

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 171

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1 RELATING TO FISHWAYS; AMENDING SECTION 36-906, IDAHO CODE, TO PROVIDE THAT  
2 SPECIFIED LAW REGARDING FISHWAYS SHALL NOT APPLY TO THE HELLS CANYON HY-  
3 DROELECTRIC PROJECT.  
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5 Be It Enacted by the Legislature of the State of Idaho:

6 SECTION 1. That Section 36-906, Idaho Code, be, and the same is hereby  
7 amended to read as follows:

8 36-906. FISHWAYS IN DAMS -- SCREENS IN DIVERSIONS -- REMOVAL OF UNUSED  
9 DAMS -- PENALTY. (a) Fishways Required. No person shall construct or main-  
10 tain a dam or other obstruction which restricts the free and uninterrupted  
11 passage of fish in any stream in this state without a proper fishway therein.  
12 Such fishway shall be installed and maintained at the owner's expense and  
13 shall be of a sufficient kind and capacity as to accommodate seasonal move-  
14 ments of fish up and down the stream. Said fishway shall be constructed ac-  
15 cording to plans and specifications approved by the director and such plans  
16 shall be incorporated into the overall design of said dam prior to the start  
17 of construction. The director, upon request, shall furnish design criteria  
18 for such fishway construction. The provisions of this subsection do not ap-  
19 ply to the Hells Canyon hydroelectric project.

20 (b) Screening of Diverted Waters. No person shall operate any mill,  
21 factory, power plant or other manufacturing concern run by water power and  
22 having either a head or tail race, or for any person to maintain and operate  
23 any ditch, flume, canal or other water conduit receiving or taking water from  
24 any stream or lake in this state without first installing and maintaining a  
25 suitable screen or other device to prevent fish from entering therein; said  
26 screens shall be installed and maintained in a manner and to such specifica-  
27 tions and at such locations as may be required by the director and at the ex-  
28 pense of the owner or operator of such diversion.

29 (c) Notification of Need -- Screens or Fishways. When a need is found  
30 for screens or fishways in planned or existing diversions, dams or obstruc-  
31 tions, the director shall order in writing the construction and installation  
32 of such screens or fishways. Said order shall specify the type, design and  
33 location of said screen or fishway and the time within which said screen or  
34 fishway must be installed. Said time shall not be less than thirty (30) days  
35 nor more than six (6) months from the date of service of said order.

36 (d) Removal of Existing Structures -- Removal of Abandoned Structures.  
37 When it is found that dams or other obstructions which have been placed in  
38 the rivers or streams of this state have been abandoned or are not serving  
39 any useful purpose and it appears the same are detrimental to the fishery re-  
40 source, the director may cause the removal of same in such manner as he may  
41 see fit.