

IN THE HOUSE OF REPRESENTATIVES

HOUSE CONCURRENT RESOLUTION NO. 62

BY WAYS AND MEANS COMMITTEE

A CONCURRENT RESOLUTION

1 A CONCURRENT RESOLUTION
2 STATING FINDINGS OF THE LEGISLATURE AND REQUESTING THAT THE GOVERNOR AND
3 THE ATTORNEY GENERAL ENTER INTO NEGOTIATIONS WITH THE COEUR D'ALENE
4 TRIBE AND THE UNITED STATES TO RESOLVE ITS FEDERAL RESERVED WATER RIGHT
5 CLAIMS, IF POSSIBLE.

6 Be It Resolved by the Legislature of the State of Idaho:

7 WHEREAS, the Second Regular Session of the Fifty-ninth Idaho Legisla-
8 ture directed the director of the Idaho Department of Water Resources to file
9 a petition for the commencement of an adjudication "within the terms of the
10 McCarran amendment, 43 U.S.C. section 666, of the water rights from surface
11 water and ground water sources" in the Coeur d'Alene-Spokane River Basin;
12 and

13 WHEREAS, the State of Idaho filed a petition for the commencement of a
14 general adjudication of all rights "arising under state or federal law to the
15 use of surface and ground waters from the Coeur d'Alene-Spokane basin water
16 system and the administration of such rights," in the District Court for the
17 Fifth Judicial District of the State of Idaho, in and for the County of Twin
18 Falls on July 8, 2008; and

19 WHEREAS, the District Court for the Fifth Judicial District of the State
20 of Idaho, in and for the County of Twin Falls issued its Commencement Or-
21 der for the Coeur d'Alene-Spokane River Basin Adjudication (CSRBA), Case No.
22 49576, on November 12, 2008; and

23 WHEREAS, the United States has filed federal reserved water right
24 claims on behalf of the Coeur d'Alene Tribe of the Coeur d'Alene Indian
25 Reservation in the CSRBA; and

26 WHEREAS, the State of Idaho may oppose certain federal reserved water
27 right claims as filed by the United States on behalf of the Coeur d'Alene
28 Tribe, which may affect private water rights or state sovereignty; and

29 WHEREAS, it has been the policy of the Idaho Legislature to seek to re-
30 solve tribal federal reserved water right claims through negotiated agree-
31 ments, if possible; and

32 WHEREAS, the CSRBA will involve consideration of numerous water rights
33 and legal issues that may be capable of resolution without extensive and ex-
34 pensive litigation; and

35 WHEREAS, negotiation of federal reserved water right claims in the
36 CSRBA provides an opportunity for local participation in developing solu-
37 tions tailored to the unique characteristics of the Coeur d'Alene-Spokane
38 River Basin and its Idaho stakeholders; and

39 WHEREAS, representatives of the United States and the Coeur d'Alene
40 Tribe of the Coeur d'Alene Indian Reservation have expressed their will-
41 ingness to enter into full, frank and honest negotiations between the Coeur
42 d'Alene Tribe and the State of Idaho, with an opportunity for participation

1 by affected water users, to resolve the nature and extent of the tribe's re-
2 served water rights within the CSRBA; and

3 WHEREAS, members of the Idaho Legislature from districts affected by
4 the CSRBA have expressed support for negotiations.

5 NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Ses-
6 sion of the Sixty-second Idaho Legislature, the House of Representatives and
7 the Senate concurring therein, that we request the State of Idaho, by and
8 through the Governor and the Attorney General, to attempt to negotiate with
9 the United States and the Coeur d'Alene Tribe of the Coeur d'Alene Indian
10 Reservation a resolution of the nature and extent of the reserved water right
11 claims of the Coeur d'Alene Tribe.

12 BE IT FURTHER RESOLVED that the Governor and the Attorney General shall
13 defend Idaho's sovereignty over its water resources and protect from injury
14 existing private water rights in such negotiations.

15 BE IT FURTHER RESOLVED that any proposed settlement must be ratified by
16 the Legislature of the State of Idaho; and

17 BE IT FURTHER RESOLVED that the Governor and the Attorney General, fol-
18 lowing consultation with legislators from Legislative Districts 2, 3, 4, 5
19 and 7 shall develop a process, including notice, for equal and open partici-
20 pation in the negotiations by claimants with valid Idaho water rights in the
21 CSRBA, or representatives thereof; and

22 BE IT FURTHER RESOLVED that the Governor and the Attorney General should
23 report to the Speaker of the House of Representatives and the President
24 Pro Tempore of the Senate regarding the status of negotiations and that the
25 Speaker of the House of Representatives and the President Pro Tempore of the
26 Senate shall keep members of the Legislature informed about the negotia-
27 tions.