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February 7, 2011

Special points of interest:

- *Budget shortfall projections worsens (Page 1)*
- *Changes are proposed to pending antidegradation rule (Page 6)*
- *DW&WWP Board proposes changes to licensure rule (Page 6)*

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2011 Legislative Reports



Idaho's Legislative Budget office revised the state's shortfall last week to an estimated **\$137 million**, an estimate requiring a reduction of **5.4%** in Fiscal Year 2012.

Idaho Department of Water Resources (IDWR) and Idaho Department of Environmental Quality (IDEQ) presented their proposed budgets to the Joint Finance & Appropriations Committee (JFAC). Budget cuts are impacting the agencies' ability to meet their statutory mission as well as federal or court-ordered requirements. With positions unfilled and employees taking mandatory furloughs, additional budget cuts could force more staff reductions, program cuts or programs or fee increases. Both agencies reported that the backlogs for activities like permitting are impacting their clients, the state economy and economic development.

IDWR has sustained an estimated 29.5% reduction in its general fund appropriation over the last three years, according to Interim Director Gary Spackman, making it difficult to address the critical needs of water users. Multi-year budget reductions are impacting programs ranging from stream channel alterations to dam safety, water right processing and accounting, injection well administration, water monitoring and measurement. His strategy to address the current round of cuts is to change the Department's organizational structure, reduce operating expenses, shift expenses from the general fund and prioritize work assignments.

IDWR's budget presentation included a supplemental request authorizing the Idaho Water Resource Board to transfer \$2.4 million from its Revolving Development Fund to its Secondary Aquifer Plan & Management Fund. The money is from the ground water districts' loan repayment on the Pristine Springs Purchase and is intended to fund on-going projects on the ESPA.

IDEQ cannot sustain another large one-time reduction, Director Toni Hardesty testified. The agency's proposed budget and staffing level is lower now than in 2000 when the agency became a department. She asked JFAC to authorize a one-time transfer of funds from the Hazard Waste Emergency Fund to offset this year's cuts. The agency is struggling to maintain primacy, meet the monitoring and reporting requirements under Clean Water Act, maintain a court-ordered TMDL schedule, and provide state matches in the Air Quality 105 Grant program. *Continued on page 6*

CALENDAR

Monday, February 7

IIPA Conference Call,
9:30 a.m.

Tuesday, February 8

Ag Lobbyists, Lock, Stock & Barrel - Noon

CREP, Boise FSA Office,
1 p.m.

Wednesday: February 9

Food Producers

Idaho Grain Center, 8:30 a.m.

Food Producers Legislative Luncheon, Yen Cheng, - Noon

IGWA EC, Pocatello,
Racine Law Office,
Noon to 4 p.m.

WD 110 Annual Meeting,
Terreton, West Jefferson
High School, noon

ICIE Gold Room Presentation "Bull Trout—20 Years Later"
Senate & House Auditorium
WW02, 1:30 p.m.

5 p.m. Idaho Public Utilities Commission:

Deadline to file comments on proposed changes to Idaho Power's Irrigation Load Control Program

Thursday: February 10

Friday: February 11

Water Legislation—House

H0022-WATER RIGHT LICENSES Amends existing law relating to water right licenses to delete the requirements that licenses be issued under the seal of the office of the Department of Water Resources and that licenses bear the capacity of the diverting works. **House: 01/20** Introduce/Print **01/21** To Resource & Conservation

<http://legislature.idaho.gov/legislation/2011/H0022.htm>

H0023-WELLS Amends existing law relating to drilling permits to revise fee provisions, to provide for the use of certain permit fees, to authorize the director of the Department of Water Resources to provide blanket drilling permits for closed loop heat exchange wells and to provide that the applications for blanket permits for site specific monitoring programs shall include specified design proposals. **House: 01/20** Introduce/print **01/21** To Resource & Conservation

<http://legislature.idaho.gov/legislation/2011/H0023.htm>

H0024-WATER Amends existing law relating to water to delete the requirement that copies of notices be sent by ordinary mail to certain persons, to provide for notices that are accessible from the Internet homepage of the Department of Water Resources, to clarify that published notices are the official notices and to provide that any errors or omissions in notices displayed on the Internet homepage shall not invalidate the published notices **House: 01/20** Introduce/Print **01/21** To Resource & Conservation

<http://legislature.idaho.gov/legislation/2011/H0024.htm>

H0025-WATER Amends existing law relating to permits to appropriate water to revise provisions and requirements relating to submission of proof of beneficial use statements submitted more than sixty days after notice of lapsing and to provide for the reinstatement of such permits and the advancement of priority dates. **House: 01/20** Introduce/Print **01/21** To Resource & Conservation

<http://legislature.idaho.gov/legislation/2011/H0025.htm>

H0031-WATER Amends existing law relating to water to revise a fee relating to applications for amendment of permit and to provide for fees for filing applications to change the point of diversion, place, period or nature of use of water under a vested water right; to revise a provision relating to information contained in certain applications to change a water right being deemed in compliance with specified notification provisions and to provide for applicability of specified fee requirements.

House: 01/20 Introduce/Print **01/21** To Resource & Conservation

<http://legislature.idaho.gov/legislation/2011/H0031.htm>

CALENDAR

UPCOMING EVENTS

February 14: Idaho Water Supply Committee, Idaho Water Center, 10 a.m.

February 17: Antidegradation Draft Guidance Advisory Committee
Boise, IDEQ Hdqtrs, 8:30 a.m.

February 25
Rathdrum Prairie CAMP Advisory Committee
Coeur d'Alene
Time & location TBA

March 10: Antidegradation Draft Guidance Advisory Committee, Boise, IDEQ Hdqtrs, 8:30 a.m.

March 15-16: Treasure Valley CAMP, Time & location TBA

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Water Legislation—House

HO042-OUTSTANDING RESOURCE WATERS Amends and adds to existing law relating to water quality to revise definitions and to provide for the approval of certain rules relating to outstanding resource waters. *Companion legislation to IDEQ Antidegradation Policy Implementation Rulemaking*

House: **01/25** Introduce/Print **01/26** To Environment, Energy & Technology
<http://legislature.idaho.gov/legislation/2011/H0042.htm>

HO094-INJECTION WELLS Amends existing law relating to injection wells to revise terminology to provide for deep injection wells; and to delete an exemption from notice of construction filing requirements and fees for certain new shallow injection wells. **House:** **02/03** Introduce/Print **02/04** To Resource & Conservation
<http://legislature.idaho.gov/legislation/2011/H0094.htm>

HO107-AQUIFER PROTECTION DISTRICTS Amends existing law relating to Aquifer Protection Districts to revise provisions relating to fees, to provide that fees shall not be charged to owners of nondeveloped properties and to restrict the amount of fees that a district may retain at any time. **HOUSE:** **02/04** Introduce/Print
<http://legislature.idaho.gov/legislation/2011/H0107.htm>

Energy Legislation—House

H0052- GEOTHERMAL RESOURCES Amends existing law relating to geothermal resources to authorize the State Board of Land Commissioners to issue geothermal resource leases for terms of up to forty-nine years on certain state or school lands and to delete reference to other term of lease provisions. **House: 01/26** Introduce/Print **01/27** To Resource & Conservation

<http://legislature.idaho.gov/legislation/2011/H0052.htm>

H0053-GEOTHERMAL RESOURCE LEASES Amends existing law relating to geothermal resource leases to revise provisions relating to the manner of fixing rentals and to provide for royalties. **House: 01/26** Introduce/Print

01/27 To Resource & Conservation

<http://legislature.idaho.gov/legislation/2011/H0053.htm>

H0054—GEOTHERMAL LEASES Amends existing law relating to geothermal leases to revise provisions relating to the surface area of geothermal leases.

House: 01/26 Introduce/Print **01/27** To Resource & Conservation

<http://legislature.idaho.gov/legislation/2011/H0054.htm>

H0056-GEOTHERMAL RESOURCES-BONDING Amends existing law relating to geothermal resources to revise bond provisions relating to damages to the land surface and improvements thereon, to provide for bonds relating to reclamation and to clarify that bonds shall not duplicate certain bonds for well closure. **House: 01/26** Introduce/Print **01/27** To Resource & Conservation

<http://legislature.idaho.gov/legislation/2011/H0056.htm>

Senate—Energy

S1035 RENEWABLE ENERGY SITING PERMITS Adds to existing law to provide an expedited permitting process from the state and local governments for renewable energy projects. **Senate: 01/21** Introduce/Print **01/24** State Affairs

<http://legislature.idaho.gov/legislation/2011/S1035.htm>

RESOLUTIONS

HCR003-NATURAL RESOURCE ISSUES- Stating findings of the Legislature and authorizing the Legislative Council to appoint a committee to undertake and complete a study of natural resource issues. **House: 01/26** Introduce/Print **01/27** To 2nd reading **01/28** 2nd to 3rd reading **02/01 ADOPTED 65-0-5**

Senate: 02/02 Introduce/To Resource & Environments

<http://legislature.idaho.gov/legislation/2011/HCR003.htm>

HCR004-ENERGY, ENVIRONMENT & TECHNOLOGY ISSUES-STUDY

Stating findings of the Legislature and authorizing an interim legislative study committee on energy, environment and technology issues. **House: 02/03** Introduce/Print **02/04** To 2nd reading

<http://legislature.idaho.gov/legislation/2011/HCR004.htm>

RULES REVIEW

IDWR

37-0310-1001 Well Driller Licensing

37-0203-1001 Water Supply Bank Rules

IDEQ

58-0102-1001 Water Quality Standards (Antidegradation)

58-0108-1001 Public Drinking Water

58-0117-1001 Reclamation and Reuse of Municipal and Industrial Wastewater

58-0120-0901 Administration of Drinking Water Loan Program

Appointments

Robert "Bob" C. Barowsky, Idaho Fish & Game Commission

Randall C. Budge, Idaho Fish & Game Commission

Key Senate Committee Schedules:

Agriculture: T, Th, morning, Room WW53

Finance: Daily, morning, Room C310

Health & Welfare: M,T,W, Th, afternoon, Room WW54

Local Government & Taxation: T,W,Th, afternoon, Room WW53

Resources & Environment: M,W, F, afternoon, Room WW55

State Affairs: M, W, F, morning, Room WW55

Key House Committee Schedules:

Agricultural Affairs: Even days, afternoon, Room EW 20

Appropriations: Daily, morning, Room C310

Environment, Energy & Technology: Even days, afternoon, Room EW41

Resources & Conservation: Odd days, afternoon, Room EW40

State Affairs: Daily, morning, Room EW40

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The Office of Energy Resources (OER) used stimulus dollars from the American Recovery & Reinvestment Act to promote energy development, efficiency, and conservation in Idaho. However, Administrator Paul Kjellander's plan to use royalties from geothermal leases on public lands in Idaho did fall short. An estimated \$5 million in royalties shriveled to around \$40,000, largely due to the recession.

On a related note, a slate of bills aimed at encouraging geothermal development was printed in the House of Representatives last week. (*See House Bills 52, 53, 54 & 56*)

Adjudication: Judge Eric Wildman also appeared before JFAC to discuss the Snake River Basin Adjudication (SRBA) and the Coeur d'Alene-Spokane River Basin Adjudication (CSRBA). Wildman reported that the SRBA is winding down with an estimated 148,442 water rights decreed and leaving approximately 2648 to be completed. The SRBA is on track to be completed by 2014. Many of the remaining claims are grouped and turn on a common issue; however, they also represent some of the more complex issues to be addressed.

The CSRBA is gearing up. IDWR is still serving notices and taking claims. Of the projected 13,000 water right claims, an estimated 8,000 have been filed. These numbers do not include stock water or tribal rights. Wildman anticipates that the first Director's reports will be filed in 2013.

Antidegradation was the main event at last week's annual Idaho Environmental Forum Legislative Gala. Justin Hayes, Idaho Conservation League, characterized the pending Antidegradation Policy Implementation Rule as "watered down and a race to the bottom" and issued a flamboyant invitation to watch ICL "light its hair on fire" in court. A successful court challenge of the pending Idaho rule could be used to affect changes to what has already been done in other states, according to Hayes.

The pending Antidegradation Policy Implementation Rule is being held in the Senate Resource & Environment Committee and the House Energy, Environment & Technology Committee along with a companion bill (*HO042*). Behind the scene efforts by IDEQ, stakeholders and legislators have resulted in a compromise package that includes deleting sections of the pending rule and new companion legislation. Those changes are expected to be introduced in the House committee.

Treasure Valley CAMP met last week. The Advisory Committee is drafting a final report that it hopes to present to the Idaho Water Resource Board this spring. The committee also heard presentations from IDWR interim Director Gary Spackman on *Reasonable Anticipated Future Need (RAFN)* and Bryce Contor with the Idaho Water Resources Research Institute on the *Potential for Managed Recharge in the Treasure Valley*. Two subcommittees were formed, one to edit the draft report and one to further investigate including a RAFN recommendation in the final report.

Drinking Water & Wastewater Professionals Board also met in Boise last week. The Board is again considering changes to its operator licensing requirements. It appears that the Board is considering a change in its existing rule and, if it moves forward with its current proposal, it will be easier for licensed operators to advance. A licensed operator meeting a prescribed level of experience and education would be allowed to test and, upon passing that test, license without progressing sequentially from, for example, a Class 1 to Class 2, then Class 3 and Class 4. If an operator can move from Class 1 to Class 3 or 4, it will help operators and systems where growth or technological upgrades are creating problems in hiring or licensing current operators.