

MINUTES
HOUSE RESOURCES & CONSERVATION COMMITTEE

DATE: Tuesday, February 19, 2019

TIME: 1:30 P.M.

PLACE: Room EW40

MEMBERS: Chairman Gibbs, Vice Chairman Gestrin, Representatives Moyle, Shepherd, Wood, Boyle, Vander Woude, Mendive, Kauffman, Blanksma, Addis, Lickley, Moon, Raybould, Erpelding, Rubel, Toone, Mason

**ABSENT/
EXCUSED:** Representative(s) Rubel

GUESTS: Rialin Flores and Ryan McGoldrick, Conservation Voters of Idaho; John Williams, BPA; Wayne Butts, Custer County Commissioner; Jann Higdem, self; Jonathan Oppenheimer, Idaho Conservation League; Mike Medberry, self; Russ Hendricks, Idaho Farm Bureau

Chairman Gibbs called the meeting to order at 1:30pm.

MOTION: **Rep. Kauffman** made a motion to approve the minutes of the February 7, 2019 meeting. **Motion carried by voice vote.**

Chairman Gibbs welcomed the committee's new Page, **Elbia Christensen**, and had her introduce herself.

Chairman Gibbs turned the gavel over to **Vice Chairman Gestrin**.

HCR 12: **Rep. Gibbs**, District 32, stated this Continuing Resolution authorizes the formation of the Natural Resources Interim Committee for the next two years to undertake the issues of natural resources, in particular water resource issues, of the state.

MOTION: **Rep. Raybould** made a motion to send **HCR 12** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Gibbs** will sponsor the bill on the floor.

Vice Chairman Gestrin turned the gavel over to **Chairman Gibbs**.

HJM 8: **Rep. Giddings**, District 7, stated this Memorial would make a request to Congress to release all wilderness study areas (WSAs) acreage which have already been listed as "not suitable for wilderness" by the BLM and relayed to **President George H.W. Bush** in 1992. By releasing these WSAs, this allows the opportunity for state, political subdivisions, businesses, and citizens to provide input as to how those acres should be managed. **Rep. Giddings** explained when multiple use is established, it is then these entities can derive financial benefit from the public lands. Additionally, wildfires, which are allowed to burn in wilderness areas, could be properly managed promoting healthy forests, clean water, wildlife survival, and reduce the risks to human life and property.

In response to questions regarding concerns about the WSAs listed as suitable but not yet designated by Congress as wilderness, and if those too would be considered by Congress to list as wilderness by virtue of this Joint Memorial, **Rep. Giddings** explained this Memorial doesn't address those areas, just the areas deemed "not suitable for wilderness."

MOTION: **Rep. Moon** made a motion to send **HJM 8** to the floor with a **DO PASS** recommendation.

Jann Higdem, an environmental research analyst representing herself, from Pinehurst Idaho, stated in Shoshone County where she lives, 73% of the lands are federal, leaving only 27% of the county as a tax base. She stated all suitable WSA recommendations for designation as wilderness must be managed as if they were wilderness and explained the reason areas were determined "not suitable for wilderness" was because there were too many man-made impacts such as buildings, and mining and logging equipment within those areas. This bill only addresses the areas deemed unsuitable, and is requesting those acres be released in order for the public, local businesses, and municipalities to be able to benefit from multiple use activities on those lands. Additionally, wildfires would be better managed.

Jonathan Oppenheimer, Idaho Conservation League, stated he appreciates **Rep. Giddings** bringing this Memorial forward, but stated the best way to resolve issues regarding concerns over WSAs is by coming together at the local level with concerned stakeholders. Therefore, Mr. Oppenheimer requested **HJM 8** be held in committee.

Russ Hendricks, Idaho Farm Bureau, stated they are **in support of HJM 8**. He explained many of their members have been negatively impacted by WSAs, and concurred those areas listed as unsuitable for wilderness should be released back to the BLM to be managed for multiple use activities.

Rep. Mason declared Rule 38 due to his work in public lands conservation. To clarify a discussion point regarding various uses not authorized in WSAs, he provided the example of motorized uses as an activity generally not allowed in wilderness, which could be allowed in a WSA. He explained if motorized use was already authorized before the area was designated as a WSA, that use is allowed to continue. He further explained the law states WSAs cannot have degradation of wilderness character once they are set aside as WSAs, so for example, if motorized use was not allowed before designation, it would remain an unauthorized use.

Mike Medberry, representing himself, Garden City Idaho, stated he is **in opposition to HJM 8** because this Memorial only represents one side of the issue. He explained FLPMA (Federal Land Policy and Management Act), which directs BLM's management of lands under its jurisdiction, is a conservative law which states unimpaired lands will remain unimpaired until Congress makes a determination otherwise.

Rep. Giddings stated she did not have any closing remarks.

Rep. Boyle reminded the committee this Memorial only addresses the "not suitable for wilderness" acres. She stated at least two of the impacted counties in the state have taken votes from their citizens and they are not in favor of more wilderness in their counties. She suggested maybe more counties should do the same. For the record, she spoke **in support** of this Memorial.

Rep. Mason spoke **in opposition to HJM 8**. He stated Idaho is a proven leader in collaborative efforts and has studied WSAs for decades by bringing various parties together to codify legislation. He stated since 2009, 28 of the 67 areas listed have been addressed, or 46% of the total WSAs. Rep. Mason explained Congress takes actions on legislation, and stated this Memorial will undermine the hard work many Idahoans are doing across the state to reach consensus on natural resource issues.

Rep. Wood stated there could be consequences sending this Memorial forward because Congress could also look at the list of WSAs suitable for listing as wilderness in addition to those areas identified as unsuitable for wilderness.

Rep. Moon stated the BLM in her district relies on the collaborative process but it was all environmental groups, not local citizens representing miners, foresters, and ranchers. She stated it sounds good in theory but the local citizens' voices are being silenced, so she is **in support** of **HJM 8** even if it doesn't cause Congressional action.

VOTE ON THE MOTION:

Chairman Gibbs stated he was in doubt regarding the voice vote and requested a roll call vote.

ROLL CALL VOTE:

Chairman Gibbs requested a roll call vote on **HJM 8**. **Motion carried by voice vote of 10 AYE, 7 NAY, 1 Absent/Excused**. **Voting in favor** of the motion: **Chairman Gibbs and Reps. Gestrin, Moyle, Shepherd, Boyle, Vander Woude, Mendive, Blanksma, Addis, and Moon**. **Voting in opposition** to the motion: **Reps. Wood, Kauffman, Lickley, Raybould, Erpelding, Mason, and Toone**. **Rep. Rubel was Absent/Excused**. **Rep. Giddings** will sponsor the bill on the floor.

HCR 8:

Rep. Giddings, District 7, stated this Resolution would request the Idaho Department of Environmental Quality (DEQ) petition the Environmental Protection Agency (EPA) requesting the Residential Soils Operable Unit 1 (OU1) be delisted from the overall Superfund site in Shoshone County. In order to understand the complexity of this issue, Rep. Giddings provided a background to this Superfund site. She stated this mining district has one of the world's largest concentrations of silver, lead, zinc, copper, antimony, and gold. Almost \$3 billion worth of metal has been produced from veins in the district. Mining practices in the early years polluted the local waters with waste rock in addition to tailing dumps, impoundment dams, settlement ponds, and back-filling practices. At one point, the bag plant at a smelter on the Bunker Hill mining site malfunctioned and sent massive amounts of pollutants into the air, which settled on the ground around the site. In 1983, the EPA placed this site on the Superfund registry. The area considered most polluted was within 21 square miles of the smelter, and was referred to as "the Box." The Box was split into two Operational Units with OU1 being the populated areas and OU2 being the non-populated areas. The EPA began remediation on all the areas within OU1 first with approximately 3,520 private and commercial properties and wells sampled and any violations of established standards remediated with full documentation. As of 2008, the communities within OU1 have been certified with no further action planned or needed.

Rep. Giddings also explained Idaho has to pick up approximately 10% of all costs associated with mitigation of the Superfund site as well as costs for the water treatment plant in the Bunker Hill site in perpetuity. Additionally, Idaho is required to pay all costs associated with the operations and maintenance of the entire site in perpetuity. As a result, a trust fund was established so the interest earned from the trust would pay the costs for operations and maintenance. The Institutional Controls Program (ICP) was established to protect public health and regulates the long term stability of the barriers put in place as well as property owners' obligations. The ICP is funded from state and federal dollars as well as responsible parties.

Rep. Giddings explained that if OU1 was delisted it would lower interest rates on bank loans, it would give local government more control in decision making, it would reduce the stigma associated with the area, and it would overall increase economic development in the area. She further explained to even consider a delisting, there first must be concurrence from the state, which is why **HCR 8** is before the committee.

In response to questions regarding EPA and considerations for delisting, **Rep. Giddings** explained anyone can request a delisting, i.e. an individual or the state, but when it is a partial delisting, as is the case in this situation since the request is only for OU1, the delisting request must be initiated by the state.

In response to questions regarding the Lead Health Intervention Program, which is funded by the EPA and DEQ, and would that funding stop if OU1 is delisted, **Rep. Giddings** explained that program is run in part through the ICP and that funding would end, but could be addressed and negotiated with EPA during the delisting process. That said, she stated OU2 and OU3 (which is outside of the Box) will never go away, so will never lose funding for programs such as Lead Health Intervention.

MOTION: **Rep. Raybould** made a motion to **HOLD HCR 8** in committee and wished to speak to her motion. She stated this is a very complex issue so it may be beneficial to take more time in order to get clarification on the liabilities the state might hold should the delisting move forward and to learn more about what the true consensus is within the communities regarding how they wish to proceed since there are very strong opinions on both sides of the issue.

VOTE ON THE MOTION: **Chairman Gibbs** called for a vote on the motion to **HOLD HCR 8** in committee. **Motion carried by voice vote. Rep. Vander Woude and Shepherd** requested to be recorded as voting **NAY**.

HJM 5: **Seth Grigg**, Idaho Association of Counties, stated this Joint Memorial calls on Congress to enact federal legislation to require when private lands are exchanged, purchased, or transferred to the federal government, that other federal lands within the county be sold for a no net loss balance.

Wayne Butts, Custer County Commissioner, stated this issue is a top priority of the Board of Public Lands and the county commissioners and impacts the entire state as well as many other western states. In Custer County, there are conservation groups purchasing private lands and then transferring them to the Sawtooth National Recreation Area, which removes those acres from the county tax base. He stated **Governor Little** mentioned no net loss of taxable lands two times in his inaugural speech, so no net loss of private lands is the goal.

In response to concerns regarding the land selling process, **Mr. Butts** stated they understand the willing seller and buyer concept and the concerns last year with private property rights. What they are hoping to achieve is when land is sold to a federal agency that land of equal value, not acre per acre, be sold back to the county.

DeLon Lee, Idaho Farm Bureau, stated they are **in support** of **HJM 5**. He stated 63% of Idaho is federal lands and what private lands there are, are a valuable asset and should be protected.

MOTION: **Rep. Moon** made a motion to send **HJM 5** to the floor with a **DO PASS** recommendation.

Rep. Mason declared Rule 38 due to his work in public lands conservation.

ROLL CALL VOTE: **Rep. Erpelding** requested a roll call vote on **HJM 5**. **Motion carried by a vote of 11 AYE, 4 NAY, 3 Absent/Excused. Voting in favor** of the motion: **Chairman Gibbs and Reps. Gestrin, Moyle, Boyle, Vander Woude, Mendive, Kauffman, Addis, Lickley, Moon, and Raybould. Voting in opposition** to the motion: **Reps. Wood, Erpelding, Mason, and Toone. Reps. Shepherd, Blanksma, and Rubel were Absent/Excused. Reps. Moon and Shepherd** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 3:30pm.

Representative Gibbs
Chair

Tracey McDonnell
Secretary