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March 21, 2011

Special points of interest:

- Education and Health & Welfare budgets being printed and drafted.
- Wind Energy generating debate
-

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2011 Legislative Reports



BUDGETS: Several education funding bills were printed in the Senate last Friday and H&W funding bills are being drafted, possibly paving the way for adjournment *or not*. Much will depend on how contentious those funding bills are in the Legislature and for the public. Differences of opinion within the Republican caucuses of both Houses could become potentially divisive. If that occurs, it could lead to a longer session. However, legislators who may individually object to cuts in education and Health & Welfare also know that major tax increases are not an option.

WIND: In the meantime, wind energy is generating considerable debate at the Statehouse. Two bills are currently being considered: HO250 would extend a sales tax rebate aimed at encouraging alternative energy development, including wind, and HO265 would place a moratorium on wind development in Idaho. The House Revenue and Taxation Committee has asked stakeholders to find a compromise on the sales tax rebate while State Affairs is holding hearings on the moratorium.

Over 1300 megawatts (MWs) of wind are being developed in Idaho. Supporters see wind as an environmentally-friendly opportunity for a state that imports over 50% of our electricity to become more self-reliant. Detractors say that our electricity rates, already among the lowest in the nation, will increase dramatically and property values adjacent to wind farms will be lowered.

The wind does not blow all the time so utilities must back-up wind with energy sources like hydropower, coal or natural gas to ensure reliability and build transmission to deliver it. Integrating wind (backing up and delivering it) increases its cost and the overall cost of electricity, all of which is passed on to ratepayers.

Idaho Power expects to bring over 900 MWs of wind on-line in the next few years. Last week they held a Wind Integration Workshop to outline an expedited study they are undertaking to determine what those costs and impacts could be to their customers. They hope to include an executive summary of their results in their 2011 Integrated Resource Plan (IRP) in June and finalize the study in July.

IDAHO SUPREME COURT RULING: A much awaited Idaho Supreme Court decision to decide issues between spring users and ground water users in the Magic Valley was released last week. While the Supreme Court affirmed the District Court's judgment, it also noted in its final order that all parties prevailed in part. While a more in-depth analysis is not yet available, affirming the District court's decision means nothing has really changed for ground water users since July 2008. The original water delivery call dates to 2005 and has been the subject of administrative hearings before Idaho Department of Water Resources, district court actions, and finally the appeal to the Idaho Supreme Court. Two similar appeals to the Supreme Court are expected to follow this case in 2011, one relating to a water delivery calls involving ground water users and the Surface Water Coalition; the other stemming from a water delivery call from A&B Irrigation District water delivery call.

CALENDAR

Monday, March 21

House State Affairs: HO265
Moratorium on Wind, Hearings
cont'd from Friday, EW 40, 8
a.m.

Tuesday, March 22

Ag Lobbyists, Lock, Stock & Bar-
rel - Noon

IGWA Board Meeting,

Pocatello, Clarion Inn, noon
to 4 p.m.

Wednesday: March 23**Food Producers**

Idaho Grain Center, 8:30 a.m.

Food Producers Legislative

Luncheon, Yen Cheng, - Noon

Thursday: March 24

Bonneville Jefferson GWD,
Idaho Falls, Ameritel, 10
a.m.

Idaho Power IRP, Boise, 10
to 4

Friday: March 25**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 **03/17** Report out “Do Pass”
03/18 2nd to 3rd reading

<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 **03/17** Report out “Do Pass”
03/18 2nd to 3rd reading <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 **03/17** Report out “Do Pass”
03/18 2nd to 3rd reading

<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 **03/17** Report out “Do Pass”
03/18 2nd to 3rd reading

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

CALENDAR

UPCOMING EVENTS

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

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 **03/15 PASSED 35-0-0**

<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 **03/17** Report out "Do Pass"
03/18 2nd to 3rd reading

<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 **03/23** Hearing scheduled

<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 **03/17** Report out "Do Pass"
03/18 2nd to 3rd reading

<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: 03/11 PASSED 26-6-3**

03/17 To Governor

<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 03/15 Resource & Conservation 03/16 Report out "Do Pass" 03/17 2nd to 3rd reading**

<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 03/15 Resource & Conservation**

<http://legislature.idaho.gov/legislation/2011/H0273.htm>

Senate—WATER

S1077aaH-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 03/15 Report out amended to 1st reading as amended 03/16 To 2nd reading as amended 03/17 To 3rd reading as amended**

<http://legislature.idaho.gov/legislation/2011/S1077.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 **03/15** Governor signed **Session Law Chapter 61 Effective 07/01/11**

<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 **03/15** Governor signed **Session Law Chapter 62 Effective: 07/01/11**

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

03/09 To Governor **03/15** Governor signed **Session Law Chapter 63 Effective: 07/01/11**

<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 **03/15** Governor signed **Session Law Chapter 64 Effective 07/01/11**

<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>

HO250-SALES AND USE TAX/ALTERNATIVE ELECTRICITY Amends existing law to revise requirements regarding the sales tax rebate for equipment used in alternative methods of generation of electricity; and extending the sunset date to July 1, 2014.

House: 03/11 Introduce/Print **03/14** Revenue & Taxation **03/18**

<http://www.legislature.idaho.gov/legislation/2011/H0250.htm>

HO265-INDUSTRIAL WIND FARM AND WIND TURBINE MORATORIUM Adds to existing law to put a moratorium on certain industrial wind farms and wind turbines for a time certain. **House: 03/14** Introduce/Print **03/15** State Affairs **03/18-21** Hearings scheduled <http://www.legislature.idaho.gov/legislation/2011/H0265.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.

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 03/14 PASSED 59-11-0 **Senate:** 03/15 Finance 03/16 Report out “Do Pass” 03/17 2nd 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 03/14 passed 56-12-2 **Senate:** Introduce/Finance 03/16 Report out “Do Pass” 03/17 2nd 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 03/15 2nd to 3rd reading 03/16 PASSED 50-19-1 **Senate:** Introduce/Finance

<http://legislature.idaho.gov/legislation/2011/H0259.htm>

H0291-WATER RESOURCES DEPARTMENT Appropriates an additional \$170,000 to the Idaho Department of Water Resources for fiscal year 2011; appropriates and transfers \$2,465,300 from the Revolving Development Fund to the Secondary Aquifer Planning, Management, and Implementation Fund for fiscal year 2011; appropriates \$20,103,100 for fiscal year 2012; and limits the number of full-time equivalent positions to 159. **House:** 03/17 Introduce/Print 03/18 To 2nd reading

<http://legislature.idaho.gov/legislation/2011/H0291.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:** 03/14 Introduce/1st to 2nd reading 03/17 2nd to 3rd reading 03/17 PASSED 68-1-1

<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 **03/17** Report out “Do Pass” **03/18 ADOPTED 26-6-3**

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 **03/17** Report out “Do Pass” **03/18** To 3rd reading

<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