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March 28, 2011

Special points of interest:

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# 2011 Legislative Reports



**The Joint Finance and Appropriation Committee (JFAC)** resumed its work on educational and Health & Welfare funding, following a brief hiatus as the committee sought input from their respective legislative bodies. If the budget process is on track for completion, then speculation is growing that this legislative session could be ready to adjourn sine die by early April.

**HO273**, relating to bonding for ground water districts, was replaced by HO318 due to concerns raised last week by the Idaho Water Users Association (IWUA) relating to lien priority. The House Ways & Means Committee voted to print the new bill this morning; a hearing is scheduled on Tuesday in House Resource & Conservation.

Legislation to place a moratorium on wind development in Idaho was held in the State Affairs Committee last week while compromise legislation to extend a sales tax rebate was printed today in the House Revenue & Taxation. The key driver behind this legislation is how much wind does Idaho need and how much will it cost the ratepayer to develop it.

The House and Senate Resource Committees held a joint hearing last week to discuss the Sagebrush Habitat Conservation Fund, a collaborative effort between Western Watersheds Project and Ruby Pipeline LLC (a subsidiary of El Paso Corporation). To avoid potential litigation from Western Watersheds and the Oregon Natural Desert Association, El Paso created a \$15 million dollar fund, governed by an independent board, to mitigate habitat impacts from the 680 mile pipeline it is building between Wyoming and Oregon. While the pipeline is not sited in Idaho, the fund could potentially be used to buy federal grazing permits along borders shared by Idaho and states where it is sited or for other habitat mitigation in this state.

What El Paso describes as collaborative and less risky than litigation some Idaho legislators labeled as “blood money” and “precedent setting.” One legislator asked why El Paso was not working collaboratively to change federal legislation and challenged the “willing buyer/willing seller” concept for the grazing leases.

**IRP.** Idaho Power Company is moving forward with its Integrated Resource Plan. It appears that the preferred portfolio in the 2011 IRP will focus on completing transmission that will deliver wholesale market purchases from the Northwest. The IRP will be completed by June and filed with the Idaho Public Utilities Commission.

## CALENDAR

### Monday, March 28

Senate Resource & Environment,  
HO272, Rm. WW55, 1:30 p.m.

### Tuesday, March 29

Madison GWD Annual Meeting,  
Rexburg, 10 a.m.

Ag Lobbyists, Lock, Stock & Barrel - Noon

Idaho Irrigation Pumpers Association Annual Meeting, Pocatello,  
Racine Law Offices, 1:30 p.m.

House Resource & Conservation,  
HO318, Rm. EW40, 1:30 p.m.

### Wednesday: March 30

Food Producers  
Idaho Grain Center, 8:30 a.m.

IPUC Hearing/IPCO proposal to  
shift conservation expenses from  
EE Rider to PCA, Boise Commis-  
sion Hearing Room, 10 a.m.

Food Producers Legislative  
Luncheon, Yen Cheng, - Noon

### Thursday: March 31

### Friday: April 1

## 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

**April 21:** IPCO IRP meeting, Boise, 10 a.m. to 4 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 6:** "Antidegradation Guidance", IDEQ, Boise 8:30 to 12:30

**May 19:** "Antidegradation Guidance", IDEQ, Boise 8:30 to 12:30

**May 24-25:** 2011 Idaho Water Reuse Conference Boise, DoubleTree Hotel Riverside Register online at [www.deq.idaho.gov/2011IdahoWaterReuseConference](http://www.deq.idaho.gov/2011IdahoWaterReuseConference)

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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: 03/15 PASSED 35-0-0 03/21 To Governor 03/22 Governor signed Session Law Chapter 110 Effective: 07/01/11** <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 03/24 To 14th Order** <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 **03/22 Governor signed Session Law Chapter 116 Effective: 03/22/11**

<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: 03/21 PASSED 55-11-4 Senate: 03/22** Introduce/Resource & Environment **03/28** Report out “Do Pass”

<http://legislature.idaho.gov/legislation/2011/H0272.htm>

**HO273-GROUND WATER DISTRICTS** *Correction: HO272 advanced last week. HO273 was replaced by HO318* <http://legislature.idaho.gov/legislation/2011/H0273.htm>

**HO318-GROUND WATER DISTRICTS** Amends existing law relating to ground water districts to provide for the priority of certain liens, to clarify reference to certain liens, to provide that certain liens shall constitute such liens until paid and to provide that upon the sale of the property for payment of a lien the purchaser shall take the property subject to certain annual assessments and to provide that specified provisions shall not alter or affect certain liens.

**House: 03/28** Introduce/Print <http://legislature.idaho.gov/legislation/2011/H0318.htm>

## Senate—WATER

**S1077aaH-DRAINAGE DISTRICTS** 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 to 1st reading as amended **03/16** To 2nd reading as amended **03/17** To 3rd reading as amended **03/23 PASSED 66-0-4**

**03/24** Referred to 10th Order Senate concurred in House amendments **03/25** To 2nd 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 03/15 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 03/15 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 03/15 Governor signed

**Session Law Chapter 63 Effective: 07/01/11**

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

**HO056-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 03/15 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 **Held**

<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 **Held** <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:** 03/14 PASSED 59-11-0

**Senate:** 03/24 PASSED 35-0-0 <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:** 03/14 PASSED 56-12-2

**Senate:** 03/24 PASSED 35-0-0 <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:** 03/16 PASSED 50-19-1 **Senate:** 03/18 Introduce/Finance 03/21 Report out "Do Pass" 03/22 2nd to 3rd reading <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:** 03/22 PASSED 53-15-2

**Senate:** 03/23 Introduce/Finance 03/24 Report out "Do Pass" 03/25 2nd to 3rd 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:** 03/11 PASSED 34-0-1

**House:** 03/17 PASSED 68-1-1 03/23 To Governor <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. **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.

**03/24** To Secretary of State

**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