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March 5, 2007

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IIPA Annual Meeting
March 8, 2007
9:30 a.m. to 1 p.m.
Chubbuck City
Council Chambers

Legislative Reports 2007

Idaho Supreme Court Upholds Constitutionality of Conjunctive Management Rules

The Idaho Supreme Court issued its much awaited opinion on the conjunctive management rules today, March 5, 2007, overturning Judge Wood's decision. In a press release issued by the Court, the justices ruled in brief that:

1. The Conjunctive Management Rules are constitutional.
2. The procedural requirements, such as proper presumptions, burdens of proof and evidentiary standards are incorporated by reference in the Rules.
3. It is not facially unconstitutional to ask a senior water rights holder to provide information necessary to the Director's determination of whether material injury had occurred, although that does not permit shifting the burden to the the senior to re-prove or re-adjudicate his right.
4. The Director has some discretion to determine whether carryover water is reasonably necessary for future needs.
5. Pocatello did not have intervener status.

Justice Linda Trout wrote the unanimous decision. For more information, see www.isc.idaho.gov/opinions/falls.pdf

In other legislative action last week, the House State Affairs Committee printed Concurrent Resolution 28 to continue funding the Eastern Snake Plan Aquifer Management Plan. About half of the \$850,000 appropriation would be used for technical studies to support the plan while the remainder is designated for plan development. Idaho Water Resource Board estimates the entire process can be completed in 16 months.

Legislators are working behind the scenes to find an additional \$10 million for a general fund appropriation that would allow the Water Board to purchase spring user water rights mainly in the 1000 Springs area under a subordination or willing buyer/willing seller agreement. In the Water Board's opinion this is a necessary action. Spring flows are not anticipated to ever return to the artificially high levels of the 1960/1970's when many of these rights were issued.

CALENDAR

March 5—March 9,
2007

Monday, March 5:

ICIE Environmental Regulatory Committee. 10 am

Givens Pursley Conference Rm

Senate Resources &

Environment: *H86 & 87*

1:30 pm Rm 433

House Resource & Environment

Committee: 1:30 pm Rm 412

Tuesday, March 6:

Water District 01 Meeting

9 a.m.

Red Lion Inn

Idaho Falls

Ag Advisors Noon Yen Cheng

House Ag Affairs: *UI Presentation: Biodiesels & Biofumigents*

1:30 pm Rm 416

House Environment, Energy &

Technology: *S1148 Technical corrections to statute that created DEQ*

1:30 Rm 406

Senate Local Government: *H 189*

Wind Energy Producers 3 pm Rm 426

Wednesday, March 7:

Senate State Affairs: *HCR 13*

Idaho Energy Plan & HCR 25 continuing Energy Interim Committee

Food Producers of Idaho

8:30 am ISDA Conference Room

Senate Resources &

Environment: *Confirmation Hearing for IWRB appointees & DEQ Mercury Hearing*

1:30 pm Rm 433

House Resource & Environment

Committee: *SJM103 Sikes Act; Idaho Fish & Game Panel Discussion & Annual Report* 1:30 pm Gold Room

HOUSE

Water

H0085aaS IRRIGATION FACILITIES - Amended Adds to existing law relating to irrigation districts to provide certain tax exemptions for certain irrigation facilities.

House: 2/1 Introduce/Print 02/02 Revenue & Taxation 2/12 Report out with "Do Pass"

2/13 2nd to 3rd reading 2/15 PASSED - 65-0-5

Senate: 2/16 Local Government 2/28 Report out to the 14th Order for amendment 3/1 To

1st reading as amended 3/2 To 2nd reading as amended

H0086 IRRIGATION DISTRICTS - Amends existing law relating to irrigation districts to revise procedures relating to the qualification of voters.

House: 2/1 Introduce/Print 2/02 Resource & Conservation 2/8 Report out with "Do Pass"

2/9 2nd to 3rd reading 2/12 PASSED - 63-0-7

Senate: 2/13 Introduce/Resource & Environment 3/5 Report out with "Do Pass"

H0087 IRRIGATION DISTRICTS - Amends existing law relating to irrigation districts to provide for recording of notices of election; and to revise timing provisions relating to the redemption or repurchase of water rights.

House: 2/1 Introduce/Print 2/2 Resource & Conservation 2/8 Report out with "Do Pass"

2/9 2nd to 3rd reading 2/12 PASSED - 63-0-7

Senate: 2/13 Introduce/Resource & Environment 3/5 Report out with "Do Pass"

H0099aa PETROLEUM CLEAN WATER TRUST FUND - Amended

Amends existing law to increase the unencumbered balance in the Petroleum Clean Water Trust Fund before the imposition of the transfer fee shall be suspended; to increase the fund balance amount that will allow the imposition of the transfer fee to be reinstated; to allow the State Endowment Fund to invest trust fund moneys; and to provide that the Petroleum Clean Water Trust Fund Board shall determine by resolution whether the State Treasurer or State Endowment Fund shall manage the investment of funds.

House: 2/2 Introduce/Print 2/5 Business 2/14 Report out with "Do Pass" 2/15 2nd to 3rd

reading 2/21 Returned to Business 2/26 Report out to General Orders 2/27 Report out

amendments to engross 2/28 1st to 2nd reading as amended 3/1 2to 3rd reading as amended

H0153 WATER AND SEWER DISTRICTS - Adds to existing law relating to water and sewer districts to provide for the receipt of services by owners of real property within a district; and to provide for the treatment of applications for new or additional services made by owners of real property annexed into a district.

House: 2/9 Introduce/Print 2/12 Local Government

H0170 WATER RIGHTS - Amends existing law relating to the adjudication of water rights to revise provisions relating to the truth and accuracy of statements contained in notice of claim or amended notice of claim.

House: 2/12 Introduce/Print 2/13 Resource & Conservation 2/15 Report out with "Do

Pass" 2/16 2nd reading 2/22 PASSED - 66-2-2

Senate: 2/23 Introduce/Resource & Environment 3/9 *Hearing scheduled*

H0230 GEOTHERMAL RESOURCES - Amends existing law relating to geothermal resources to revise filing fee provisions; to revise procedures relating to the processing of applications and investigations; to revise requirements relating to the provision of good and sufficient security; and to authorize the director to accept a comprehensive security.

House: 2/22 Introduce/Print 2/23 Resource & Conservation 2/28 Report out with "Do

Pass" 3/1 2nd to 3rd reading 3/2 PASSED - 66-0-4

Water cont'd

H0241 WATER DISTRICTS - Amends existing law to revise water district expense provisions relating to costs of the Department of Water Resources for administration of certain water rights; and to provide for an appropriation request. This legislation addresses concerns about equitably assessing water administration in the various water districts of the conjunctively managed water connected to the Eastern Snake Plane Aquifer. The Director of the Department of Water Resources, in consultation with an advisory committee from various water users, can establish a factor to apportion the Department's costs between surface, groundwater, consumptive and non-consumptive diversions. In addition, it provides for an IDWR general fund appropriation request to account for water uses not presently subject to water district assessments. The fiscal impact for compensation of the other uses could be \$287,500 for fiscal year 2008. **House:** 2/26 Introduce/Print 2/27 Resource & Conservation 3/2 Report out with "Do Pass" to 2nd reading

HCR012 NATURAL RESOURCE ISSUES - STUDY - 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: 2/8 Introduce/Print 2/12 3rd reading 2/14 3rd rdg - PASSED - 70-0-0

Senate: 2/15 Introduce/Resource & Environment 2/27 Report out with "Do Pass" to 10th Order 2/28 ADOPTED - 34-0-1 3/2 Enrolled/Speaker signed

HCR028 AQUIFER MANAGEMENT PLAN - Stating findings of the Legislature and requesting the Idaho Water Resource Board to expeditiously pursue, with support from the Idaho Department of Water Resources, development of a comprehensive aquifer management plan as documented in the Eastern Snake River Plain Comprehensive Aquifer Management Plan framework; and recommending approval of funding to the Idaho Water Resource Board for technical studies, facilitation services and interim measures as described in the framework plan. **House:** 3/2 Introduce/Print

HOUSE—Energy

H0014 MOTOR FUELS - TAXATION - BIODIESEL - Amends existing law relating to the motor fuels tax to provide a definition for "biodiesel and biodiesel blends"; and to include biodiesel and biodiesel blends in products subject to the petroleum transfer fee. **House:** 1/16 Introduce/Print 1/17 Revenue/Taxation 1/24 Referred to Transportation 2/7 PASSED - 68-0-2 **Senate:** 2/8 Introduce/Local Government 2/14 Reported out with a "Do Pass" 2/15 2nd to 3rd reading 2/20 PASSED - 35-0-0 2/26 To Governor

H0030 CITIES - ELECTRIC GENERATION - LAW Adds to existing law to authorize cities to participate as joint owners or power purchasers in joint electric generation and transmission projects; and to provide required terms and provisions for participation agreements and related matters. **House:** 1/19 Introduced/Print 1/22 Environment, Energy & Technology 1/25 Report out with do/pass 1/26 2nd to 3rd reading 1/31 PASSED - 67-0-3 **Senate:** 2/1 Introduced/State Affairs 2/9 Report out with a "Do Pass" 2/12 3rd reading 2/16 PASSED - 35-0-0 2/22 To Governor 02/23 Governor signed **Session Law Chapter 28 Effective: 02/23/07**

H0032aaS ENERGY RESOURCES AUTHORITY - Amends existing law to allow the Idaho Energy Resources Authority to manage and operate distribution facilities; and to allow the State Treasurer to invest in fixed or variable rate bonds of the authority so long as such bonds are not less than investment grade. **House:** 1/19 Introduce/Print 1/22 Environment, Energy & Technology 1/25 Report out with do/pass 1/26 2nd reading - to 3rd reading 1/31 PASSED - 66-0-4 **SENATE:** 2/1 Introduce/State Affairs 2/15 Report out to the 14th Order for amendments 2/26 Report out amended 2/27 1st to 2nd reading as amended 2/28 2nd to 3rd reading as amended 3/1 PASSED - 34-0-1 AYES

H0065 STATE LANDS - Amends existing law to revise provisions relating to the lease of state lands.
House: replaced by H0130

HOUSE—Energy cont'd

H0109 LIQUEFIED PETROLEUM GAS - Amends existing law relating to the Idaho Liquefied Petroleum Gas Public Safety Act to require a liquefied petroleum gas facility to have a certificate issued by an insurance company authorized to do business in Idaho as proof that a general liability policy of a specified sum is in effect; and to revise terminology.

House: 2/6 Introduce/Print 2/7 Business Committee 2/22 Report out with "Do Pass" 2/23 2nd to 3rd reading 2/27 PASSED - 64-0-6

Senate: 2/28 Introduce/Commerce & Human Resources

H0130 STATE LANDS - Amends existing law to revise provisions relating to the lease of state lands.

House: 2/8 Introduce/Print 2/9 2nd reading 2/15 PASSED - 65-0-5 **Senate:** 2/16 Introduce/State Affairs 2/27 Report out to 14th Order for amendments

The primary intent of this proposed legislation is to amend the definition of "commercial purposes" so that wind projects could qualify as a commercial or industrial enterprises as defined by the state land board. In addition, subject to approval of the state land board, it qualifies agricultural lands eligible for the federal Conservation Reserve Enhancement Program (CREP), to be eligible for leases in excess of ten years so that they may qualify for the fifteen year requirement of CREP.

H0137 BUILDING CODES - Amends existing law to provide a date change regarding various building codes; and to provide for adoption of the 2006 International Residential Energy Conservation Code published by the International Code Council.

House: 2/8 Introduce/print 2/9 Environment, Energy & Technology 02/23 Report out "Do Pass" 2/26 2nd to 3rd reading 2/28 PASSED - 70-0-0

Senate: 3/1 Introduce/Commerce & Human Resources

H0149 RENEWABLE FUEL - Adds to existing law to provide for the "Idaho Renewable Fuel Consumer Choice and Retailer Right to Know Act of 2007"; to provide requirements for agreements or contracts between a motor fuel distributor or retailer; to provide that certain provisions of a franchise agreement or contract shall be null and void; and to provide penalties.

House: 2/9 Introduce/Print 2/12 Transportation

H0150 ALTERNATIVE FUEL - Adds to existing law to provide the Rural Idaho Economic Development Biofuels Infrastructure Matching Grant Fund; and to provide procedures for approving grant applications.

House: 2/9 Introduce/Print 2/12 Held at Desk 2/15 Transportation 2/23 Report out with "Do Pass" 2/26 2nd to 3rd reading 2/28 PASSED - 69-1-0

Senate: 3/1 Introduce/Transportation

H0151 ALTERNATIVE FUEL - Adds to existing law to create the Idaho Biofuels Supply Enhancement Program in the Department of Agriculture.

House: 2/9 Introduce/Print 2/12 Transportation

H0152 ELECTRICITY TRANSMISSION - Adds to and amends existing law to provide authority of the Public Utilities Commission regarding siting of electric transmission facilities in a National Interest Electric Transmission Corridor within Idaho.

House: 2/9 Introduce/Print 2/12 Environment, Energy & Technology 2/16 Report out with "Do Pass" 2/19 2nd to 3rd reading 2/22 PASSED - 67-0-3

Senate: 2/23 Introduction/State Affairs

H0154 ENERGY FACILITIES - Adds to existing law to provide that a city or county may request advice from state agencies regarding an energy facility; to provide state department responsibilities; to provide for consideration of an application; to provide prohibited factors for consideration; and to provide for public hearings and comments.

House: 2/9 Introduce/Print 2/12 Environment, Energy & Technology 2/23 Report out with "Do Pass" 2/26 2nd 3rd reading 2/28 PASSED - 51-19-0 **Senate:** 3/1 Introduce/Local Government

H0156 OILSEED RESEARCH AND DEVELOPMENT - Amends existing law to provide for the Idaho Oilseed Research and Development Act; to replace references to canola and rapeseed with references to oilseed; and to revise provisions relating to the Idaho Oilseed Commission.

House: 2/9 Introduce/Print 2/12 Agricultural Affairs 2/15 Report out with “Do Pass” 2/16 2nd to 3rd reading
2/20 PASSED - 68-0-2

Senate: 2/21 Introduction/Agriculture Affairs 2/28 Report out with “Do Pass” 3/1 2nd to 3rd reading

H0169 HIGH-PERFORMANCE PUBLIC BUILDINGS - The purpose of this legislation is to require all future state funded building construction and major renovations to meet recognized high performance standards. State agencies will monitor and document annual energy costs and savings for these buildings and, with the assistance of the Permanent Building Fund Advisory Council, will report to the governor and the legislature. **House:** 2/9 Introduce/Print 2/12 Environment, Energy & Technology 2/15 Held to time certain for amendments from sponsor

H0189 WIND ENERGY - Amends and adds to existing law relating to producers of electricity by means of wind energy to provide for a wind energy tax; to provide for the filing of operator's statements by producers of electricity by means of wind energy; to provide for the computation, allotment and apportionment of tax due from producers of electricity by means of wind energy by the State Tax Commission and to require certain notifications; to authorize county treasurers to collect specified taxes from producers of electricity by means of wind energy; to provide for tax liens on property of producers of electricity by means of wind energy; to provide for the assessment of nonoperating property of producers of electricity by means of wind energy; and to provide an exemption from taxation for certain operating property of producers of electricity by means of wind energy.

House: 2/13 Introduce/Print 2/14 Revenue & Taxation 2/16 Report out with “Do Pass” 2/19 2nd to 3rd reading
2/22 PASSED - 69-0-1

Senate: 2/23 Introduce/Local Government

H0209 PUBLIC UTILITIES COMMISSION - Amends existing law to provide an increase in salary for members of the Public Utilities Commission commencing July 1, 2007. **House:** 2/19 Introduce/Print 2/20 State Affairs

H0230 GEOTHERMAL RESOURCES - Amends existing law relating to geothermal resources to revise filing fee provisions; to revise procedures relating to the processing of applications and investigations; to revise requirements relating to the provision of good and sufficient security; and to authorize the director to accept a comprehensive security.

House: 2/22 Introduce/Print 2/23 Resource & Conservation 2/28 Report out with “Do Pass” 3/1 2nd to 3rd reading
3/2 PASSED - 66-0-4

HCR013 IDAHO ENERGY PLAN - Stating findings of the Legislature and adopting the Idaho Energy Plan, approved by the Legislative Council Interim Committee on Energy, Environment and Technology on January 26, 2007, as the State Energy Plan. **House:** 2/9 Introduce/Print 2/12 Environment, Energy & Technology 2/21 Report out with “Do Pass”

2/22 2nd to 3rd reading 2/26 ADOPTED - 54-14-2

Senate: 2/27 Introduce/State Affairs

HCR014 FOSSIL FUEL DEPENDENCE - Stating findings of the Legislature and urging support of the enactment of policies and programs to reduce Idaho's dependence on fossil fuels, accelerate the development of clean, economical energy resources and fuel-efficient technologies; and to support efforts of our local communities to exercise property stewardship and to take action aimed at reducing greenhouse gases. **House:** 2/9 Introduce/Print 2/12 Environment, Energy & Technology 2/14 Held in committee pending hearing on Draft State Energy Plan

HOUSE—Energy cont'd

HCR025 ENERGY, ENVIRONMENT AND TECHNOLOGY COMMITTEE - Stating findings of the Legislature and authorizing an interim committee on Energy, Environment and Technology to monitor the Integrated State Energy Plan and other issues.

House: 2/22 Introduce/Print 2/23 To 2nd reading 2/26 2nd to 3rd reading 2/27 **ADOPTED - 69-0-1**

Senate: 2/28 Introduce/State Affairs

SENATE—WATER

S1100 WATER TREATMENT - PERPETUAL - Adds to existing law relating to water quality to provide that the Director of the Department of Environmental Quality shall not allow perpetual water treatment; and to provide an exception. **Senate:** 2/8 Introduce/Print 2/9 Resource & Environment

S1101 WATER QUALITY - Adds to existing law relating to water quality to provide that the director of the Department of Environmental Quality shall not allow perpetual water treatment; and to provide an exception.

Senate: 2/8 Introduce/Print 2/9 Resource & Environment

S1136 WOOD RIVER - MINIMUM STREAM FLOW - Adds to existing law to provide for minimum stream flow water rights in designated areas of the Big Wood River and the Little Wood River; to provide for the distribution of donated water; to provide for certain donated water rights; to provide for a local committee; and to provide for the collection of water district expenses. **Senate:** 2/12 Introduce/Print 2/13 Resource & Environment 3/1 Report out to the 14th Order for amendments

SENATE—ENERGY

S1041 ENERGY FACILITY SITING - Adds to existing law relating to major energy facility siting to create a State Energy Facility Planning Committee; to provide membership; to provide for the state energy facility siting management plan; to provide for permits and licenses; to provide for expansion, enlargement or alteration of energy facilities; to provide for review and siting licenses; and to provide for the creation of site review panels. **SENATE:** 1/19 Introduce/Print 1/22 State Affairs *Withdrawn by sponsor (Stennett) Other legislation is being drafted that could be introduced later in session*

S1112 GASOHOL - BIODIESEL - Amends existing law to delete the fuel tax deduction authorized for gasohol and biodiesel. **Senate:** 2/9 Introduce/Print 2/12 Transportation

SJM107 GLOBAL NUCLEAR ENERGY PARTNERSHIP - Stating findings of the Legislature and expressing support of the goals of the Global Nuclear Energy Partnership, encouraging the Bush Administration, the United States Congress and the Department of Energy to commit and provide the funding necessary to complete the Global Nuclear Energy Partnership initiative, which is critical to the long-term well-being of the United States, and concurring that Idaho is the most suitable and preferred site for the Global Nuclear Energy Partnership and other advanced nuclear and energy security research. **Senate:** 3/1 Introduce/Print 3/2 To 10th Order

OF OTHER INTEREST

H0261 INCOME TAX CREDIT - Adds to existing law to provide an income tax credit for technology investment; and to provide criteria to be eligible for the credit. *Bioscience Tax Incentive* **House:** 3/2 Introduce/Print

H0262 LAND CONSERVATION - Adds to existing law to provide an individual and corporate income tax credit for voluntary conservation of ranch, farm and forest land; to provide limitations; and to allow for transfer of the tax credit.

House: 3/2 Introduce/Print

S1148 ENVIRONMENTAL MONITORING STATIONS - Amends and repeals existing law relating to the environment to revise nonclassified employment provisions regarding the Department of Environmental Quality; to provide additional powers and duties of the director of the Department of Environmental Quality; and to repeal provisions relating to radiation and nuclear material, PCB waste disposal and coordination of programs regarding the Idaho National Laboratory.

Senate: 2/12 Introduce/Print 2/13 Health & Welfare 2/20 Report out with "Do Pass" 2/21 2nd to 3rd reading 2/28 PASSED - 35-0-0

House: 3/1 Introduce to Environment, Energy & Technology 3/6 *Hearing scheduled*

New Appointees

Governor Otter has made the following appointments. All appointments are subject to Senate confirmation.

The Senate Resource & Environment Committee will hold hearings on Wednesday for the following appointees: Gary Chamberlain, Charles Cuddy, Robert "Bob" Graham, and Jerry Rigby to the Idaho Water Resource Board