

IN THE SENATE

SENATE BILL NO. 1006

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

RELATING TO THE DEPARTMENT OF WATER RESOURCES; AMENDING SECTION 42-1805, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES SHALL HAVE THE POWER TO PROMULGATE RULES AND REGULATIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 42-1805, Idaho Code, be, and the same is hereby amended to read as follows:

42-1805. ADDITIONAL DUTIES. In addition to other duties prescribed by law, the director of the department of water resources shall have the following powers and duties:

(1) To represent the state in all matters pertaining to interstate and international water rights affecting Idaho water resources; and to cooperate with all agencies, now existing or hereafter to be formed, within the state or within other jurisdictions, in matters affecting the development of the water resources of this state.

(2) To prepare a present and continuing inventory of the water resources of this state, ascertain means and methods of conserving and augmenting these and determine as accurately as possible the most effective means by which these water resources may be applied for the benefit of the people of this state.

(3) To conduct surveys, tests, investigations, research, examinations, studies, and estimates of cost relating to availability of unappropriated water, effective use of existing supply, conservation, storage, distribution and use of water.

(4) To prepare and compile information and data obtained and to make the same available to interested individuals or agencies.

(5) To cooperate with and coordinate activities with the administrator of the division of environmental protection of the department of health and welfare as such activities relate to the functions of either or both departments concerning water quality. Such cooperation and coordination shall specifically require that:

(a) The director meet at least quarterly with the administrator and his staff to discuss water quality programs. A copy of the minutes of such meeting shall be transmitted to the governor.

(b) The director transmit to the administrator, reports and information prepared by him pertaining to water quality programs, and proposed rules and regulations pertaining to water quality programs.

(c) The director shall make available to the administrator and the administrator shall make available to the director all notices of hearings relating to the promulgation of rules and regulations relating to water quality, waste discharge permits, and stream channel alteration, as such directly affect water quality, and notices of any other hearings and meetings which relate to water quality.

1 (6) To perform administrative duties and such other functions as the
2 board may from time to time assign to the director to enable the board to
3 carry out its powers and duties.

4 (7) After notice, to suspend the issuance or further action on permits or
5 applications as necessary to protect existing vested water rights or to ensure
6 compliance with the provisions of chapter 2, title 42, Idaho Code, or to pre-
7 vent violation of minimum flow provisions of the state water plan.

8 (8) To promulgate, adopt, modify, repeal and enforce rules and regula-
9 tions implementing or effectuating the powers and duties of the department.

STATEMENT OF PURPOSE

RS 10923

The purpose of this bill is to provide statutory authority to the Director of the Department of Water Resources to suspend issuance of water rights permits or other action on permits or permit applications when necessary. There is currently an informal moratorium in effect on Snake River water rights permit applications for uses above Swan Falls dam due to pending litigation over Idaho Power Company's water rights at that facility. Should a similar situation arise in the future, the Director would have express authority to impose such moratorium when necessary to protect existing vested water rights or to prevent violation of applicable minimum streamflows. In addition, the Director would also be given authority to suspend action on permits and applications pending implementation of the new public interest review called for under the Swan Falls agreement entered into by the Governor, the Attorney General, and Idaho Power Company on October 25, 1984.

Finally, this bill would give the Director the authority to promulgate rules and regulations. Such authority is necessary in order for the Department to carry out many new State Water Plan and statutory mandates contemplated by the Swan Falls agreement. These include public interest review, imposition of mitigation conditions on certain new uses, water marketing, and general adjudication of the Snake River.

FISCAL NOTE

There is no fiscal impact associated with this particular portion of the Swan Falls legislative package, although related bills referred to in the Statement of Purpose will have substantial fiscal impacts on the State of Idaho and individual water users in the Snake River Basin.

STATEMENT OF PURPOSE/FISCAL NOTE

21006