a cost to the regulated community associated with the IPDES program. The proposed rule outlines a fee schedule that was negotiated with the stakeholders, the Division of Financial Management (DFM), and the governor's office. Currently the overall estimate for implementing the program is roughly \$3 million annually. It is in the existing budget, so there will be no fiscal impact. The negotiations with DFM and the governor's office have developed an approach by which, with legislative approval, \$2 million would come from the General Fund and the remainder made up by fees paid by the municipalities, individual industrial dischargers, and construction and industrial storm water permittees. The fee schedule is equitable, sustainable, and matches resource needs. This rule includes a fee and as such will require a concurrent resolution to be passed.

This proposed rule regulates an activity currently regulated by the federal government. During the negotiated rulemaking process, DEQ was cognizant of the stringency clause in Idaho Code and the resulting rule meets but does not go beyond the federal law and regulations that control state program requirements. This rule incorporates by reference several sections of the Code of Federal Regulations (40 CFR 123). Citations are available online.

The addition of this rule chapter is fundamental in implementing the IPDES program and incorporates federally required components. In deliberations with the rulemaking committee DEQ decided to follow a hybrid approach of incorporating several sections of the federal regulations by reference, but re-writing a majority of those regulations that pertain to the permitting process, such as applying for a permit, agency review and issuance of permits, and permit appeals. The CFRs incorporated by reference are dated July 1, 2015.

Section 100 through 103 describe who has to obtain a permit, what rights are ensured by the permit, the permit term, continuation of permits, what activities are excluded from needing a permit, and when DEQ will not issue a permit (prohibitions). The proposed rule distributes the fee burden over three categories of dischargers where DEQ will be expending the most time and resources. The final estimated budget is just over \$3 million, and DEQ has support from DFM and the governor's office and with legislative approval to build up over two additional budget cycles a General Fund appropriation in the amount of \$2 million.

The next sections of the rule deal with the procedures and criteria for applying for a permit, renewing a permit, modifying a permit, revoking and reissuing, transferring, or terminating a permit. Sections 204 through 206 describe the appeals process for IPDES permits. The next section outlines compliance schedules. Sections 370 and 380 briefly describe the pretreatment and biosolids (sewage sludge) components of the IPDES program.

**Mr. Burnell** answered questions from the committee. The reverse order of creating the rules and then the bill was due to the deadline of September 21, 2016, set by EPA. The NPDS program is intended to be administered by the state. Idaho does not have primacy in the NPDS program. EPA developed the criteria used nationwide. Idaho is 30 years late getting into the game. There is a minimum standard the state must achieve for primacy. Currently there are two bills introduced in the Senate to meet these standards. About 1,200 pages from the federal CFR are being adopted by reference, which saves Idaho \$60,000 per year. Currently DEQ does not have primacy. DEQ is developing this rule to obtain primacy. As far as cost is concerned, Idaho's costs are comparable to neighboring states.

**Justin Hayes**, Program Director of the Idaho Conservation League, spoke **in support** of the rule. Almost all states already have primacy for this rule, so Idaho is playing catch-up. Because Idaho's program cannot be either more or less stringent than the federal program, Idaho ends up with a program that is identical to the federal program. At this time Idaho has a backlog of permits with the EPA. ICL supports this rule.

**Justin Hayes** answered questions from the committee. If ICL prevailed in a Clean Water Act litigation against a discharger who is in violation, the costs would be recouped not from the state but from the discharger in violation. The ICL program is the same as the federal program.

**MOTION:** **Rep. Rusche** made a motion to approve **Docket No. 58-0125-1401. Motion carried by voice vote. Rep. Scott and Rep. Nate** requested to be recorded as voting **NAY**.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 3:40 p.m.

---

Representative Thompson  
Chair

---

Diana Seba  
Secretary



**AMENDED AGENDA #1**  
**HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE**  
**1:30 P.M.**  
**Room EW41**  
**Thursday, February 04, 2016**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
	Clean Power Plants	John Chatburn, Administrator, Idaho Governor's Office of Energy Resources
Docket No. <a href="#">24-0501-1501</a>	Rules of the Board of Drinking Water and Wastewater Professionals	Roger Hales, Board Chairman, Bureau of Occupational Licenses

***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 Thompson      Rep Anderson  
Vice Chairman Anderst      Rep Mendive  
Rep Raybould      Rep Trujillo  
Rep Hartgen(Hartgen)      Rep Beyeler  
Rep Vander Woude      Rep Chaney  
Rep Nielsen      Rep Nate

Rep Scott  
Rep Smith  
Rep Rusche  
Rep Jordan  
Rep Rubel

COMMITTEE SECRETARY

Diana Seba  
Room: EW62  
Phone: 332-1128  
email: [henv@house.idaho.gov](mailto:henv@house.idaho.gov)

## MINUTES

# HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE

**DATE:** Thursday, February 04, 2016  
**TIME:** 1:30 P.M.  
**PLACE:** Room EW41  
**MEMBERS:** Chairman Thompson, Vice Chairman Anderst, Representatives Raybould, Hartgen (Hartgen), Vander Woude, Nielsen, Anderson, Mendive, Trujillo, Beyeler, Chaney, Nate, Scott, Smith, Rusche, Jordan, Rubel

**ABSENT/  
EXCUSED:** Rep. Anderson

**GUESTS:** John Chatburn, Office of Energy Resources (OER); Ken Miller, Snake River Alliance; David Monsees; Matt Wiggs, OER; Barry Burnell, Idaho Department of Environmental Quality (IDEQ); Tana Cory, Idaho Bureau of Occupational Licenses (IBOL); Tiffany Floyd, IDEQ; John Lee (IBOL); Joan Cloonan, Board of Drinking Water and Wastewater Professionals; Carl Brown, IDEQ; John Carstensen, Idaho Power; Brad Hunt, OARC; Lisa Carlson, IDEQ; John Tippetts, IDEQ; Shelley Roberts, Idaho Rural Water Association; Zack Waterman, Sierra Club

**Chairman Thompson** called the meeting to order at 1:30. He explained that the committee would consider **Docket No. 24-0501-1501**, and then hear the presentation of Clean Power Plants.

**DOCKET NO. 24-0501-1501:** **Roger Hales**, Board Chairman of the Bureau of Occupational Licenses, presented **Docket No. 24-0501-1501**. He introduced the Chairman of the Board, **Barry Burnell**, Idaho Department of Environmental Quality, **Dr. Joan Cloonan**, Vice Chair of the Board of Drinking Water and Wastewater Professionals and public member of the board, and **John Lee**, the Licensed Operator of the Bureau of Occupational Licenses. This Board regulates the profession of drinking water and wastewater operators and backflow assembly testers (BAT) in Idaho. This docket accomplishes two things: It clarifies the experience required for Class III and Class IV operators, and it adds a code of ethics and standards of conduct for backflow assembly testers. The purpose of this rule is to protect public health by setting minimum requirements and standards for licensed backflow assembly testers in Idaho who inspect and field test backflow assemblies, backflow prevention devices, and air gaps that protect public water systems.

The Board's charge is to protect the public health, safety, and welfare, and it does this through the licensing of competent operators and backflow assembly testers, and enforcing the Act and rules approved by the Legislature. Backflow assembly testers are responsible for testing backflow assembly devices to ensure they are operating appropriately. Backflow assembly devices are commonly found at residences, and they are associated with irrigation systems and prevent potentially contaminated water from backflowing into the drinking water system.

The experience requirements for Class III and Class IV operator licenses are being clarified to eliminate confusion on the acceptable experience. The applicant must document four years of acceptable relevant on-site operating experience, two years of responsible charge of a major segment of a system in the same or next lower class, and pass the relevant examination. The Board has been working on a code of ethics and standards of conduct for the last two years. All backflow assembly testers were sent a postcard early on in the process advising them of this work.

**Mr. Hales** answered questions from the committee, saying there are four classes of operators, drinking water operators, and wastewater operators, with Class 4 being the highest. **Mr. Burnell** answered a question for Mr. Hales. Mr. Burnell is confident the pollution of drinking water that occurred in Flint, Michigan, would not happen in Idaho due to the standards in place that monitor water quality. Mr. Hales continued to answer questions, stating if there were violations of the code of ethics, they would be subject to discipline by the board, ranging from a fine, to a suspension, to revocation of licensure. If there is a question of violation, the board reviews the incident. There is a process to appeal decisions.

There are currently 3,687 water operator licensees in total connected with municipalities, and 548 private backflow assembly testers. The code of ethics does not raise the standard on license holders but makes them responsible to comply with requirements of operation.

**Joan Cloonan**, Vice Chair of the Board of Drinking Water and Wastewater Professionals, testified **in support** of this rule. Many backflow assembly testers are in private practice in direct contact with the public. The goal is to protect the public by providing accountability. All backflow assembly testers should be operating under the same basic rules. The rules were drafted by the BAT members of the board.

**Mr. Hales** answered more questions from the committee, saying the code of ethics is needed because there is not a national association that regulates backflow operators, which is why it needs to be regulated through licensing. Any time an operator does a backflow check, the requestor should always ask to see a license to insure the work is competent. The backflow assembly tester not only reports to the requestor but to the owner or operator of the water system as well. There is a separate licensure level that deals with Class 3 and 4 licenses; they operate water and wastewater plants. An operator may hold multiple types of licenses to perform numerous functions.

**MOTION:**

**Rep. Rusche** made a motion to approve **Docket No. 24-0501-1501. Motion carried by voice vote.**

**John Chatburn**, Administrator, Idaho Governor's Office of Energy Resources (OER), made a presentation of EPA's Clean Power Plan. He introduced **Director John Tippets**, IDEQ, and **Commissioner Paul Kjellander**, Idaho PUC.

EPA proposes to regulate carbon emissions from existing power plants utilizing Section 111(d) of the Clean Air Act. The regulation only applies to coal-powered Electric Generating Units (EGUs) that meet certain criteria. Idaho only has two EGUs, Langley Gulch near New Plymouth and Lancaster in the Rathdrum area. However, over 30% of Idaho's electricity is imported from EGUs in neighboring states.

On June 2, 2014, the EPA released the proposed Clean Air Act rule and requested comment. OER worked with the DEQ, PUC, and stakeholders to develop the following comments. Idaho should not be subject to the rule. EPA must reconsider compliance targets for Idaho. Idaho should not be required to acquire additional renewable energy. EPA needs to make adjustments for hydro-heavy states and states with new natural gas. States need more time to comply.

EPA released the final Clean Power Plan rule on August 3, 2015. EPA adjusted the hydroelectric data to present a more accurate average than the former plan. EPA significantly changed Idaho's goal, making compliance with the final rule more attainable. EPA adjusted the deadline for final plan submittal from 2016 to 2018, and changed the compliance start date from 2020 to 2022. The final goal date remains the same at 2030. While Idaho considers hydro power a renewable energy, EPA does not because of its environmental impacts, which makes it less desirable than solar power or wind power.

States must submit their final state plan or a non-binding "initial plan submittal and request for extension" no later than September 6, 2016. The initial submittal must identify the final plan approach or approaches under consideration, explain why the state needs additional time, and demonstrate the state's public outreach process to assure meaningful engagement during development of the initial submittal and for development of the final plan.

States that are granted an extension will have until September 2018 to submit a final state plan. Any statutory or rule changes necessary to implement a state plan would be brought to the Legislature during the 2017 or 2018 sessions. States must choose one of two Compliance Pathways for their state – mass based or rate based. States may potentially trade credits with other states that are on the same compliance pathway to accomplish compliance more efficiently. States that do not submit state plans will fall under a federal plan enforced directly by EPA. The state of Idaho is in good shape as far as trading energy; it needs to monitor surrounding states so they do not become detrimental to the ratepayers in Idaho.

There are two model rules: the mass-based plan and the rate-based plan. Under the mass-based plan, EPA allocates states with a set amount of allowances for states to distribute to EGUs. EGUs must have allowances to cover every ton of CO<sub>2</sub> emitted. EGUs may sell and purchase allowances from other states. EPA will distribute allowances for states under the federal plan.

The rate-based plan is more complicated. Under the rate-based plan, EGUs must adhere to a prescribed "Emission Rate," or how many tons of CO<sub>2</sub> they can emit per megawatt-hour of production. EGUs may procure Emission Rate Credits (ERCs) to reduce their emission rates. ERCs can be produced by renewable energy, energy efficiency, or generation shifting. EGUs and independent power producers may sell and purchase ERCs from other states. Every EGU must meet a prescribed emissions rate, either actually or after ERCs are added to generation. A state that has chosen a rate-based plan cannot trade energy with a state that has chosen the mass-based option. OER maintains EPA needs to develop criteria to allow trading between the two.

OER, DEQ, and the PUC are engaging with the other states, utilities, and various other stakeholders throughout the Western Interconnection. The OER is participating with 12 other states in discussions facilitated by Governor Ritter's Center for the New Energy Economy, participating with the Western Interstate Energy Board in exploring additional compliance options, and meeting with other states to discuss compliance pathways and potential trading scenarios. States must submit their final state plan no later than September 6, 2018, or EPA will finalize the federal plan for that state.

In conclusion, OER, DEQ, and the PUC are still exploring which compliance pathway will work best for Idaho, its utilities, and ratepayers. OER needs to continue discussions with neighboring states to identify the best compliance pathways. All options that will lessen any "rate shock" for consumers must be explored. Idaho should request a non-binding extension until September 6, 2018 to give additional time to work with surrounding states.

**Mr. Chatburn** answered questions from the committee, stating the path decision to be mass-based or rate-based can be changed. If, for example, Idaho decided the rate-based plan was best, but the surrounding states decided on the mass-based plan, Idaho could change plans, allowing it to trade energy. The cost for complying is still being studied. Idaho has a year-long grace period; then EPA's plan would be enforced. To clarify, the rule would be enforced not on the state of Idaho but on Idaho's EGUs. If EPA does not like Idaho's plan, it must send it back to Idaho to be modified, or Idaho could use the federal plan. EPA may choose to use the mass-based plan, which is easier to measure and easier to monitor.

**MOTION:** Rep. Smith made a motion to approve the minutes of February 2, 2016. **Motion carried by voice vote.**

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

---

Representative Thompson  
Chair

---

Diana Seba  
Secretary

AGENDA  
**HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE**  
**1:30 P.M.**  
**Room EW41**  
**Monday, February 08, 2016**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">RS24381C1</a>	Underground Facilities Damage Prevention	Neil Colwell, Avista Corporation

***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 Thompson      Rep Anderson  
Vice Chairman Anderst      Rep Mendive  
Rep Raybould      Rep Trujillo  
Rep Hartgen(Hartgen)      Rep Beyeler  
Rep Vander Woude      Rep Chaney  
Rep Nielsen      Rep Nate

Rep Scott  
Rep Smith  
Rep Rusche  
Rep Jordan  
Rep Rubel

COMMITTEE SECRETARY

Diana Seba  
Room: EW62  
Phone: 332-1128  
email: [henv@house.idaho.gov](mailto:henv@house.idaho.gov)

MINUTES

## HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE

**DATE:** Monday, February 08, 2016

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

**PLACE:** Room EW41

**MEMBERS:** Chairman Thompson, Vice Chairman Anderst, Representatives Raybould, Hartgen (Hartgen), Vander Woude, Nielsen, Anderson, Mendive, Trujillo, Beyeler, Chaney, Nate, Scott, Smith, Rusche, Jordan, Rubel

**ABSENT/  
EXCUSED:** Rep. Vander Woude

**GUESTS:** Kelli Brassfield, IAC; Ron Law, IDPC; Ken Miller, Snake River Alliance; Miguel Legarreta, Ada County Realtors; Neil Colwell, Avista Corp.; Will Hart, ICUA

**Chairman Thompson** called the meeting to order at 1:30 p.m.

**MOTION:** **Rep. Chaney** made a motion to approve the minutes of the February 2, 2016 meeting.

**SUBSTITUTE  
MOTION:** **Rep. Smith** made a substitute motion to approve the minutes of the February 2, 2016 meeting with the following corrections: on page 1, paragraph 3, insert the word "data" after the word "old" and change the wording to clarify the remainder of the sentence. **Motion carried by voice vote.**

**RS 2438C1:** **Neil Colwell**, Avista Corporation, introduced **RS 2438C1** to the committee. He represented the Underground Facilities Damage Prevention Coalition. The purpose of this RS is to regulate underground digging to decrease damage to underground facilities. The legislature needs to act to control its own interests in this issue. Otherwise the federal agency called the Pipeline and Hazardous Materials Safety Administration (PHMSA), subagency of the US Department of Transportation, will regulate on the issue of damage to underground facilities. This is based on the PHMSA law enacted in 2006. PHMSA looks at the dig laws in each state to determine if they are adequate or inadequate. There was further legislation in 2011 which set civil penalties of \$200,000 per day, per violation, as a federal regulation. The rule became effective January 1, 2016. Of the seven criteria listed on this rule, Idaho would fail on six of them.

It will be far better for Idaho's legislature to improve its dig laws. The Idaho dig law is dated 1990. The goal of the board is to create a solution that would minimize state involvement. If PHMSA determines Idaho laws are adequate by their yardstick, they could not provide enforcement. If Idaho addresses the deficits in the six criteria where it does not meet the standards, it will preclude PHMSA from coming to a determination against Idaho.

There are 45 parties interested in the bill, including stakeholders such as Idaho utilities, underground facility owners, builders and contractors, excavators, the Association of Cities, Realtors, highway districts, sewer and water districts, agricultural communities, and Idaho water users.

The dig law currently on the books has been in place for 26 years. The changes to the dig law would create a board of stakeholder interests. The board would collect and analyze data related to dig-ins. It would eliminate the ineffective method of enforcement currently in use, in which parties must sue each other. The board would consist of 11 members, including stakeholders, city, county, and permitting entities, and would provide representation for underground facility owners and utilities. It would contain equal numbers of representatives of contractors and excavators and represent the agricultural community.

The goal is to create a forum where all parties come together to solve problems, adopt best practices, educate the public, dispute resolutions, and draft rules. The board would be housed at the Division of Building Services, where the administrative support for electrical, plumbing, and public works boards are located. The board can only propose rules to be adopted.

The board is supported by two funds. The board would be paid for by the underground facility owners. When a company calls 811 to locate underground facilities, the company is charged a fee for the notification. A surcharge on the fee of \$0.10 per locate call would generate funds to operate the board. The second fund would contain any civil penalties created under this act; that fund would only be used for public education efforts.

Through the Division of Building Safety, the board requested a grant from PHMSA to generate funds to start the board in 2015. Since the board was not created then the funds were not utilized. The board made a similar request this year, and it anticipates it will use the funds. Any money in the fund not used to create the board is dedicated to educational efforts. Currently the board has relied on voluntary reporting of dig-ins. The rate of dig accidents in Idaho is double the national average due to incomplete data. The board would like to create an accident form that shows who was involved in the accident, how the company hit facilities due to a miss-mark, and where to seek improvement. It would also contain a feedback loop.

**MOTION:** Rep. Chaney made a motion to introduce **RS 2438C1**.

**Mr. Colwell** answered questions from the committee, stating his company, Avista, began to pursue this bill due to the excessive rate of dig-ins. It is a safety issue. It is important to protect the public and the underground facilities. The benefit of the coalition has been that the trust level has increased between members, and the parties have gained a sense of collaboration. Idaho is better off having a forum. The original federal motivation for the dig law was the occurrence of several large accidents that caused loss of life; so it really is about public safety.

**VOTE ON MOTION:** Chairman Thompson called for a vote on the motion to introduce **RS 2438C1**. Motion carried by voice vote.

**Mr. Colwell** answered further questions from the committee, saying Idaho's records of underground facilities are far more complete than federal records, which are mainly composed of interstate pipelines. The One Call Notification Services Center used to rely on hand-drawn maps, but now it has a computer database with GPS coordinates.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 1:58 p.m.

---

Representative Thompson  
Chair

---

Diana Seba  
Secretary



AGENDA  
**HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE**  
**1:30 P.M.**  
**Room EW41**  
**Tuesday, February 16, 2016**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#">H 454</a>	Underground facilities damage prevention	Neil Colwell, Avista Corp.

***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 Thompson      Rep Anderson  
Vice Chairman Anderst      Rep Mendive  
Rep Raybould      Rep Trujillo  
Rep Hartgen(Hartgen)      Rep Beyeler  
Rep Vander Woude      Rep Chaney  
Rep Nielsen      Rep Nate

Rep Scott  
Rep Smith  
Rep Rusche  
Rep Jordan  
Rep Rubel

COMMITTEE SECRETARY

Diana Seba  
Room: EW62  
Phone: 332-1128  
email: [henv@house.idaho.gov](mailto:henv@house.idaho.gov)

MINUTES

## HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE

**DATE:** Tuesday, February 16, 2016

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

**PLACE:** Room EW41

**MEMBERS:** Chairman Thompson, Vice Chairman Anderst, Representatives Raybould, Hartgen (Hartgen), Vander Woude, Nielsen, Anderson, Mendive, Trujillo, Beyeler, Chaney, Nate, Scott, Smith, Rusche, Jordan, Rubel

**ABSENT/  
EXCUSED:** None

**GUESTS:** Russell Westerberg, R.M.P.; Diana Westerberg, Westerberg & Assoc.; Ron Law, I.D.P.C.; Hart Gilchrist, Intermountain Gas; Neil Colwell, Avista Corp.; Brenda Tominaga, Idaho Water Policy Gr.; Kelli Brassfield, IAC; Celynda Rouch, CableOne; Ron Williams, Tesoro Pipeline, Idaho Cable Telecom Assn.; David Nelson, Intermountain Gas; Kate Hart, Alta Mesa; Bill Roden, CenturyLink

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

**MOTION:** **Rep. Smith** made a motion to approve the minutes of the February 4, 2016, meeting and the February 8, 2016, meeting. **Motion carried by voice vote.**

**H 454:** **Neil Colwell**, Avista Corporation, introduced **H 454** to the committee. He represented the Underground Facilities Damage Prevention Coalition. There are 45 entities that participated in the bill, including stakeholders such as Idaho utilities, underground facility owners, builders and contractors, excavators, the Association of Cities, Realtors, highway districts, sewer and water districts, agricultural communities, and Idaho water users. There has been no organized opposition to the bill. The bill makes changes to the terms of the existing dig laws and creates a board to advance public safety, education, and enforcement of dig laws. It would have the authority to establish requirements for those engaged in locating underground facilities.

The board would be supported by two funds. The board would be paid for by the underground facility owners. When a company calls 811 to locate underground facilities, the facility owners are charged a fee for the notification. A surcharge on the fee per locate call would generate funds to operate the board. The second fund would contain any civil penalties created under this act; that fund would be used only for public education efforts. The board is not motivated to collect fees for violations. If a civil penalty is imposed, those funds would be designated for education regarding safe building practices.

The goals of the coalition are to improve the information in the underground facilities database for improved efficiency; create a board to police itself, with no lawsuits; and to increase the knowledge base for the safety of the public, workers, and underground facilities. Representatives from the Division of Building Safety will administer the functions and make the decisions. The director of the board will not have the authority to write rules on his own, but is subject to the board. The goal is to gain compliance in a mutual setting.

**Mr. Colwell** answered questions from the committee, saying if there were a complaint levied against a company, the board would review the situation and come to a conclusion. The party engaged in the violation would be enrolled in a training class to improve work quality. If the party continued to perform slipshod work, the board would impose a penalty. The goal of having the board is to seek consensus on issues and to educate for the purpose of safety. In other states where similar bills have been enacted, the complaints have gone away when the parties talked to each other.

In regards to compensation, the party who is responsible for the damages is the one who must pay. If the contractor did not dig by hand around a line and ruptured it, he would have to pay. If the damage occurs due to a mis-mark, then the underground facility owner would be responsible for the fee. There is an opportunity to appeal written into the law. If the board proposes a fine, the violator could appeal in court. The goal is to gain compliance in a mutual setting. **Ken McClure**, Idaho Telecom Alliance, clarified that the proceedings shall be governed by the provisions of the Administrative Procedures Act. That act itself contains the appellate rights of parties as determined by Idaho Code.

**Mr. Colwell** continued to answer questions from the committee, explaining the revisions to the bill were based on suggestions from participating entities. The revisions enlarged the section on federal involvement, clarified definitions, and expanded the procedure for taking litigation from the courts to the board. The revisions spell out the protection for those accused of violations. The civil penalties imposed would be used exclusively to fund education on public safety, such as billboards and bill stuffers explaining the Call Before You Dig program, so there is no motivation to impose fees.

**Celynda Roach**, General Manager, CableOne Boise, spoke **in support of H 454**, saying in 2015 there were 89 incidents involving dig-ins into cable systems in Idaho. If the line cut were a power or gas line, it could have caused a tragic accident. Idaho has been lucky. The definition of luck is success or failure apparently brought on by chance rather than by one's own actions. Idaho should not be trusting to luck in this matter. Idaho's dig law has no provision for education, which is the best prevention, and the penalties are essentially unenforceable unless we sue in court.

**Ron Williams**, Tesoro Pipeline Company and Idaho Cable Telecommunications Association, spoke **in support of H 454**, saying the prevention of interruptions in underground service is shared by the Tesoro Pipeline Company, the only petroleum products pipeline in southern Idaho. Hitting those pipelines is a huge safety risk, with the potential for catastrophic damage and danger to human life. Pipelines are regulated by the federal Pipeline and Hazardous Materials Safety Administration (PHMSA). The fines it administers are significant. PHMSA is designed to help the states meet the requirements for jurisdiction over hazardous waste control so states can take primacy.

**David Nelson**, District Manager of Intermountain Gas Company in Hailey, spoke **in support of H 454**. He presented a personal incident caused by a damaged gas line that caused an explosion. One home was completely blown up, another burned to the ground, and a third sustained significant damage. Mr. Nelson was the first responder to the blowing gas line, arriving just before the blowing gas line exploded. He was blown into the hole with an ignited gas line and debris on top of him. Somehow he was able to escape, but he was severely burned, causing loss of time on the job, great stress on his family, more work for his fellow employees, and a high cost to the Intermountain Gas Company. If more time had been taken during the line-locating phase, the accident could have been avoided.

The new damage prevention legislation would help prevent serious accidents like that from happening in the future. The board would raise awareness, increase damage prevention training, and provide a mechanism for enforcement. The new law would also require excavators who damage a line to call 911. If the fire department had been on the scene when the gas line was blowing, more steps could have been taken to possibly prevent the explosion.

**MOTION:**

**Rep. Chaney** made a motion to send **H 454** to the floor with a **DO PASS** recommendation.

**Mr. Colwell** answered further questions from the committee, stating the fee associated with all locates, including residential, is paid by the underground facility owners. There is no charge at any time to someone requesting a locate. This is to encourage people to submit requests for locates. The underground facility owners provide 811, the Dig Line, with maps for locates. If a request requires contacting four companies, each company would pay the designated fee, for example 10 cents per phone call for locate notification.

The advantage of having a board is that it would encourage voluntary compliance. The data on dig-ins shows that currently not all dig-ins get recorded, and there are no consequences for not reporting, so the data is flawed. In addition, prosecutors are reluctant to pursue civil penalty cases, and the idea of suing customers and excavators is unappealing to underground facility companies as well.

Another issue is primacy. The federal government enacted PHMSA in 2006. PHMSA can review the adequacy of the state's hazardous material safety measures. Further rulemaking was concluded July 23, 2015, listing seven criteria states must meet. Idaho does not comply with six of the seven. If this bill passes, Idaho would comply. The driver in this legislation was to provide a means for Idaho to gain primacy.

**Rep. Scott** invoked Rule 38 stating a possible conflict of interest and she would not be voting on the legislation.

**VOTE ON MOTION:**

**Chairman Thompson** called for a vote on the motion to send **H 454** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Nate** requested to be recorded as voting **NAY.** **Chairman Thompson** will sponsor the bill on the floor.

**ADJOURN:**

There being no further business to come before the committee, the meeting was adjourned at 2:37 p.m.

---

Representative Thompson  
Chair

---

Diana Seba  
Secretary

**AMENDED AGENDA #1**  
**HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE**  
**1:30 P.M.**  
**Room EW41**  
**Monday, February 22, 2016**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>HCR 43</u></a>	House Concurrent Resolution Honoring Idaho Power Company Annual Germane Presentation	Rep. Anderst  Teri Murrison, Administrator, Idaho Soil and Water Conservation Commission

***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 Thompson	Rep Anderson(Carter)	Rep Scott
Vice Chairman Anderst	Rep Mendive	Rep Smith
Rep Raybould	Rep Trujillo	Rep Rusche
Rep Hartgen(Hartgen)	Rep Beyeler	Rep Jordan
Rep Vander Woude	Rep Chaney	Rep Rubel
Rep Nielsen	Rep Nate	

COMMITTEE SECRETARY

Diana Seba  
Room: EW62  
Phone: 332-1128  
email: [henv@house.idaho.gov](mailto:henv@house.idaho.gov)

MINUTES

## HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE

**DATE:** Monday, February 22, 2016

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

**PLACE:** Room EW41

**MEMBERS:** Chairman Thompson, Vice Chairman Anderst, Representatives Raybould, Hartgen (Hartgen), Vander Woude, Nielsen, Anderson (Carter), Mendive, Trujillo, Beyeler, Chaney, Nate, Scott, Smith, Rusche, Jordan, Rubel

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

**GUESTS:** Rich Hahn, Idaho Power; Carolyn Watts, SWCC; Lynn Tominaga; Teri Murrison, SWCC; John J. Williams, BPA

**Chairman Thompson** called the meeting to order at 1:30 p.m.

**MOTION:** **Rep. Smith** made a motion to approve the minutes of the February 16, 2016, meeting. **Motion carried by voice vote.**

**HCR 43:** **Rich Hahn**, Idaho Power, presented **HCR 43** to the committee. Idaho Power will be celebrating its 100th anniversary in August. Mr. Hahn outlined the formative years of the Idaho Power Company. The Idaho Power Company officially began in 1916 with the cooperation of five struggling power companies who merged into a single entity. The demand for power grew with the invention of electric appliances for home and work, leading to the production of more dams and power lines. When the American Falls Dam was built on the Snake River, the town of American Falls had to be moved out of the path of the created lake. The company was planning bigger and better things, when the Stock Market crashed on October 29, 1929.

**Mr. Hahn** went on by outlining some of the changes the company has seen in the last 40 years. Formerly meter readers would go out to houses and read the meter to determine power consumption; now that information is read over the power line itself. In 1978, the Public Utility Regulatory Policies Act (PURPA) was formed in response to the energy crisis. It was meant to promote energy conservation (reduce demand) and promote greater use of domestic energy and renewable energy (increase supply) by utilizing small, independent hydroelectric projects. Today Idaho is developing wind and solar power.

**MOTION:** **Rep. Raybould** made a motion to send **HCR 43** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Anderst** will sponsor the bill on the floor.

**Chairman Thompson** introduced **Rep. Ladd Carter**, who is sitting in for **Rep. Anderson**. He also introduced **Emilee Krein**, the new page for the committee. She is a senior at the Idaho Virtual Academy.

**Teri Murrison**, Administrator of the Idaho Soil and Water Conservation Commission, gave a presentation on the Idaho Soil & Water Conservation Commission Annual Report, which is statutorily under the Department of Agriculture. The commission helps private landowners take care of and improve agricultural production and natural resources. It promotes cooperative and collaborative efforts by local people who know and work the land. In 2015, the commission assisted 40 of 50 districts with projects (up 2 from 2014), initiated 57 new projects (up 24 from 2014), worked on 106 ongoing projects (up 3 from 2014), and served 229 landowners.

The other primary core function of the commission is providing incentive-based and general conservation programs and services as assigned by the Legislature. One of those, the Resource Conservation and Rangeland Development Program, offers low interest loans to purchase equipment and install projects that have conservation benefits. Loan rates range from 2½ to 3½ percent. The maximum amount is \$200,000 per loan, \$300,000 per borrower. Last year the loan officer worked up preliminary responses to 48 requests for detailed information and processed 20 loan applications. Of those, seven were approved, loaning out almost \$400,000.

The Conservation Reserve Enhancement Program (CREP) conserves water usage on marginal farm ground in the Eastern Snake River Plain Aquifer. Participating landowners receive \$130 an acre per year from the USDA Farm Service Agency in exchange for not farming these lands. There has been talk lately of increasing the federal compensation per acre as a means to increase participation in the program. Any increased producer participation will necessitate an increase in the Commission's operating and personnel funds to administer and staff CREP's additional contracts. Last year 155 CREP contracts were signed in the region, enrolling 16.5 thousand acres, and saving over 66 thousand acre feet of water, significantly benefiting fish and wildlife.

The commission assists DEQ in preparing the Total Maximum Daily Load (TMDL) program implementation plans to strategically reduce agriculturally-generated pollutants in Idaho's impaired surface waters. In 2015, eight new plans were completed (up two from the previous year) and 16 are in process. Eighteen new or to-be-updated plans are pending.

Last year the commission updated the Idaho Agricultural Pollution Abatement Plan, Idaho's response to Section 208 of the federal Clean Water Act. It represents the agricultural portion of the State Water Quality Management Plan. The Advisory Committee is composed of 19 members representing state and federal agencies and representatives from conservation, industry, and commodity groups. The final plan was certified by the Governor and won't need to be updated until 2026.

**Ms. Murrison** outlined the implementation of the Whiskey Creek/Bear River Project. Whiskey Creek was on the state list of degraded water. Parts of it had been buried in a pipe for 50 years, and part of it was being fouled by the proximity of cows near the creek. To remedy this, the barn and concrete pad were removed; all the pieces of the structure were recycled.

Then the creek was designed from scratch. The design included runs anchored by rock to form the stream channel and pools to slow the water. Willows and riparian vegetation were planted. **Cameron Williams**, the ranch owner, was satisfied with the project. In addition to the stream itself, he was provided with water troughs, a calving shed, and a solar panel. Whiskey Creek flows into Bear River, which eventually empties into the Great Salt Lake. The newly restored stream attracts wildlife and is a pleasant place to visit. Idaho agriculture cares about conservation.

**Ms. Murrison** answered questions from the committee, stating that the decision to use sod placement on the project was due to the season. It was October, and the committee was worried the creek would erode during the winter; so sod was used to hold it in place.

**ADJOURN:**

There being no further business to come before the committee, the meeting was adjourned at 2:19 p.m.

---

Representative Thompson  
Chair

---

Diana Seba  
Secretary

AGENDA  
**HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE**  
**1:30 P.M.**  
**Room EW41**  
**Wednesday, February 24, 2016**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
	Technology Presentation	Jay Larsen, Idaho Technology Council

***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 Thompson	Rep Anderson(Carter)	Rep Scott
Vice Chairman Anderst	Rep Mendive	Rep Smith
Rep Raybould	Rep Trujillo	Rep Rusche
Rep Hartgen(Hartgen)	Rep Beyeler	Rep Jordan
Rep Vander Woude	Rep Chaney	Rep Rubel
Rep Nielsen	Rep Nate	

COMMITTEE SECRETARY

Diana Seba  
Room: EW62  
Phone: 332-1128  
email: [henv@house.idaho.gov](mailto:henv@house.idaho.gov)



MINUTES

# HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE

**DATE:** Wednesday, February 24, 2016  
**TIME:** 1:30 P.M.  
**PLACE:** Room EW41  
**MEMBERS:** Chairman Thompson, Vice Chairman Anderst, Representatives Raybould, Hartgen (Hartgen), Vander Woude, Nielsen, Anderson (Carter), Mendive, Trujillo, Beyeler, Chaney, Nate, Scott, Smith, Rusche, Jordan, Rubel  
**ABSENT/ EXCUSED:** Representative(s) Vander Woude, Trujillo, Nate, Scott, Rusche  
**GUESTS:** None

**Chairman Thompson** called the meeting to order at 1:30 p.m.

**MOTION:** **Rep. Chaney** made a motion to approve the minutes of the February 22, 2016, meeting. **Motion carried by voice vote.**

**Jay Larsen**, CEO & Founder of Idaho Technology Council, gave a presentation on attracting technology companies to Idaho. The Idaho Technology Council represents about 80,000 employees throughout the state. There are 1,700 tech companies in Idaho, with 1,200 in the Boise Valley. This began with the software companies HP and Micron.

The big thing in technology is the clustering effect. Businesses are looking to locate in areas where there is talent coming from schools, access to capital and mentoring, and an environment of research and development.

**Gov. Otter** spoke to the Idaho Technology Council regarding the products that Idaho can grow, mine, or extract. But Idaho needs to talk in terms of building a knowledge-based economy that combines the two. Idaho without its natural resources is nothing; material science development will be a big part of how well Idaho succeeds. Attracting new technology is paramount to the future of the state.

**Mr. Larsen** said the first mobile phone, the "brick phone," was developed by Motorola. It was analog. Then Motorola developed the flip phone and tiny phones, which were still analog. In 1997 and 1998, a digital phone came on the market developed by Qualcomm. It was bulkier than Motorola's, but had calendar and scheduling software, and everybody wanted one. Motorola did not want to pay Qualcomm royalties to use their chip, and decided instead to develop its own chip. But the lag caused while it developed a chip caused Motorola to slide from 90% of the market to 20%. People today are not willing to wait when the product is available elsewhere.

People today are interested in mobility and platforms that provide mobility. Wireless data growth is projected to increase 400% from 2008 to 2018. Today we are seeing the introduction of machine to machine technology: a smart phone can control the thermostat of a person's home. Wireless machine to machine connections in the United States are expected to rise from 36 million in 2013 to 263 million in 2018. **Steve Jobs** was smiling because he recognized what the iPhone was going to do.

**Mr. Larsen** stated the Amazon Prime Air will soon be able to deliver packages to a person's house by drone, using tracking from a mobile device. The things affecting companies' ability to compete are the political climate, the environment, competition, and the risk involved. These all drive economic prosperity and how people make decisions about their companies. Our society wants to have immediacy. To succeed, companies must take advantage of markets to create wealth.

**Mr. Larsen** said, "Timing is everything." For Idaho to compete in a global economy it must develop the components that will attract technology. First, Idaho needs to build a knowledge-based economy by upgrading education, specifically STEM and computer education. This has not happened yet in Idaho. Students need to learn software and programming to run the materials and equipment that are already being developed for agriculture, mining, and forestry. Cybersecurity has twelve times the earning power of any other computer science right now because of the need for security.

Boise has an innovative solar system of companies. Starting with Micron, HP, and BSU, many other tech companies have spun off as start-ups. **Mr. Larsen** listed Cradlepoint, MWI Veterinarian Supplies, Clearwater Analytics, Kount, and other tech companies that have germinated in Idaho. States are fiercely competitive for companies that show technology innovation. Idaho should be a driver in the technology field, not a late adapter.

**Mr. Larsen** concluded his presentation with this quote attributed to Charles Darwin: "It is not the strongest of the species that survives, nor the most intelligent that survives. It is the one that is most adaptable to change." Motorola became a dinosaur in the tech market because it did not respond to innovation. To be successful Idaho must be aggressive on the tech marketplace, encourage research and development, and adapt to changing trends in the marketplace.

**Mr. Larsen** answered questions from the committee, stating that most companies in Idaho are privately held because publicly-owned companies must operate quarterly and report to their stockholders. One of the most stable companies in Idaho remains Simplot. Some privately-owned companies in Idaho have had difficulties, such as Boise Cascade and Albertsons. Two that are publicly held are Micron and HP. As the companies grow larger, more will probably go public.

In response to a question about the environmental interests braking the development of technology, **Mr. Larsen** said the environment is tied to technology. People try to do the right things and be good stewards of the land, but sometimes the pendulum swings too far one way or the other. Idaho needs to make sure the pendulum doesn't swing so broad. The better Idaho takes care of the land, the better off it will be. The proximity of wildlife to Idaho's cities is one attribute that draws people to move to Idaho. The people who are attracted to the mountains and sporting opportunities are the same ones who are technologists: young, family oriented, not wanting a long commute, and seeking locations where multiple opportunities are available. The Treasure Valley is good at growing businesses. The long-term plan is to keep successful businesses here.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 2:32 p.m.

---

Representative Thompson  
Chair

---

Diana Seba  
Secretary

**AMENDED AGENDA #1**  
**HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE**  
**AND**  
**SENATE STATE AFFAIRS COMMITTEE**  
**1:30 P.M.**  
**WW02 - Lincoln Auditorium**  
**Wednesday, March 02, 2016**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
	Updating Idaho's Actions Regarding Research into Advanced Nuclear and Energy Studies	Dr. Mark Peters, Director, Idaho National Laboratory
	The Liquid Fluoride Thorium Reactor at the INL	Mr. Kirk Sorensen, Flibe Energy

COMMITTEE MEMBERS

Chairman Thompson      Rep Anderson  
Vice Chairman Anderst      Rep Mendive  
Rep Raybould      Rep Trujillo  
Rep Hartgen(Hartgen)      Rep Beyeler  
Rep Vander Woude      Rep Chaney  
Rep Nielsen      Rep Nate

Rep Scott  
Rep Smith  
Rep Rusche  
Rep Jordan  
Rep Rubel

COMMITTEE SECRETARY

Diana Seba  
Room: EW62  
Phone: 332-1128  
email: [henv@house.idaho.gov](mailto:henv@house.idaho.gov)

MINUTES  
JOINT MEETING  
**HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE  
SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Wednesday, March 02, 2016

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

**PLACE:** WW02 - Lincoln Auditorium

**MEMBERS:** Chairman Thompson, Vice Chairman Anderst, Representatives Raybould, Hartgen, Vander Woude, Nielsen, Anderson, Mendive, Trujillo, Beyeler, Chaney, Nate, Scott, Smith, Rusche, Jordan, Rubel

Chairman McKenzie, Vice Chairman Lodge, Senators Davis, Hill, Winder, Siddoway, Lakey, Stennett, Buckner-Webb

**ABSENT/  
EXCUSED:** Representative(s) Scott, Vice Chairman Lodge, Senators Stennett, Siddoway

**GUESTS:** John Chatburn, Office of Energy Resources (OER); Scott Pugrud, OER; Shannon Graham, OER; Kirk Sorensen, Flibe Energy; Bryce Olpin, Flibe Energy; Matt Memmott, BYU; Scott Barney, Millard County, Utah; Mark Peters, Idaho National Laboratory (INL); Corey Taile, INL; John Revier, INL; Pat Barclay, Idaho Council on Industry and the Environment; Lee Barron; Maurice Clements; Vicky Lucin; Eli Brown; Chris Miller; Mitch Skelton

**Chairman Thompson** called the meeting to order at 1:30 p.m.

**MOTION:** **Rep. Anderst** made a motion to approve the minutes of the February 24, 2016, meeting. **Motion carried by voice vote.**

**Dr. Mark Peters**, Director, Idaho National Laboratory (INL), gave a presentation on updating Idaho's actions regarding research into advanced nuclear and energy studies. The vision of the INL is to change the world's energy future and secure the nation's critical infrastructure by advancing nuclear energy, enabling clean energy deployment, and securing and modernizing critical infrastructure. Their goal is to lead in research and development of nuclear energy, sustain and maintain the 99 existing nuclear reactors in the United States, and find a solution to the spent fuel challenge. Currently, spent fuel is stored on-site. Without the deployment of spent fuel, research will not be able to move forward with nuclear power.

By 2030, most of the currently active reactors will be retired. That loss of energy generation will need to be replaced. One alternative is the Small Modular Reactor (SMR). A consortium of municipal utilities and the Department of Energy (DOE) see the SMR as a bridge to the next generation of reactors. Nuclear energy is clean energy. Other options under consideration are developing biomass technology for fuel and advanced batteries to power vehicles.

**Dr. Peters** stated another goal for the INL is performing product-to-market testing with industry partners to verify the feasibility of creating potential products. A third goal is researching how to protect the infrastructure of gas, transportation, and telecommunications from threats such as natural disasters and cyber-attacks. Three pillars of simultaneous excellence shape the future of the INL: scientific and technical excellence, community excellence, and operational excellence. The INL is a part of Idaho. It is committed to being a good steward of the environment.

The Gateway for Accelerated Innovation in Nuclear (GAIN) seeks to advance nuclear power as a resource capable of meeting the nation's energy, environmental, and national security needs by resolving technical, cost, safety, proliferation resistance, and security barriers through research, development, and demonstration. It is taking advantage of the fast-track pace at which we do business to enable the next generation of reactors to be built. The Molten Salt Reactor (MSR) is an investment opportunity for Idaho. The SMR is funded by the DOE and is due to be operational by 2030-2035.

The Carbon Free Power Project (CFPP) is being developed in Corvallis, Oregon, in conjunction with the DOE and Utah Associated Municipal Power Systems (UAMPS). INL is working with CFPP to support a Nuclear Regulatory Commission-approved site meeting the DOE's goals to deploy an SMR. The preferred site will be identified soon, then site characterization will begin, with an operational SMR planned for 2023.

**Dr. Peters** explained how INL can address the world's most challenging problems. It can enable the warfighter, the intelligence community, and first responders. It can research ways to secure industrial control systems, such as electrical grids, military vehicles, phones, and cars, across critical infrastructure sectors which can be entry points for hackers. There is an awakening awareness by industries and the DOE of this credible threat. INL can do research to design systems that are more resilient to being hacked.

The Center for Advanced Energy Studies (CAES) is a research and education consortium between INL, Boise State University, Idaho State University, University of Idaho, and University of Wyoming. It provides research and development funding and equipment for students' research at INL. In its next phase, the goal for INL is to engage industry in the CAES process.

**Dr. Peters** continued that the INL is expanding, with 500 people hired in 2015 and steady growth in business volume. It is also facing challenges. Currently 30% of the workforce is over age 50. A new generation of scientists will be needed to fill the pipeline of employees. There is a national STEM hiring crisis: the curriculum does not match the hiring need, and soft skills and on-the-job-familiarity are lacking. INL would like to partner with university programs to target schools that best match skill set/degree needs, tie interns into needed disciplines, and design and build better curricula. INL would also like to tie STEM to industry needs and bring awareness of future career opportunities in Idaho by promoting and encouraging diversity and rural school connections so in the future the right workforce will be available.

The INL would like to build on its relationship with Idaho by continuing to grow CAES; developing partnerships with the Idaho Department of Labor and the Idaho Department of Commerce to drive high-wage job growth; encouraging STEM efforts; utilizing INL's facilities for high-performance computing, cyber, computer engineering, and materials science; and advancing programs in Washington D.C.

**Dr. Peters** introduced associates at INL: **Amy Lientz**, Partnerships, Engagement & Tech Deployment; **John Revier**, Director, State and Regional Government Affairs; and **Corey Taile**, one of the best writers in the business.

**Dr. Peters** answered questions from the committee, saying the status of the research quantities of spent nuclear fuel is still being negotiated daily with the DOE and the Attorney General's office. Getting the shipment would help with INL research into spent fuel. The cleanup of nuclear waste has been a barrier to production. Treatment of waste continues and is being stored safely on-site. Finding a new waste-treatment process is technically challenging, and it takes time to make sure it works. Currently spent fuel is being buried. **Amy Lientz** stated the recession in 2008-2009 reduced the budget to about \$800 million at that time, leading to a reduction in staff of about 500 people. However, INL has recovered and grown past it. The funding from the federal government is set every two years, so budget projections are controlled by that.

**Dr. Peters** continued by saying in the event of an electromagnetic pulse, the government believes the country would be protected from its effects based on research. Scientists are still analyzing the what-ifs should one occur. The legislature can help INL by encouraging education, seeking to attract clean energy industries to Idaho, and advertising the benefits of living in Idaho. This would benefit the entire region. **Amy Lientz** stated the INL is on the board of the Idaho Global Entrepreneurial Mission (IGEM), which targets opportunities for future grant program funds.

In response to a question regarding funding at the INL, **Dr. Peters** explained the INL is government owned but contractor operated (GOCO). INL is not for profit; its purpose is scientific research. The universities are partners in that contract. The dollars for research and development come from the federal government. One way to benefit the region is to talk about the opportunities at the laboratory, such as by holding job fairs.

**Mr. Kirk Sorensen**, President and Chief Technologist, Flibe Energy, gave a presentation on solving important problems with liquid fluoride thorium reactors (LFTR). Industrial civilization expects reliable, affordable energy. There are three options for using nuclear fuel. The first two use uranium; the third uses the element thorium, which is a relatively untraveled path. Thorium is much more common than uranium. The richest deposit of thorium in the western hemisphere can be found in the area of Lemhi Pass in Idaho. It could supply energy to the world for millions of years. There is also a stockpile of thorium buried at the Nevada test site. Thorium is easier to process than uranium and does not provide as much toxicity.

Today's nuclear fuel is fabricated with extraordinary precision. But it is that precision that makes it difficult to recycle and to refabricate. A new approach is needed that is more versatile and less expensive. Molten fluoride salt is an excellent carrier for uranium nuclear fuel. It eliminates an entire step of fabrication. Fluoride salt is chemically stable, impervious to radiation damage, and enhances safety features. In current pressurized water reactors loss of integrity of the vessel could cause a nuclear reaction. The new reactor is not under pressure. It is equipped with a "freeze plug," an open line where a frozen plug of salt blocks the flow of the liquid fuel. The plug is kept frozen by an external cooling fan. In the event of a total loss of power, the freeze plug melts and the core salt drains into a passively cooled configuration where nuclear fission and meltdown are not possible.

**Mr. Sorensen** stated the United States is facing a "retirement cliff" of nuclear power plants, as most will be retired by 2030. The DOE sees industry as leading the future of nuclear power to maintain reliable sources of energy in the future. The INL is trying to operate on these objectives. Modular construction of nuclear reactors in a factory environment has become increasingly desirable to reduce uncertainties about costs and quality. Liquid-fluoride reactors, with their low-pressure reactor vessels, are particularly suitable to modular construction in a factory and delivery to a power generation site. Flibe Energy was formed in order to develop liquid-fluoride reactor technology and to supply the world with affordable and sustainable energy, water, and fuel. Thorium and beryllium, two important materials for this project, are found in Idaho and Utah.

An abundance of advanced manufacturing opportunities exist for this technology. Thorium reactors can produce inexpensive electricity essentially indefinitely, but any reactor technology, conventional or advanced, will find it difficult to offer attractive returns to risk investors at current electrical prices; so production of medicines from the reactor can pay for the considerable costs of development and will attract public support.

**Mr. Sorensen** explained medical radioisotopes are used for many medical diagnostic tools. Molybdenum-99, which is transformed into technetium-99m (Tc-99m), is used as a radioactive tracer that allows for scanning procedures which collect data rapidly but keep total patient radiation exposure low. It dominates world medical radioisotope use. It is predominantly used in cardiac scans, bone scans, and gall-bladder scans. This industry has a value of approximately \$2 billion per year.

The production reactors for Tc-99m are old. Research reactors producing molybdenum-99 exist around the world but the largest are in Netherlands and Canada. The Canadian reactor will shut down in 2018, leading to a shortage of Tc-99m. An innovative solution to the problem would be to use liquid thorium fuel, which is impervious to radiation damage. It has simplified chemical processing, and no fuel would be wasted. A small MSR research and test reactor could produce \$160 to \$713 million revenue each year from the generation of radioisotopes. In the competition for creating medical isotopes, the traditional method only makes the isotope, while an MSR would also be producing power.

**Mr. Sorensen** then outlined another medical benefit of thorium. Alpha-emitting bismuth-213 is very effective in fighting dispersed cancers like leukemia and lymphoma. It is produced using uranium 233 (U-233) which comes from thorium. The only way to get it is to use a thorium reactor to make the bismuth-213. After use, it ends in stable and non-toxic natural bismuth (the active ingredient in Pepto-Bismol). However, the world inventory for processed U-233 is stored in one place, the Oak Ridge National Laboratory, and it is slated to be destroyed. In May 2008 the Inspector General of the DOE issued a strongly-worded report to stop the destruction of U-233, stating "The loss of the U-233 will have significant impact on medical research which is now requiring a greater supply of progeny isotopes than ever before." A large source of unprocessed U-233 is contained at the INL in the form of unirradiated fuel. It would be logical to process this to start thorium reactors.

The results of these efforts will bring a revolution of medical treatment and medical diagnostics. It will enable scans to diagnose problems and follow up with treatments for some of the most severe and dangerous forms of cancer. It will save tens of thousands of lives through targeted alpha therapy. In addition it will enhance lives through affordable and clean energy.

**Mr. Sorensen** answered questions from the committee, saying the research on thorium was started during the Manhattan Project. **Dr. Glenn Seaborg** discovered thorium and U-233. He studied thorium and discovered it to be unsuited to weapon production, but he also discovered that thorium had potential as an almost unlimited source of energy because of its abundance in the earth and the efficiency at which it can be consumed. They began to work on designing a LFTR, but when **General Groves** found out about it he immediately shut it down, saying only wartime priorities would be pursued. After the war, the nuclear energy generating program had progressed using uranium, and the properties of thorium were forgotten. **Alvin Weinberg** quietly pursued research on thorium until he was fired.

The SMR is small because it does not have the constraint of controlling pressure. A large reactor is cheaper to build because it requires a pressurized system. When pressure is no longer a constraint, and when you remove the need for emergency systems to monitor and maintain the pressure, everything becomes vastly simpler. Moving to a non-pressurized reactor would be suitable for air cooling in desert regions, rail deployment, and rapid assembly and integration at a desired site.

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

---

Representative Thompson  
Chair

---

Diana Seba  
Secretary



AGENDA  
**HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE**  
**1:30 P.M. Or Upon Adjournment**  
**Room EW41**  
**Tuesday, March 08, 2016**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>S 1238</u></a>	Water Quality Records	Barry Burnell, Water Quality Division, Department of Environmental Quality (DEQ)
<a href="#"><u>S 1239</u></a>	IPDES Permit Decisions	Barry Burnell, Water Quality Division, DEQ
<a href="#"><u>S 1269</u></a>	Environmental Protection Trust	Robert Hanson, Waste Management & Remediation Division, DEQ

***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 Thompson	Rep Anderson	Rep Scott
Vice Chairman Anderst	Rep Mendive	Rep Smith
Rep Raybould	Rep Trujillo	Rep Rusche
Rep Hartgen	Rep Beyeler	Rep Jordan
Rep Vander Woude	Rep Chaney	Rep Rubel
Rep Nielsen	Rep Nate	

COMMITTEE SECRETARY

Diana Seba  
Room: EW62  
Phone: 332-1128  
email: [henv@house.idaho.gov](mailto:henv@house.idaho.gov)

MINUTES

## HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE

**DATE:** Tuesday, March 08, 2016

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

**PLACE:** Room EW41

**MEMBERS:** Chairman Thompson, Vice Chairman Anderst, Representatives Raybould, Hartgen, Vander Woude, Nielsen, Anderson, Mendive, Trujillo, Beyeler, Chaney, Nate, Scott, Smith, Rusche, Jordan, Rubel

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

**GUESTS:** John Tippetts, DEQ; Rob Hanson, DEQ; Jonathan Oppenheimer, ICL; Darrell Early, Idaho Attorney General; Norm Semanko, IWUA; Mary Anne Nelson, DEQ; Doug Conde, DEQ; Jess Byrne, DEQ; Jeri DeLange; Greg Casey, Veritas; Paul McKay, MPI; Chris Halvorson, EFIB; Sharon Hawkins, IACI

**Chairman Thompson** called the meeting to order at 2:40 p.m.

**MOTION:** **Rep. Smith** made a motion to approve the minutes of the March 2, 2016, meeting.  
**Motion carried by voice vote.**

**S 1238:** **Mary Anne Nelson**, Program Manager, Idaho Pollutant Discharge Elimination System (IPDES), Department of Environmental Quality (DEQ), presented **S 1238** to the committee. The purpose of this bill is to amend the Idaho public records law to ensure it is consistent with the requirements of the Clean Water Act. It ensures access to certain water quality records and the protection of trade secrets associated with the federal Clean Water Act and the new IPDES program.

Under the direction of the legislature, DEQ is seeking primacy for the National Pollutant Discharge Elimination System (NPDES) program, currently administered by the EPA. Idaho Code states: "the department shall submit a Complete Application consistent with the requirements of the Clean Water Act and 40 CFR 123 to the environmental protection agency to obtain approval for a state National Pollutant Discharge Elimination System (NPDES) program by September 1, 2016." The bill was discussed with the Association of Idaho Cities, Idaho Association of Commerce and Industry (IACI), Association of Consulting Engineering Companies, Idaho Water Users Association, and the Idaho Conservation League.

**Ms. Nelson** answered questions from the committee, stating there is no fiscal impact from **S 1238**. The ruling that was passed on February 2, 2016, laid out the fiscal impacts of the program. There will be a cost of \$3.04 million to fund the program. Part of the funding will come from the state General Fund, and some will come from fees accrued. Enacting bill **H 406** laid out the cost of the program.

**John Tippetts**, Director, DEQ, reiterated there would be no fiscal impact from this bill. The purpose of this bill regards the permitting process to gain access to records DEQ does not currently have, giving DEQ expanded information. This is information that ought to be available to the public. In 2014 the legislature requested DEQ to seek primacy from the EPA; this legislation is required to achieve primacy.

**Director Tippetts** continued by saying passage of this bill would require additional staffing to meet the work load. DEQ currently has 6 employees, and would have to hire 4 to 29 more people to meet the demand. Currently, under EPA, Idaho is not being adequately monitored. Per the national pollutant discharge standards, permits must be reviewed every five years. Idaho has permits that have not been reviewed in 25 years.

**Doug Conde**, Deputy Attorney General, doing legal work for DEQ, said in the case of a lawsuit against DEQ, there is a process in place to meet the challenge. Appeals would be at the state level only.

**MOTION:** **Rep. Anderst** made a motion to send **S 1238** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Reps. Scott, Nate, and Nielsen** requested to be recorded as voting **NAY. Rep. Chaney** will sponsor the bill on the floor.

**S 1239:** **Mary Anne Nelson** presented **S 1239** explaining, as with **S 1238**, this proposed legislation is necessary for Idaho to submit a complete application to EPA requesting authorization to implement a state NPDES program. The legislature directed DEQ to submit a complete application consistent with the requirements of the Clean Water Act to EPA by Sept. 1, 2016. The application will request authorization for what will be known as the IPDES program. This proposed legislation establishes the process for appealing IPDES permits issued by DEQ, and provides DEQ with necessary minimum enforcement authorities.

The bill adds a new section to Idaho Code that describes the IPDES permit decision appeal process as follows. The department shall provide public notice of draft permit decisions and an opportunity for the public to submit comments. The department then develops a response to public comments received and includes that in the administrative record along with the draft permit, public comments received, and the basis for the final permit decision. This legislation states that the department decision is not subject to the contested case provisions of Idaho Code. A person aggrieved by the permitting decision may appeal that decision. The appeal will then be heard by a hearing officer appointed by the department director. Appeals shall be based on the administrative record developed for the permitting decision. To ensure impartiality during the hearing, no hearing officer nor the director may have a conflict of interest. Aggrieved parties may appeal the hearing officer's decision to the courts. It provides DEQ authority to adopt rules regarding the permit appeal process. These appeal rules are part of the IPDES rules heard by this body on February 2, 2016.

**Ms. Nelson** explained the bill also adds a new section titled Investigation, Inspection, and Enforcement Authority. This section states DEQ must follow existing Idaho Codes for inspection and enforcement authorities. It authorizes DEQ to enforce pretreatment standards, including local limits developed by publicly owned treatment works with approved pretreatment programs. This is a requirement of the CFR for the IPDES program and must be in state law.

Regarding the anticipated costs to the state from this legislation, the appeal process is set up to be a record review, not a contested case appeal. This record review appeal process requires interested parties to provide all pertinent information in the application or during public comment. DEQ anticipates this permitting and appeal process will be an improvement from the contested case approach and will be more efficient and less costly for the agency, resulting in more informed and better permitting decisions. The costs associated with the appeal process have been accounted for in the overall cost of the program.

This bill was discussed with the following groups and no objections were made: Association of Idaho Cities, IACI, Association of Consulting Engineering Companies, Idaho Water Users Association, and the Idaho Conservation League.

**Ms. Nelson** answered questions from the committee, stating the purpose of this bill is to create an administrative review by an appeals board, rather than dealing with the process of contesting cases. The federal rule is the same.

For the record, **Jonathan Oppenheimer**, Senior Conservation Associate, Idaho Conservation League, requested his written testimony be included **in support of S 1239**. Under federal law, the rules must be as protective as existing federal rules under the national permitting program. At the same time, the rules can be no more restrictive. These statutory changes prevent regulated industries from deciding appeals related to the IPDES program. This is a necessary and appropriate change, and one that will ensure that appellants or other aggrieved parties will be considered by impartial parties. This is a sensible change and deserves your support. (See Attachment 1.)

**MOTION:** **Rep. Rusche** made a motion to send **S 1239** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Reps. Scott and Nate** requested to be recorded as voting **NAY.** **Rep. Chaney** will sponsor the bill on the floor.

**S 1269:** **Rob Hanson**, Mine Waste Program Manager, Waste Management & Remediation, DEQ, presented **S 1269**, stating the purpose of this bill is to give DEQ the option of investing monies obtained through settlements into the Endowment Fund Investment Board (EFIB). The Endowment Fund invests in equities for the purpose of long-term investments, and would enable DEQ to obtain a better return on settlement funds, and also allow responsible parties to settle for a lower amount.

Currently, the Treasurer's Office holds and manages any DEQ funds. The Treasurer's Office has two funds designed to hold money. One is for day-to-day operations (the IDLE Fund); the other is for medium-term use (the Diversified Bond Fund). DEQ uses both of these funds, and they meet the needs for almost all work. There are some cases, however, such as treating water long term at a site, where DEQ receives monies derived from settlements with responsible parties that are intended to fund projects that might extend into perpetuity. That was the driver for this legislation.

**Mr. Hanson** explained the benefits of giving DEQ the option to invest in the EFIB. First, it provides greater assurance that DEQ will be able to meet the environmental obligations from settlements by providing a potentially greater return on investments. Second, it makes it easier for responsible parties to settle. Less money is needed up front if a long-term investment option giving a greater rate of return is available.

This legislation gives DEQ the option of investing money from the already-existing Environmental Protection Trust Fund into the Endowment Fund. It requires concurrence from the DEQ Director, Treasurer's Office, and the Endowment Fund. This will make sure DEQ has a reasonable plan providing the liquidity needed to meet expenses on a year-to-year basis while managing the unused portion of settlements or grants to cover the long-term expenses. The concurrence requirement will also ensure that DEQ coordinates with both the Treasurer's Office and the Endowment Fund in the planning, timing, and implementation of an investment with the Endowment Fund.

The legislation would not allow DEQ to invest appropriated General Funds (i.e. tax-derived dollars) with the Endowment Fund, consistent with the state constitution. It allows payment of investment fees. It continues to require interest to be paid into the Environmental Protection Trust.

**Mr. Hanson** stated DEQ would receive funds from a settling party or a grant, and the money would be initially invested with the Treasurer's Office as has been done in the past. DEQ will work with the Treasurer's Office and EFIB to develop a plan for which of the funds would stay at the Treasurer's Office and which would be transferred to the EFIB. The plan would be presented to the EFIB and, if approved, be presented to the Land Board, which provides final authority for the investment by the EFIB.

In conclusion, this bill provides another tool for DEQ to meet its mission to address long-term environmental problems where the responsible parties are either bankrupt or otherwise trying to settle their liability. The proposed legislation provides an option to invest money in a manner that can reduce up-front costs to responsible entities that need to resolve long-term environmental liabilities.

**Mr. Hanson** answered questions from the committee, saying the monies in the trust fund are focused on large settlements, such as the settlement from Hecla Mining Company. That settlement money went directly into the Endowment Fund and will be used for the site treatment plan. The goal is to provide funds to help people with contaminated soil and disposal sites that need money for treatment plans that may last into perpetuity.

**Chris Halvorson**, Investment Officer, Endowment Fund Investment Board (EFIB), answered a question regarding beneficiaries of the fund, stating the withdrawal of funds for use is done by appropriation. Larger withdrawals would have to be approved at the discretion of the board. Smaller endowments are not inside of a trust, so there is more discretion to withdraw funds.

**Darrell Early**, Deputy Attorney General assisting DEQ, stated the agreement specifies how settlement dollars are to be used and where they are to be held. This statute will allow DEQ to put that money into the Endowment Fund, and the agreement would specify whether the money is a limited distribution or if a greater amount could be sought.

**MOTION:** **Rep. Anderson** made a motion to send **S 1269** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Reps. Scott and Nate** requested to be recorded as voting **NAY.** **Rep. Rusche** will sponsor the bill on the floor.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 3:23 p.m.

---

Representative Thompson  
Chair

---

Diana Seba  
Secretary



[www.idahoconservation.org](http://www.idahoconservation.org)

## **Idaho Conservation League**

*PO Box 844, Boise, ID 83701  
208.345.6933*

Testimony of Jonathan Oppenheimer, Senior Conservation Associate, Idaho Conservation League

TO: House Committee on Energy, Environment and Technology

DATE: March 8, 2016

RE: Consideration of Senate Bill 1238

---

Thanks and Intro

I appreciate the opportunity to testify today in support of SB 1238.

As you heard previously, the Idaho DEQ has developed rules by which they will administer permits under the Clean Water Act. Specifically, the Idaho Pollution Discharge Elimination System program will authorize discharges of pollutants into Idaho waters.

Under federal law, the rules must be as protective as existing federal rules under the national permitting program. At the same time, the rules can be no more restrictive. As such, it is a delicate balancing act that deserves ongoing scrutiny and attention.

The statutory changes before you today prevent regulated industries from deciding appeals related to the IPDES program. This is a necessary and appropriate change and one that will ensure that appellants or other aggrieved parties will be considered by impartial parties. This is a sensible change and deserves your support.

AGENDA  
**HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE**  
1:30 P.M. or Upon Adjournment  
Room EW41  
Wednesday, March 16, 2016

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
	Approval of Minutes	

COMMITTEE MEMBERS

Chairman Thompson      Rep Anderson  
Vice Chairman Anderst      Rep Mendive  
Rep Raybould      Rep Trujillo  
Rep Hartgen      Rep Beyeler  
Rep Vander Woude      Rep Chaney  
Rep Nielsen      Rep Nate

Rep Scott  
Rep Smith  
Rep Rusche  
Rep Jordan(Memmott)  
Rep Rubel

COMMITTEE SECRETARY

Diana Seba  
Room: EW62  
Phone: 332-1128  
email: [henv@house.idaho.gov](mailto:henv@house.idaho.gov)

MINUTES  
**HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE**

**DATE:** Wednesday, March 16, 2016  
**TIME:** 1:30 PM or Upon Adjournment  
**PLACE:** Room EW41  
**MEMBERS:** Chairman Thompson, Vice Chairman Anderst, Representatives Raybould, Hartgen, Vander Woude, Nielsen, Anderson, Mendive, Trujillo, Beyeler, Chaney, Nate, Scott, Smith, Rusche, Jordan, Rubel  
**ABSENT/  
EXCUSED:** Representative(s) Hartgen, Vander Woude, Nielsen, Mendive, Beyeler, Scott, Jordan  
**GUESTS:** None  
**Chairman Thompson** called the meeting to order at 2:50 p.m.  
**MOTION:** **Rep. Chaney** made a motion to approve the minutes of the Tuesday, March 8, 2016, meeting. **Motion carried by voice vote.**  
**ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 2:55 p.m.

---

Representative Thompson  
Chair

---

Diana Seba  
Secretary



AGENDA  
**HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE**  
1:30 PM or Upon Adjournment  
Room EW41  
Friday, March 18, 2016

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>RS24776:</u></a>	Clean Energy Research and National Security Mission	Chairman Jeff Thompson

***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 Thompson      Rep Anderson  
Vice Chairman Anderst      Rep Mendive  
Rep Raybould      Rep Trujillo  
Rep Hartgen      Rep Beyeler  
Rep Vander Woude      Rep Chaney  
Rep Nielsen      Rep Nate

Rep Scott  
Rep Smith  
Rep Rusche  
Rep Jordan  
Rep Rubel

COMMITTEE SECRETARY

Diana Seba  
Room: EW62  
Phone: 332-1128  
email: [henv@house.idaho.gov](mailto:henv@house.idaho.gov)

## MINUTES

# HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE

- DATE:** Friday, March 18, 2016
- TIME:** 1:30 PM or Upon Adjournment
- PLACE:** Room EW41
- MEMBERS:** Chairman Thompson, Vice Chairman Anderst, Representatives Raybould, Hartgen, Vander Woude, Nielsen, Anderson, Mendive, Trujillo, Beyeler, Chaney, Nate, Scott, Smith, Rusche, Jordan, Rubel
- ABSENT/  
EXCUSED:** Representative(s) Hartgen, Vander Woude, Anderson, Rusche
- GUESTS:** None
- Vice Chairman Anderst** called the meeting to order at 12:47 p.m.
- RS 24776:** **Chairman Thompson**, Representative from District 30, presented **RS 24776** to the committee. The purpose of the resolution is to urge **Attorney General Lawrence Wasden** to allow the Idaho National Laboratory (INL) the materials it needs to fulfill its clean energy research and national security missions by allowing research quantities of spent fuel into Idaho for research and development at the INL. It encourages the negotiations process between the federal government and the Attorney General's office, showing that the House and Senate concur with those negotiations.
- Chairman Thompson** then outlined a change to wording on lines 24 and 25 as follows: "Whereas: **Attorney General Lawrence Wasden** has so far been unable to reach an agreement with DOE to allow two small shipments of commercial spent fuel into Idaho for vital research at INL; and." Chairman Thompson urged the committee to adopt the changes in wording and move to approve **RS 24776** for the Second Reading Calendar.
- MOTION:** **Rep. Raybould** made a motion to introduce **RS 24776** with the new language on lines 24-25 and recommend it be sent directly to the Second Reading Calendar.
- Rep. Rubel** spoke in opposition to sending **RS 24776** to the Second Reading Calendar, saying it is a hot topic with many people interested in it. She stated it would be inappropriate to bypass a committee hearing. **Rep. Smith** spoke in opposition to sending **RS 24776** to the Second Reading Calendar, and not allowing people to come in to discuss the issue, stating the Attorney General was upholding Idaho agreements and refusing to admit spent fuel.
- Rep. Nielsen** spoke in support of **RS 24776**, saying the INL is very important to Idaho and is the best lab to do nuclear research in the United States.
- SUBSTITUTE MOTION:** **Rep. Nate** made a substitute motion to introduce **RS 24776** with the amended language.
- Rep. Rubel** spoke in support of the substitute motion, stating that the committee needs to inform stakeholders and the public of the issue, and that just because it is late in the session it is not good to skip steps. **Rep. Scott** spoke in support of the substitute motion, saying she would like to hear more information about the issue and the process.

**Rep. Thompson** explained that because it is late in the session, it would be good to move the bill to the Senate as soon as possible. The INL is the only lab in the United States that can do this research. The public is familiar with the issue, as it has been in consideration since 1995. The first shipment of spent fuel was made in 2015. The purpose of this resolution is simply to show the House and Senate support the Attorney General in receiving the spent fuel. The shipment weighs about 100 pounds, and would bring revenue into Idaho in the amount of \$50 to \$100 million from research.

**MOTION  
WITHDRAWN:**

**Rep. Nate** requested unanimous consent to withdraw the substitute motion with the amended language. There being no objection the request was granted.

**SUBSTITUTE  
MOTION:**

**Rep. Rubel** made a substitute motion to introduce **RS 24776** with the amended language, stating it was a matter of looking out for the legitimacy of the institution of the government and public confidence in the steps the legislature takes, saying if the public is not allowed to come to a hearing with an opportunity for comment, it damages the institution of the government.

**ROLL CALL  
VOTE ON  
SUBSTITUTE  
MOTION:**

**Vice Chairman Anderst** called for a vote on the substitute motion. **Rep. Rubel** requested a roll call vote. **Motion failed by a vote of 2 AYE and 9 NAY, 6 absent/excused. Voting in favor of the motion: Reps. Smith and Rubel. Voting in opposition to the motion: Reps. Anderst, Raybould, Nielsen, Mendive, Trujillo, Beyeler, Chaney, Nate, and Scott.** Members who were absent/excused: **Reps. Hartgen, Vander Woude, Anderson, Rusche, and Jordan.**

**ROLL CALL  
VOTE ON  
ORIGINAL  
MOTION:**

**Vice Chairman Anderst** called for a vote on the original motion. **Rep. Rubel** requested a roll call vote. **Motion carried by a vote of 9 AYE and 2 NAY, 6 absent/excused. Voting in favor of the motion: Reps. Anderst, Raybould, Nielsen, Mendive, Trujillo, Beyeler, Chaney, Nate, and Scott. Voting in opposition to the motion: Reps. Smith and Rubel.** Members who were absent/excused: **Reps. Hartgen, Vander Woude, Anderson, Rusche, and Jordan.**

**ADJOURNMENT:** There being no further business to come before the committee, the meeting was adjourned at 1:10 p.m.

---

Representative Anderst  
Vice Chair

---

Diana Seba  
Secretary

AGENDA  
**HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE**  
1:30 PM or Upon Adjournment  
Room EW41  
Tuesday, March 22, 2016

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
	Approval of Minutes	

COMMITTEE MEMBERS

Chairman Thompson	Rep Anderson
Vice Chairman Anderst	Rep Mendive
Rep Raybould	Rep Trujillo
Rep Hartgen	Rep Beyeler
Rep Vander Woude	Rep Chaney
Rep Nielsen	Rep Nate

Rep Scott
Rep Smith
Rep Rusche
Rep Jordan
Rep Rubel

COMMITTEE SECRETARY

Diana Seba  
Room: EW62  
Phone: 332-1128  
email: [henv@house.idaho.gov](mailto:henv@house.idaho.gov)

MINUTES  
**HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE**

**DATE:** Tuesday, March 22, 2016  
**TIME:** 1:30 PM or Upon Adjournment  
**PLACE:** Room EW41  
**MEMBERS:** Chairman Thompson, Vice Chairman Anderst, Representatives Raybould, Hartgen, Vander Woude, Nielsen, Anderson, Mendive, Trujillo, Beyeler, Chaney, Nate, Scott, Smith, Rusche, Jordan, Rubel  
**ABSENT/  
EXCUSED:** Representative (s) Anderst, Hartgen, Vander Woude, Mendive, Beyeler, Chaney, Smith, Rubel  
**GUESTS:** None  
**MOTION:** **Chairman Thompson** called the meeting to order at 4:30 p.m.  
**Rep. Nielsen** made a motion to approve the minutes of March 18, 2016, meeting.  
**Motion carried by voice vote.**  
**Chairman Thompson** thanked Committee Page **Emilee Krein** for her excellent work this session. He also expressed his appreciation to the members of the Committee for their dedication and hard work.  
**ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 4:36 p.m.

---

Representative Thompson  
Chair

---

Diana Seba  
Secretary