

MINUTES  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**

**DATE:** Thursday, February 25, 2021

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

**PLACE:** Room EW40

**MEMBERS:** Chairman Gibbs, Vice Chairman Lickley, Representatives Moyle, Wood, Boyle, Vander Woude, Gestrin, Mendive, Kauffman, Blanksma, Addis, Moon, Manwaring, Okuniewicz, Yamamoto, Rubel, Davis, Mathias

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

**GUESTS:** Lynn Tominaga, Idaho Ground Water Appropriators; Andy Waldera, self; Paul Arrington, Idaho Water Users Association; Braden Jensen, Idaho Farm Bureau; Hollie Conde, Conservation Voters for Idaho; Jacob Greenberg, Blaine County; Cindy Riegel, Teton County Commission

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

**MOTION:** **Rep. Mathias** made a motion to approve the minutes of the February 17, 2021 meeting. **Motion carried by voice vote.**

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

**H 182:** **Paul Arrington**, Executive Director, Idaho Water Users Association, stated this legislation will add a new section of Code; **Idaho Code, Section 42-222B**. He explained water rights are defined by particular elements including place of use (where water can be used), point of diversion (where water is taken), and diversion rate (how much water can be used). He stated circumstances have arisen across the state where the place of use identified on a canal company's water right does not always match actual on the ground use. This discrepancy can be the result of an oversight during a water right adjudication or the adjustment of water usage within a canal company. Mr. Arrington explained this legislation will provide a streamlined process to adjust canal company boundaries where there is no increased water use and no injury to other water rights, and indicated this is similar to the existing process for irrigation districts.

**Lynn Tominaga**, Executive Director, Idaho Ground Water Appropriators, stood in support of **H 182**.

**Chairman Gibbs** requested the record reflect no one signed up for remote testimony and no one else from the audience came forward to testify.

**MOTION:** **Rep. Wood** made a motion to send **H 182** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Young** will sponsor the bill on the floor.

**H 183:** **Paul Arrington**, Executive Director, Idaho Water Users Association, stated this legislation amends **Idaho Code, Section 42-204** establishing a general rule that new water rights must be developed within a five year period, with two exceptions. The first exception is within subsection (3)(a) and will only apply if litigation challenges water ownership. It clarifies the litigation exception applies to delays caused by any litigation related to the permit holder's land or water development. The second exception is within subsection (3)(d) where the term "permit" (singular) is written rather than "permits" (plural) proposing the diversion of two or more cubic feet per second (cfs) on 100 or more acres of land. He explained, in these circumstances, the development period for this large permit may be extended to ten years. Currently, this section of Code does not allow the Department of Water Resources to extend the development period unless the development all occurs under one permit, yet development of large water rights is regularly completed in phases including multiple permits such as municipal, industrial, and agricultural projects. This amendment will allow the Department to extend the development period up to ten years in circumstances where there are two or more permits that are part of a common or combined system, owned by the same permit holder, and approved within five years of each other.

**Mr. Arrington** remarked they failed to include a provision to include current permits so an amendment to **H 183** will be written to include that statement and will be brought back before the committee.

**MOTION:** **Rep. Blanksma** made a motion to send **H 183** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Blanksma** will sponsor the bill on the floor.

**H 184:** **Paul Arrington**, Executive Director, Idaho Water Users Association, stated this legislation amends **Idaho Code, Section 42-248** which requires a Notice of Change of Water Rights Ownership be filed with the Department of Water Resources whenever a water right is conveyed to a new owner. He explained, in recent years court decisions have revealed the need to clarify the process and effect of these Notices, so this legislation will amend or remove certain provisions, provide a process for notice to landowners in circumstances where the water rights used on the land are owned by a third party, and clarifies that the notice of change of ownership process is not a determination of ownership and is not an administrative action subject to challenge.

**Chairman Gibbs** requested the record reflect no one signed up for remote testimony and no one from the audience came forward to testify.

**MOTION:** **Rep. Mathias** made a motion to send **H 184** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Blanksma** will sponsor the bill on the floor.

**H 185:** **Paul Arrington**, Executive Director, Idaho Water Users Association, stated this legislation amends **Idaho Code, Sections 42-3129 and 42-2133**, which were updated in 2020 allowing landowners to petition to become part of a Flood Control District. He explained this legislation would include express language authorizing noncontiguous land annexation for Flood Control Districts because lands not contiguous to a Flood Control District are frequently impacted by flooding and could benefit from the District's operations.

**Chairman Gibbs** requested the record reflect no one signed up for remote testimony and no one from the audience came forward to testify.

**MOTION:** **Rep. Yamamoto** made a motion to send **H 185** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Yamamoto** will sponsor the bill on the floor.

**H 186:** **Rep. Lickley**, District 25, stated this legislation amends **Idaho Code, Sections 42-1409 and 42-1411** further clarifying the ability of permittees to file for stockwater rights on their federal grazing allotments using their first federal authorization with the Department of the Interior, Department of Agriculture, or the Taylor Grazing Act as the priority date for stockwater rights. She explained this will allow the permittees' current base property/permit relate back to the original base property/permit in the first established federal authorizations. It also tightens the legal description of the location of the stockwater rights.

**Braden Jensen**, Idaho Farm Bureau stood **in support** of **H 186**.

**Chairman Gibbs** requested the record reflect no one signed up for remote testimony and no one else from the audience came forward to testify.

**MOTION:** **Rep. Moyle** made a motion to send **H 186** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Lickley** will sponsor the bill on the floor.

**HCR 8:** **Rep. Horman**, District, 30, stated this resolution calls upon the Federalism Committee to study the impact of the United States government's Payment in Lieu of Taxes (PILT) program in Idaho. She explained, in 1976 the federal government recognized the hardship it caused to states and counties with public lands remaining in federal ownership because of the burden it would create with the withdrawal of those federal lands from property tax payments. As a result, the federal government created the PILT program to make payments on the tax equivalency. **Rep. Horman** indicated federal land ownership in Idaho has increased over the last several years to 63% generating approximately \$32M annually through PILT payments, or \$.95 cents per acre. In comparison, 30% of taxable lands in the state generates over \$2B in property tax revenues, or \$128 per acre and the Idaho Department of Lands generates over \$45M or \$17 per acre annually on the 2.6M acres it manages. She remarked, Idaho receives more in property tax revenues in six days from 30% of the private taxable lands than it receives in a year through PILT payments. She indicated, if the Act that created the PILT program is considered a national policy, then the burden of that policy should be the responsibility of all the states, not just those states with the federal lands. With that in mind, she stated it is critical for the Federalism Committee to look into the new technology available to analyze the land to be able to make informed requests for more equitable PILT payments.

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

**Hollie Conde**, Conservation Voters for Idaho, spoke **in opposition** to **HCR 8**. She stated she agrees there are legitimate problems with the PILT program, but the study **Rep. Horman** is proposing is an unnecessary expense to taxpayers. PILT needs a national solution, not a state study which would most likely be ignored at the federal level. She stated Idaho should be advocating for reform and looking for collaborators from other western states, and encouraging Idaho's delegation to be part of the solution.

**Jacob Greenberg**, Blaine County, spoke **in opposition** to **HCR 8**. He stated spending approximately \$200M for a five year study is a futile effort and a waste of taxpayer's money. He does not believe any federal sponsor will be willing to carry this study at the federal level and proposes more discussions with Idaho's delegation before spending \$200M for this study.

**Chairman Gibbs** requested the record reflect no one else signed up for remote testimony and no one from the audience came forward to testify.

**Rep. Horman** stood and closed. She stated she is working with other legislators across the west, who are also dealing with similar issues in their states, on this effort and believes a state study is a good process towards a national solution. She believes state level data would not be ignored by Idaho's delegation.

**VOTE ON MOTION:**

**Chairman Gibbs** called for a vote on the motion to send **HCR 8** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Rubel, Davis, and Mathias** requested to be recorded as voting **NAY.** **Rep. Horman** will sponsor the bill on the floor.

**ADJOURN:**

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

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Representative Gibbs  
Chair

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Tracey McDonnell  
Secretary