

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, March 07, 2018

TIME: 1:30 P.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: None

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 meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m.

MINUTES APPROVAL: **Senator Bayer** moved to approve the Minutes of February 21, 2018. **Vice Chairman Siddoway** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL REAPPOINTMENT: **Vice Chairman Siddoway** moved to send the gubernatorial reappointment of Brent Baker to the Lake Pend Oreille Basin Commission to the floor with recommendation that he be confirmed by the Senate. **Senator Heider** seconded the motion. The motion carried by **voice vote**. Senator Keough will be the floor sponsor.

GUBERNATORIAL REAPPOINTMENT: **Senator Brackett** moved to send the gubernatorial reappointment of Marc Brinkmeyer to the Lake Pend Oreille Basin Commission to the floor with recommendation that he be confirmed by the Senate. **Senator Vick** seconded the motion. The motion carried by **voice vote**. Senator Keough will be the floor sponsor.

H 550aa **Paul Arrington**, Executive Director, Idaho Water Users Association (IWUA), presented **H 550aa** on behalf of Norm Semanko who was unable to attend. This bill, sponsored by Mr. Semanko on behalf of clients, is a straightforward bill. The legislation proposes to amend Idaho Code § 42-3109, which provides authority to the Director of the Idaho Department of Water Resources (IDWR) to remove a flood control district commissioner from office under certain circumstances. The Director of IDWR has sole authority to appoint the commissioners; however, under the current code, the Director has no authority to remove a commissioner, even if circumstances warrant removal. **Mr. Arrington** stated this legislation would address that oversight.

Senator Jordan said she does not have a problem with the bill, but would like clarification regarding the term "neglect of duty," found on line 41. **Mr. Arrington** said he would consult with Mr. Semanko and provide an answer to her.

MOTION: **Vice Chairman Siddoway** moved to send **H 550aa** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**. Senator Stennett will be the floor sponsor.

HJM 11

Paul Arrington, IWUA, said this joint memorial urges the United States Department of State to support certain positions in negotiations with Canada regarding future implementation of the Columbia River Treaty. This treaty was originally implemented in 1964 to provide for the coordinated management of the Columbia River. The original term of the treaty expires in 2024. In southern Idaho, the Snake River is the largest tributary of the Columbia River. Prior to the treaty, the Columbia River often overwhelmed and flooded the communities along its path. Under the terms of the treaty, dams were built and are managed to control the flow of the river.

Mr. Arrington stated there are two purposes of the treaty: to manage and maximize flood control protection and to increase power generation throughout the Columbia River Basin. Presently, the treaty provides for nearly nine million acre feet of guaranteed flood control space in Canadian reservoirs. In 2024, this guaranteed flood control management process shifts to what the treaty terms "called upon" flood control provisions.

The United States entity asserts that "called upon" operations apply only to dams in the Columbia River Basin specifically authorized for "system-wide flood control." The Canadian entity takes the position that all United States storage projects in the Columbia River Basin must be utilized for system-wide flood control before Canadian reservoirs are called upon to provide any flood control space. **Mr. Arrington** said, in Idaho, they are concerned with Brownlee, Dworshak, and Albeni Falls. Idaho economy relies heavily on its river systems each year. Idaho's rivers and reservoir systems contribute billions of dollars to Idaho's economy in the form of agriculture, hydropower, recreation, flood prevention, fisheries, navigation, transportation, and other uses.

Mr. Arrington said altered management of these systems could significantly affect Idaho's economy. This joint memorial calls upon the United States to recognize and protect the authorized uses of Idaho's facilities in negotiating a modernized Columbia River Treaty. The joint memorial speaks to other issues as well, in particular, a hydropower issue referred to as the Canadian entitlement.

DISCUSSION:

Senator Stennett stated she has followed the Columbia River Treaty for several years and inquired as to the last time the treaty was reviewed, as indicated on line 15. **Mr. Arrington** said the United States and Canadian reports were issued about the same time, in late 2013, recognizing that there were opportunities to improve or modernize the treaty. **Mr. Arrington** stated as far as he understands, neither country has provided any further conclusions.

TESTIMONY:

Marie Calloway Kellner, Water Associate, Idaho Conservation League, testified in opposition to **HJM 11**. She asked that **HJM 11** be held in Committee so that she could have time to work with Mr. Arrington to amend it. **Ms. Kellner** stated it sends a strong message in a negative direction, and by placing Idaho at odds with the majority of the negotiation parties, it undercuts Idaho's ability to be taken seriously and professionally at the Columbia River Treaty renegotiation table.

Ms. Kellner said, contrary to the memorial's statement on page 2, paragraph 5, "ecosystem restoration" is not an intentionally vague term. It is an umbrella term that encompasses multiple possibilities. **Ms. Kellner** said in this instance, it generally might be paraphrased as "prioritizing the health of the Columbia and its tributaries." In short, ecosystem restoration would allow the treaty to attempt to incorporate: higher and more stable headwater reservoir levels; higher river flows in dry years; lower water temperatures later in the summer, which would benefit cold water fish; reconnected floodplains throughout the basin; and an adaptive suite of river operations that could respond to the great variety of changing climactic conditions experienced in Idaho and around the world.

Ms. Kellner said while the memorial states concern that the treaty could undermine Idaho and federal environmental laws, those laws are not threatened by the inclusion of ecosystem restoration. Instead, ecosystem restoration would mean that more entities have a responsibility to help Idaho's Endangered Species Act (ESA) listed fish species. By taking the firm stance against ecosystem restoration as articulated in this memorial, the State would be giving Canada the proverbial "get out of jail free card" when it comes to doing their part to restore these species.

Ms. Kellner said another compelling reason to acknowledge the importance of ecosystem restoration is economics. The most recent economic study conducted on this matter found that including ecosystem restoration in a renegotiated Columbia River Treaty would contribute no less than \$1.3 billion to the Northwest's economy: more than half a billion of which is attributed to Idaho's recreational economy in the coming decades.

TESTIMONY:

Will Hart, Executive Director, Idaho Consumer-Owned Utilities Association, testified in support of the joint memorial. He represents 11 rural electric cooperatives and 11 municipal power companies that provide power to over 130,000 Idahoans across the State. **Mr. Hart** said they have been working closely with the Idaho Water Users Association on **HJM 11**. For decades, the Columbia River Treaty between the United States and Canada worked to enhance both the flood control and power needs of the two nations. But today, that power provision of the treaty is grossly imbalanced, with official government estimates showing Canada receiving almost ten times the benefit the Northwest interests receive from coordinated system operations. The latest report showed that imbalance to be between \$100 to \$300 million a year. That imbalance has caused a great inequity to public power consumers in Idaho and the Northwest.

Mr. Hart said, without renegotiation of the hydropower provisions of the treaty, the region faces a loss of approximately \$1 million every two to three days, as well as the associated carbon-free energy use. **HJM 11** accurately and definitively expresses the United States' position on renegotiation of the Columbia River Treaty and **Mr. Hart** stated the Association he represents stands with the Idaho Water Users Association and over 18 other stakeholder groups throughout the State in asking for the Committee's do pass recommendation.

Mr. Hart said that a lot of things have changed since 1964. Environmental laws that govern the United States were not in place when the treaty was negotiated. Currently, environmental laws include the Clean Water Act, and the federal biological opinion which costs constituents tens of millions of dollars for improvements on that system. **Mr. Hart** stated that if you have public power in your district, 30 cents on every dollar of the power bill pays for mitigations costs. The United States paid Canada approximately \$60 million for flood control, so when the treaty is renegotiated, Canada will be asking the United States to pay for flood control again through taxpayer dollars.

DISCUSSION:

Senator Stennett inquired as to who owns the dams - Canada or the United States - as both nations have paid for flood control for many years. **Mr. Hart** said under the agreement made in the treaty, those dams belong to Canada. The Bonneville Power Administration (BPA), one of the entities to negotiate with Canada, believes that the imbalance needs to align with current funds and value. **Senator Stennett** asked if for some reason parties are not able to negotiate a deal with Canada to take care of flood control, would Mr. Hart's utilities be prepared for floods if they are not mitigated in the current fashion. **Mr. Hart** replied that is why renegotiation is so important, because of the flood control portion.

Mr. Arrington said he wished to clarify a comment regarding the ecosystem function. He said when that issue is discussed, it is in regard to fish issues. Canada has addressed that issue and said they are domestic issues. The United States deals with its issues separately.

MOTION: **Senator Vick** moved to send **HJM 11** to the floor with a **do pass** recommendation. **Vice Chairman Siddoway** seconded the motion. The motion carried by **voice vote**. **Senators Stennett** and **Jordan** asked to be recorded as voting **nay**. Vice Chairman Siddoway will be the floor sponsor.

HJM 14 **Vice Chairman Siddoway** presented **HJM 14**. This joint memorial urges Congress to introduce legislation to oppose any federal land designations that restrict land use, unless approved by the United States Congress and the Idaho Legislature. It also urges Congress to ensure federal agencies follow the coordination process as directed by law.

Earlier, **SJM 103** was introduced and the timber industry expressed concerns by the time it got to the House.

HJM 14 recognizes the Antiquities Act which was passed by Congress in 1906 to protect significant natural, cultural, or scientific features. It has been used more than one hundred times. The Wilderness Act, passed in 1964, has designated nearly 110 million acres of federal wildlands as official wilderness. The members of the Second Regular Session of the 64th Idaho Legislature oppose any new federal national monument designations or further designations of wilderness without the approval of the United States Congress and the Idaho Legislature.

TESTIMONY: **Braden Jensen**, Idaho Farm Bureau, testified in support of **HJM 14** and asked for a do pass recommendation from the Committee.

MOTION: **Senator Johnson** moved to send **HJM 14** to the floor with a **do pass** recommendation. **Senator Bayer** seconded the motion. The motion carried by **voice vote**. **Senators Stennett** and **Jordan** asked to be recorded as voting **nay**. Vice Chairman Siddoway will be the floor sponsor.

ADJOURNED: There being no further business at this time, **Chairman Bair** adjourned the meeting at 2:30 p.m.

Senator Bair
Chair

Juanita Budell
Secretary