

MINUTES
RESOURCES AND ENVIRONMENT COMMITTEE

MARCH 6, 1985

Rm 433, 1:30 P.M.

PRESENT: Chairman Noh, Senators Beitelspacher, Budge, Chapman, Horsch, Klabert, Little, Peavey, Ringert and Sverdsten. Senator Carlson was absent. Senator Crapo was excused.

The meeting was called to order by Chairman Noh.

Senator Budge moved and Senator Beitelspacher seconded the minutes of the previous meeting be accepted as written. Motion carried.

HC.R 18 LAND EXCHANGE: HEARING, NOTIFICATION

Representative Stoicheff explained the legislation would require three actions be taken before the Land Board exchanged state land for public land: (1) a public hearing is to be held on the proposed exchange, (2) each member of the House Resources and Conservation Committee and Senate Resources and Environment Committee will be advised of the proposed exchange and (3) notice shall be published in the paper.

MOTION Senator Little moved and Senator Budge seconded this bill go out with a "do pass" recommendation. Motion carried.

HB 186 RELATING TO WATER RIGHTS FOR HYDROPOWER PURPOSES

The purpose of this bill is to provide direction to the Director of Water Resources in the exercise of his authority to issue term permits for water rights for hydropower purposes. The legislation should facilitate financing for small hydro-projects by assuring adequate review of any conditions attached by the Director.

Pat Kole Mr. Kole, Attorney General's office, said they had no objection to the amendment and neither did Idaho Power or the Governor's office.

Senator Budge Senator Budge said he had the same objections to the bill as he had before as felt it was not drafted properly with any changes underlined as required by the rules of the Senate.

Mr. Kole Said that Legislative Council had approved this method of doing the amendment. He assured the committee that the only changes were the ones he outlined in his analysis of the bill. (Attached). The purpose of the bill is to give small hydro producers the same protection that Idaho Power has.

March 6, 1985

- Senator Ringert Senator Ringert said he shared some of Senator Budge's concern. He noted that it seems there would be two section of 42-203B since the one section that has passed has not been repealed.
- Mr. Runft Mr. Runft explained that they had conferred with Legislative Council and had proceeded on that advice and did not bring it back to the Senate Committee as time for introduction had run out. He said they had merely proceeded as they had been advised.
- Senator Ringert Senator Ringert said he felt this was an important piece of legislation to the people involved and if they were willing to proceed with it as written, perhaps it should be moved on.
- Senator Budge Senator Budge felt SB 1008 would be in jeopardy and not this bill.
Discussion continued on the way the bill was drafted.
- Rob Holland Water Users Mr. Holland, Idaho Water Users, said they supported this legislation and felt like it was compatible with SB 1008.
- Mr. Ravenscroft Mr. Ravenscroft said he shared Senator Budge's concern but was told by Legislative Council this was the way to handle the bill and that the Codifying Commission would take care of things, so he accepted it. The small power people face a problem of getting finances. They feel a permit for water rights should have some criteria on which the length of time is based. All the parties concerned agreed this was a desirable addition to SB 1008 and a practical measure.

Again there was more discussion on the method used to draft the bill.
- Senator Ringert Senator Ringert suggested one way to clear up this would be to ask Legislative Council to strike and underline a copy of this bill and give to the Senate when it is up for discussion.
- MOTION Senator Ringert moved and Senator Horsch seconded the bill go out with a "do pass" recommendation. Motion carried. Senators Budge and Kiebert voted no.
- HB 190 RELATING TO A FREE FISHING DAY

Ken Norrie, Fish and Game, explained the purpose of the legislation is to provide that no fishing license be required for any person to fish on a free fishing day as designated by the Fish and Game Commission. The Department sees a chance here to create some good will and giving the Sportsmen clubs the possibility of getting involved in clinics.
- MOTION Senator Little moved and Senator Ringert seconded the bill go out with a "do pass" recommendation. Motion carried.

HB 266 RELATING TO THE RECHARGE OF GROUND WATER BASINS

Jim
Wrigley

Mr. Wrigley, West Cassia Water Users, explained the legislation authorizes irrigation districts to appropriate the unappropriated water to recharge ground water basins within the district. It would extend the privileges to irrigation districts of ground water recharge districts. He explained there is a problem in an area south of Burley and this is an attempt to put in place a management tool to help solve the problem.

Senator Ringert asked if this would interfere with any water rights and Mr. Wrigley said it would not. He said they would have to meet all criteria of the Swan Falls agreement.

MOTION

Senator Ringert moved and Senator Chapman seconded the bill go out with a "do pass" recommendation. Motion passed after further discussion.

More discussion followed the motion on the use of ground water and how it may impact the system.

Senator Tominaga explained the water bank is water that is not going to be used by anyone and this is the water that is being talked about--water that would not be used and put back into the aquifer.

Norm Young

Mr. Young, Water Resources, reassured the committee that this legislation does nothing to the appropriation statutes for water.

Rob Holland
Water Users

Mr. Holland, Water Users, said they supported the legislation.

Senator Keibert asked if HB 273 could be considered as he didn't believe there would be alot of discussion.

HB 273

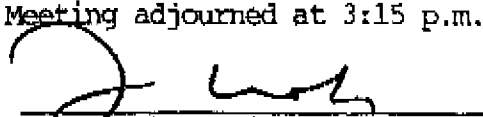

RELATING TO THE SALE OF STATE-OWNED TIMBER

This legislation will change the method of selling state timber by reducing the amount of money due on the date of sale or payable in annual installments. It would also change the basis of interest charges from a calculation based upon estimated value over estimated time to one based upon actual value harvested from the time of harvest to the original sale date. It further changed the charges made for the extension period.

MOTION

Senator Little moved and Senator Kiebert seconded the bill go out with a "do pass" recommendation. Motion carried.

HB 268 will be carried over to the next meeting as there was no time for consideration. Meeting adjourned at 3:15 p.m.


Laird Noh, Chairman
Roy Mullins, Secretary



STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL
BOISE 83720

JIM JONES
ATTORNEY GENERAL

TELEPHONE
(208) 334-2400

February 15, 1985

The Honorable J. Vard Chatburn
Representative, District 24
Statehouse Mail

Re: House Bill No. 186

Dear Chairman Chatburn:

Enclosed herewith please find an analysis of House Bill No. 186. Pat Costello and I have prepared the analysis in a separate document as some members of the committee have expressed a desire to have the document incorporated into a statement of legislative intent. As you know, the Senate in passage of S.B. 1008 took this approach, therefore, it may be desirable for your committee to do likewise. The Attorney General's Office, as one of the negotiators to the Swan Falls Agreement, supports House Bill No. 186. It is our understanding that the Governor's office also supports House Bill No. 186 and that the Idaho Power Company has no objection to it.

If there is anything further that we can provide, please advise.

Very truly yours,

A handwritten signature in cursive script that reads "Patrick J. Kole".

Patrick J. Kole
Deputy Attorney General
Chief, Legislative and
Public Affairs Division

PJK:ams
Enclosures

ANALYSIS OF HOUSE BILL 186

House Bill 186 amends Senate Bill 1008 in two respects. On page 1, paragraph 3, line 40, the word "consumptive" is added between "future" and "upstream." The purpose of this amendment is to make it clear that water rights for power purposes are subject to subordination to and depletion by future consumptive upstream beneficial users. This was the intent of the original legislation and is added for clarification purposes.

The second change made to S.B. 1008 by H.B. 186 is the addition of paragraph 7 on page 2, line 23. The purpose of this change is to provide guidance to the director of the Department of Water Resources when he sets a specific term of years for a water permit or license for power purposes. The proposed amendment sets forth specific criteria which the director must consider in setting that term. The purpose of these amendments is to make sure the director does not inadvertently set too short a period of time in the permit or license, thus preventing the financing of small hydropower projects.

This does not eliminate, nor does this amendment speak to, the subordination condition contained within the permit. Thus, the water right issue for hydropower purposes would still be

subordinate to subsequent upstream beneficial uses approved in accordance with state law. In effect, this amendment would afford, if the director appropriately found, the same protection to small hydropower producer as will exist for Idaho Power at its hydroelectric facilities should the entire Swan Falls Agreement become law. It is not the intent of this legislation to un subordinate small hydropower water rights. The amendment also provides that small hydropower producers will be afforded due process of law prior to their subordinated water right being reallocated to other uses.