

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, March 15, 2017

TIME: 1:15 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Vick, Senators Siddoway, Brackett, Heider, Bayer, and Stennett

ABSENT/ EXCUSED: Senators Johnson and Jordan

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Bair** called the Senate Resources and Environment Committee (Committee) meeting to order at 1:15 p.m.

SJM 102 **Senator Brackett** presented **SJM 102** and said it is directed to the U.S. Congress. **Senator Brackett** said the Joint Memorial has a multi-prong approach. The first prong is that Idaho will continue to seek legislation that would give a ten year moratorium on listing sage-grouse. That would provide time to implement the State's Sage-Grouse Conservation Plan and also time to evaluate its effectiveness. **Senator Brackett** stated that **SJM 102** also asks Congress not to fund or implement federal land use plan amendments for a period of ten years if they are inconsistent with the State's Sage-Grouse Conservation Plan.

Senator Brackett said the second prong pertains to legal issues. The State filed a lawsuit challenging the federal agencies opposing the State's plan, and that added additional layers to the State Plan. The Idaho State Plan designated three zones: priority, important, and general. The Bureau of Land Management (BLM) imposed a one-size fits all top-down management by overlaying a new designation called "focal areas." The focal areas added new restrictions that the State and the U.S. Fish and Wildlife Service said were not necessary. The focal areas included most all of the primary habitat and some of the important habitat areas. The lawsuit was dismissed for lack of standing, and was without prejudice; it is still subject to appeal. There are some indications that with the new administration, the federal agencies may have some desire to enter into settlement negotiations. **Senator Brackett** said the Legislature may want to encourage that.

In the third prong, the BLM and the U.S. Forest Service (USFS), in their action in the last year or two, particularly in making their land use plan amendments and going forward with implementation, are essentially making an end run with their rangeland health determinations. The agencies are using Standard 8 entitled "Threatened and Endangered Species", to make rangeland health determinations. With that, the agencies are making changes in management plans that do not conform with Idaho's State Sage-Grouse Plan. **Senator Brackett** said this Memorial speaks to stop that loophole that currently exists.

Senator Stennett asked about the lawsuit that was dismissed and was subject to appeal. She inquired if it would be appealed by the State. **Senator Brackett** replied it would be appealed by the State. **Senator Stennett** said if it should go to court, shouldn't there be a fiscal note. **Senator Brackett** said there is a litigation fund that the Speaker and the Pro Tem have control over that would be available. It is not a new appropriation and if the fiscal note needs changed, that could be done. **Senator Brackett** said he would need a higher ruling to do that. **Senator Stennett** inquired if what Senator Brackett is referring to is the Constitutional Defense Fund. **Senator Brackett** said there are two funds; one is the Constitutional Defense Fund and the second fund is called the Legislative Defense Fund and that is where the sage-grouse legal money was placed.

Vice Chairman Vick asked how recent was the court ruling and why was this Memorial introduced at such a late date in the Session. **Senator Brackett** responded by saying the court ruling is recent. The reason for the late date of introduction is one of several; one reason was a resolution last year. Another reason was just last week, **Senator Brackett** said he had a conversation with the Gentleman on the Second Floor and asked if there was anything that could be done in the Governor's efforts with the federal agencies regarding sage-grouse. The Governor replied, "Yes, get me a Memorial." **Senator Brackett** said that pretty well sums it up.

Senator Stennett asked that Sam Eaton, from the Office of Species Conservation (OSC), speak to this issue. **Mr. Eaton**, legal counsel for OSC, said that they did receive a ruling from the federal district in Washington D.C. in early January 2017 dismissing the Governor's claims on a procedural standing basis. **Senator Stennett** then asked, in the interim, if OSC is following the State Plan until the case is actually settled and is there a portion of the State Plan that OSC can move forward with. **Mr. Eaton** replied that there are aspects of the Governor's plan that OSC is able to move forward with and that are not in direct conflict with the land use plans. The federal plan did not follow the proper protocol. With the new administration, **Mr. Eaton** said OSC would pursue all legal options.

MOTION: **Senator Siddoway** moved that **SJM 102** be sent to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **voice vote**. Senator Brackett will be the floor sponsor.

ADJOURNED: There being no further business at this time, **Chairman Bair** adjourned the meeting at 1:30 p.m.

Senator Bair
Chair

Juanita Budell
Secretary