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March 14, 2011

Special points of interest:

- Budgets are reporting out of JFAC, but hard decision lie ahead
- IWRB creates Upper Snake Advisory Committee
- Promising water supply forecast for Idaho

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# 2011 Legislative Reports



Budgets are reporting out to House Appropriations and the Senate Finance Committees, usually a sure sign that the Idaho Legislature is gathering momentum. In this case, the hard decisions have yet to be made. The two biggest budgets, public education and Health & Welfare, have not been set. There is still a revenue deficit and it is unclear whether the legislature will choose additional funding cuts or raise taxes/fees to meet its constitutional mandate to adopt a balanced budget.

Two new pieces of water legislation have been printed relating to water leases for hydropower purposes in local water banks and rental pools (HO272) and ground water assessments as liens for bonding/mitigation purposes (HO273).

**Idaho Water Resource Board** met last week in Boise and created an Upper Snake Advisory Committee. The Committee's main purpose will be to advise the Board on water releases upstream of Milner Dam for hydropower generation. The Committee will consist of appointed representatives from the Bureau of Reclamation, IWRB, Idaho Power Company, the Committee of Nine, and other special interests.

**The draft Rathdrum Prairie Comprehensive Aquifer Management Plan (CAMP) was adopted by the Board.** Public hearings will be held in Coeur d'Alene in May in conjunction with the Board's meeting there.

**Idaho Water Supply Committee** forecasts a promising water supply for the state. Overall snowpack and stream flows are in normal to above normal ranges. A disappointing January was offset by stormy conditions in late February and March that are rebuilding lower elevation snowpacks. High elevation sites continue to look good. There are pockets of higher and lower precipitation around the state, but overall the forecast remains positive.

**The Pacific Northwest Power & Conservation Council** also met in Boise last week. Three presentations of note included panel discussions on Idaho Energy Policy, IPCO's planning issues, and the Residential Exchange Program. With respect to energy policy, panelist Paul Kjellander advised the Council to expect fundamental changes in the ways we produce and consume energy. A regional perspective is important to energy decisions since so much of the power used in Idaho is produced outside the state or on its borders. The other panelist Ric Gale/Idaho Power said there is "no silver bullet; silver buckshot is the answer" to energy planning. *Continued on page 7*

## CALENDAR

**Monday, March 14**

**House Environment, Energy & Technology:** Fiscal & Economic Impacts Idaho's Alternative Energy Sales & Use Tax Rebates and "Economic & Fiscal Impacts on Idaho from Exergy's 300 MW of Wind, Rm EW41, 1:30 p.m.

**Senate Resource & Conservation,** Chuck Cuddy/IWRB Appointment, WW55, 1:30 p.m.

**Tuesday, March 15**

Treasure Valley CAMP, Boise, USGS Conference Rm, 8:30 a.m.

**Ag Lobbyists,** Lock, Stock & Barrel - Noon

**Wednesday: March 16****Food Producers**

Idaho Grain Center, 8:30 a.m.

Treasure Valley CAMP, Boise, IDWR Conference Rm, 8:30 (*if necessary*)

**Food Producers Legislative Luncheon,** Yen Cheng, - Noon

**Idaho Environmental Forum:**

"Imagining the Snake: Art, Science & Idaho's Snake River Plain", Owhyee Plaza Mezzanine, Noon

IPCO "Wind Integration Workshop, Corporate Hdqtrs, 2 p.m. to 4 p.m.

**Thursday: March 17**

Antidegradation Draft Guidance Advisory Committee, Boise, IDEQ Hdqtrs, 8:30 a.m. (*rescheduled from 3/10/11*)

**Friday: March 18**

## 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: 3/02 PASSED 69-1-0**

**Senate: 03/03** Introduce/Resource & Environment **03/16** Scheduled for hearing  
<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: 03/02 PASSED 52-18-0**

**Senate: 03/03** Introduce/Resource & Environment  
<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: 03/02 PASSED 70-0-0**

**Senate: 03/03** Introduce/Resource & Environment  
**03/16** Scheduled for hearing  
<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 **02/24** Report out "Do Pass" **02/25** To 3rd reading **03/02 PASSED 63-7-0**

**Senate: 03/03** Introduce/Resource & Environment **03/25** Scheduled for hearing  
<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: 03/02 PASSED 47-23-0**  
**Senate: 03/03** Introduce/Resource & Environment **03/16** Scheduled for hearing  
<http://legislature.idaho.gov/legislation/2011/H0031.htm>

## CALENDAR

UPCOMING EVENTS

**March 22:** IGWA Board Meeting, Pocatello, Clarion Inn, noon to 4 p.m.

**March 24:** Bonneville Jefferson GWD, Idaho Falls, Ameritel, 10 a.m.

**March 29:** Madison GWD Annual Meeting, Rexburg, Location TBA, 10 a.m.

IIPA Annual Meeting, Pocatello, Racine Law Offices, 1:30 p.m.

**May 4-6:** PNWS-AWWA, Boise Centre on the Grove Registration open now: [www.pnws-awwa.org](http://www.pnws-awwa.org)

**May 5:** Drinking Water & Wastewater Professionals Board, IBOL "Idaho Room", 8:30 a.m. to 5 p.m.

**May 24-25:** 2011 Idaho Water Reuse Conference Boise, DoubleTree Hotel Riverside

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## Water Legislation—House

**HO042-OUTSTANDING RESOURCE WATERS** *Replaced by HO153*

**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: 02/25 PASSED 62-3-5**

**Senate: 02/28** Introduce/Resource & Environment **03/10** Report out "Do Pass"  
**03/11** 2nd to 3rd reading

<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 **02/07** To Resource & Conservation

<http://legislature.idaho.gov/legislation/2011/H0107.htm>

**HO136-WATERMASTERS** Amends existing law relating to water to revise verbiage relating to the removal of watermasters; to provide term of service provisions relating to watermasters; to revise provisions relating to proposed budgets; and to revise provisions relating to those districts that may authorize watermasters to serve as water district treasurers. **House: 02/25 PASSED 66-0-4**

**Senate: 02/28** Introduce/Resource & Environment **03/16** Scheduled for hearing

<http://legislature.idaho.gov/legislation/2011/H0136.htm>

**HO137aa ALTERATION OF CHANNELS OF STREAMS** Amends existing law relating to the alteration of channels of streams to provide that in specified situations, no permit shall be required by the state or any agency or political subdivision thereof from a water user or his agent. **House: 03/04 PASSED 56-11-3**

**Senate: 03/07** Introduce/Resource & Environment **03/16** Scheduled for hearing

<http://legislature.idaho.gov/legislation/2011/H0137.htm>

**HO138-IRRIGATION** Amends existing law relating to irrigation to provide that the heirs, executors, administrators, successors and assigns of a landowner who makes a change in a ditch, canal, lateral, drain or buried irrigation conduit, buries the ditch, canal, lateral or drain of another in pipe or directs the relocation of conduit shall be responsible for certain costs, and to remove the requirement that agreements relating to the relocation of conduit be in writing. **House: 02/25 PASSED 66-0-4**

**Senate: 02/28** Introduce/Resource & Environment **03/16** Scheduled for hearing

<http://legislature.idaho.gov/legislation/2011/H0138.htm>

## Water Legislation—House cont'd

**HO153-WATER QUALITY** Amends existing law relating to water quality to provide a policy relating to Tier I, II and III protections associated with water quality; to provide for an antidegradation review associated with the issuance of certain general permits, to provide that the department may presume certain discharges are insignificant or that certain pollution controls are the least degrading alternative if supported by the permit record; to provide for the identification of Tier II waters; to provide for the determination of appropriate levels of protection; to provide that the department shall determine whether certain activities or discharges are insignificant; and to provide for the approval of specified rules. **House: 02/23 PASSED 54-14-2**

**Senate: 02/24** Introduce/To Resource & Environment **03/07** Report out “Do Pass” **03/11 PASSED 26-6-3**  
<http://legislature.idaho.gov/legislation/2011/H0153.htm>

**HO241-WATER LEASES** *Replaced by HO272*

**HO272-WATER LEASES** Amends existing law relating to water to revise provisions relating to action by the director of the Department of Water Resources relating to certain proposed leases of water. **House: 03/14** Introduce/Print <http://legislature.idaho.gov/legislation/2011/H0272.htm>

**HO273-GROUND WATER DISTRICTS** Amends existing law relating to ground water districts to provide for the priority of certain liens; and to provide that upon the sale of the property for payment of a lien the purchaser shall take the property subject to certain outstanding taxes and annual assessments. **House: 03/14** Introduce/Print <http://legislature.idaho.gov/legislation/2011/H0273.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: 2/18 PASSED 60-0-10 Senate: 03/03 PASSED 32-0-3**  
**03/09** To Governor  
<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: 2/18 PASSED 60-0-10 Senate: 03/03 PASSED 32-0-3**  
**03/09** To Governor  
<http://legislature.idaho.gov/legislation/2011/H0053.htm>

## Energy Legislation—House cont'd

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

**House: 2/18 PASSED 60-0-10 Senate: 03/03 PASSED 34-0-1**

**03/09** To Governor

<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: 02/21 PASSED 68-0-2 Senate: 03/03 PASSED 34-0-1**

**03/09** To Governor

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

**HO208-COUNTY-BASED RENEWABLE ENERGY COMMERCE AUTHORITIES** Adds to existing law relating to county-based renewable energy commerce authorities to authorize a county-based renewable energy commerce authority, to provide for establishment and abolishment, to provide for combined intermodal and renewable energy authorities, to provide for commissioners, to provide for the cooperation of counties, to set forth powers, to provide for the granting of operation and use privileges, to provide for the disposal of property to provide for bonds and obligations, to provide for the creation of a Debt Service Fund and to set forth provisions relating to federal, state and local money. **House: 02/28** Introduce/Print **03/01** State Affairs

<http://legislature.idaho.gov/legislation/2011/H0208.htm>

## Senate—WATER

**S1077-DRAINAGE DITCHES** Adds to existing law relating to drainage districts to provide for petitions for consolidation; to provide for hearing; to provide for objections; to provide for orders; and to provide for the appointment of commissioners. **Senate: 02/23 PASSED 34-0-1 House: 02/24** Introduce/Resource & Conservation **03/02** Report out “Do Pass” **03/03** To 3rd reading **03/09** To General Orders

<http://legislature.idaho.gov/legislation/2011/S1077.htm>

## ENERGY—Senate

**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>

**S1058 BOARD OF ENVIRONMENTAL QUALITY** Amends existing law relating to the Idaho Board of Environmental Quality to provide that municipalities and community and nonprofit noncommunity public drinking water systems shall agree to provide for full amortization of loans not later than thirty years from the date project construction is completed regarding contracts between the board and such entities concerning eligible construction projects. **Senate: 02/17 PASSED 33-0-2 House: 02/25 PASSED 57-9-4 03/03 To Governor 03/08 Governor signed Session Law Chapter 44 Effective 07/01/11** <http://legislature.idaho.gov/legislation/2011/S1058.htm>

**S1112 SCHOOL DISTRICTS-ALTERNATIVE ENERGY** Amends existing law relating to school districts and alternative energy to revise the types of renewable energy school districts may own, maintain or contract for and to provide for sales of excess electrical energy from renewable sources. **Senate: 02/14 Introduce/Print 02/15 State Affairs** <http://legislature.idaho.gov/legislation/2011/S1112.htm>

## APPROPRIATIONS

**H0244-ENERGY RESOURCES** Appropriates to the Office of Energy Resources an additional \$350,000 for fiscal year 2011; transfers the remaining balance of the Biofuel Matching Fund to the General Fund; appropriates \$2,843,100 to the Office of Energy for Resources for fiscal year 2012; limits the number of full-time equivalent positions to 18; and authorizes certain Non-General Fund carryover authority. **House: 03/09 Introduce/Print 03/10 To 2nd reading 03/11 To 3rd reading** <http://legislature.idaho.gov/legislation/2011/H0244.htm>

**H0245-SPECIES CONSERVATION** Appropriates \$22,920,600 to the Office of Species Conservation for fiscal year 2012; and limits the number of full-time equivalent positions to 12. **House: 03/09 Introduce/Print 03/10 To 2nd reading 03/11 To 3rd reading** <http://legislature.idaho.gov/legislation/2011/H0245.htm>

**H0259-ENVIRONMENTAL QUALITY DEPARTMENT** Appropriates \$61,455,500 to the Department of Environmental Quality for fiscal year 2012; limits the number of full-time equivalent positions to 376.05; transfers \$486,700 from the Hazardous Waste Emergency Management Fund to the General Fund; transfers \$1.5 million from the Water Pollution Control Fund to the Environmental Remediation Fund; and expresses legislative intent. **House: 03/11 Introduce/Print** <http://legislature.idaho.gov/legislation/2011/H0259.htm>

**S1140-PUBLIC UTILITIES COMMISSION** Appropriates \$5,090,500 to the Public Utilities Commission for fiscal year 2012; and limits the number of full-time equivalent positions to 49. **Senate: 03/04 Introduce/ Print 03/07 Finance 03/08 Report out "Do Pass" 03/09 2nd to 3rd reading 03/11 PASSED 34-0-1 House:** <http://legislature.idaho.gov/legislation/2011/S1140.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: 02/01 ADOPTED 65-0-5 Senate: 02/02 Introduce/To Resource & Environment 02/15 Report out "Do Pass" 02/16 To 10th Order 02/21 Ret'd to Resource & Environment** <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: 02/08 ADOPTED 66-0-4 Senate: 02/15 ADOPTED 35-0-0 02/22 Delivered to Secretary of State** <http://legislature.idaho.gov/legislation/2011/HCR004.htm>

**HCR16-ENVIRONMENTAL QUALITY DEPARTMENT—RULES** Stating findings of the Legislature and rejecting certain rules of the Department of Environmental Quality relating to Water Quality Standards.

**House:** 02/23 Introduce/Print 03/03 **ADOPTED 57-12-1 Senate:** 03/03 Introduce/Resource & Environment 03/16 Scheduled for hearing

**SCR101-AQUATIC NUISANCE SPECIES** Stating findings of the Legislature expressing that the state of Idaho and its citizens are concerned with the threat of aquatic nuisance species and will collectively strive to educate and prevent the contamination of Idaho's public lakes, streams, rivers and creeks, and encourage industry and recreationists around the world to be aware that Idaho takes the responsibility to protect and preserve its natural resources very seriously. **Senate:** 02/09 Introduce/Print 02/11 10th Order 02/11 Agricultural Affairs 03/09 Report out "Do Pass" 03/10 10th Order **ADOPTED** Voice Vote **House:** 03/11 1st reading/Agriculture Affairs

<http://legislature.idaho.gov/legislation/2011/SCR101.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 final and effective upon adjournment  
58-0117-1001 Reclamation and Reuse of Municipal and Industrial Wastewater  
*Final and effective pending adjournment*  
58-0120-0901 Administration of Drinking Water Loan Program *Final and effective upon adjournment*

## Appointments

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

Randall C. Budge, Idaho Fish & Game Commission

Chuck Cuddy, Idaho Water Resource Board

## PNWPCC *continued from page 1*

Later Mark Stokes (also Idaho Power) would concur with Gale's comments that energy planning must combine demand side management and supply side resources. Wind integration is an issue that Idaho Power and Bonneville Power Administration are addressing. It is both a question of how to integrate the sizeable amounts of wind coming onto these systems, the cost to integrate, and the impact of those costs on rates and ratepayers. Jim Tucker discussed similar concerns with respect to hydropower upgrades, primarily Hells Canyon Complex. Relicensing costs at Hells Canyon are close to half a billion dollars. The relicensing process has been stalled since 2006 over two issues: Clean Water Act 401 certification standards and Endangered Species Act consultations for anadromous fish and bull trout. Until these issues are resolved, no draft Environmental Impact Statement can be completed.

An on-going dispute over the Residential Exchange Program may be ending. A proposed settlement agreement was negotiated between over 100 stakeholders last year. Investor-owned and public power utilities in the Pacific Northwest along with the public utilities commissions in Idaho, Oregon and Washington and other stakeholders have until April 15th to sign a mediated settlement agreement. If the stakeholders agree, then Bonneville Power Administration has until August 1st to sign the agreement.

The Residential Exchange Program allocates the benefits of the federal hydropower between public and private utilities. If signed, the settlement agreement could resolve legal challenges and offers the region's ratepayers greater certainty over how REP payments and benefits are distributed.

**Paul Kjellander, Administrator of the Idaho Office of Energy Resources**, has been reappointed to the Idaho Public Utilities Commission, replacing Jim Kempton who is retiring.