



**To:** House Committee on Natural Resources Republican Members  
**From:** Subcommittee on National Parks, Forests, and Public Lands Republican Staff;  
Aniela Butler ([Aniela@mail.house.gov](mailto:Aniela@mail.house.gov)) & Brandon Miller  
([Brandon.Miller@mail.house.gov](mailto:Brandon.Miller@mail.house.gov))  
**Date:** February 28, 2022  
**Subject:** Legislative Hearing on Five Bills

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The Subcommittee on National Parks, Forests, and Public Lands will hold a legislative hearing on five bills: H.R. 1638 (Rep. Johnson), “Gilt Edge Mine Conveyance Act”; H.R. 4178 (Rep. Huffman), “To extend the authority to collect Shasta-Trinity Marina fees through fiscal year 2027”; H.R. 5093 (Rep. Herrera Beutler), “Wind River Administrative Site Conveyance Act”; H.R. 5493 (Rep. Leger Fernandez), “Land Grant-Mercedes Traditional Use Recognition and Consultation Act”; and H.R. 6366 (Rep. Garamendi), “Lake Berryessa National Monument Expansion Act”, on **Tuesday, March 1, 2022, at 10:00 am EST** via Cisco WebEx.

Member offices are requested to notify Brandon Miller ([Brandon.Miller@mail.house.gov](mailto:Brandon.Miller@mail.house.gov)) **no later than Monday, February 28th, at 4:30 pm EST** if their Member intends to participate in person in the hearing room or remotely from his/her laptop from another location. Submissions for the hearing record must be submitted through the Committee’s electronic repository at [HNRCDocs@mail.house.gov](mailto:HNRCDocs@mail.house.gov). Please contact David DeMarco ([David.DeMarco@mail.house.gov](mailto:David.DeMarco@mail.house.gov)) or Everett Winnick ([Everett.Winnick@mail.house.gov](mailto:Everett.Winnick@mail.house.gov)) should any technical difficulties arise.

## I. KEY MESSAGES

- The two Republican bills on this hearing will convey approximately 300 acres combined out of federal ownership to state and local governments to improve environmental remediation efforts and tourism opportunities. This is a win-win scenario as it allows the federal land management agencies to focus their limited resources on reducing their maintenance backlogs and unlocks new economic opportunities for small, rural communities.
- Unfortunately, Committee Democrats’ bills would take one step forward and two steps back by adding nearly 4,000 new acres to a national monument in California that is extremely susceptible to experiencing devastating wildfires.
- The Democrats’ failed attempt to lock up 23 million acres of wilderness in five Western states last month demonstrates the sheer lack of support these restrictive designations have and their negative consequences for the environment and rural economies.



## II. WITNESSES

### Panel I:

- **Representative Dusty Johnson**, South Dakota, At Large
- **Representative Jarred Huffman**, California, 2<sup>nd</sup> Congressional District
- **Representative Jaime Herrera Beutler**, Washington, 3<sup>rd</sup> Congressional District
- **Representative Teresa Leger Fernandez**, New Mexico, 3<sup>rd</sup> Congressional District
- **Representative John Garamendi**, California, 3<sup>rd</sup> Congressional District

### Panel II:

- **Mr. Greg Smith**, Director of Lands and Realty Management, Forest Service, U.S. Department of Agriculture
- **Mr. Mark Lambrecht**, Assistant Director of National Landscape Conservation System, Bureau of Land Management
- **Mr. Anthony Roberts**, Tribal Chairman, Yocha Dehe Wintun Nation (H.R. 6366)

### Panel III:

- **The Honorable Tom Lannen**, County Commissioner, Skamania County, Washington [*Republican Witness*] (H.R. 5093)
- **Then Honorable Hunter Roberts**, Secretary, South Dakota Department of Agriculture and Natural Resources, South Dakota [*Republican Witness*] (H.R. 1638)
- **Mr. Arturo Archuleta**, Program Manager, New Mexico Land Grant Council (H.R. 5493)
- **Mr. Eddie Crandell**, District 3 Supervisor, Lake County, California (H.R. 6366)
- **Mr. Paul Hauser**, General Manager, Trinity Public Utility District (H.R. 4178)

## III. BACKGROUND

### [H.R. 1638 \(Johnson\)](#)

The Gilt Edge Mine is a 360-acre former mine site located 6.5 miles from Lead, South Dakota.<sup>1</sup> Mining began on the site in 1876 and continued sporadically until the 1990s.<sup>2</sup> The site's most recent operator, Brohm Mining Company (BMC), developed a large-scale open pit, cyanide heap leach gold mine operation in 1986.<sup>3</sup> In the wake of lower gold prices during the 1990s, BMC went bankrupt and abandoned the site. This also left BMC unable to fulfill their legal obligations under the Mining Law of 1872, the Clean Water Act, and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) to remediate the former mine site.<sup>4</sup>

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<sup>1</sup> United States Environmental Protection Agency. "GILT EDGE MINE LEAD, SD Cleanup Activities" <https://cumulis.epa.gov/supercpad/SiteProfiles/index.cfm?fuseaction=second.Cleanup&id=0801668#bkground>.

<sup>2</sup> *Id.*

<sup>3</sup> Black Hills Pioneer "No new mining activities at Gilt Edge mine for time being." Conrad Pearson, J. (2018, June 14). [https://www.bhpioneer.com/local\\_news/no-new-mining-activities-at-gilt-edge-mine-for-time-being/article\\_ae02d760-6ff9-11e8-8551-0756e4c87716.html](https://www.bhpioneer.com/local_news/no-new-mining-activities-at-gilt-edge-mine-for-time-being/article_ae02d760-6ff9-11e8-8551-0756e4c87716.html).

<sup>4</sup> *Id.*

As a result of BMC's bankruptcy, the Environmental Protection Agency (EPA) declared the former mine a Superfund site in 2000.<sup>5</sup> Superfund is the informal name for CERCLA, established in 1980, which allows the EPA to clean up contaminated sites, while forcing the parties responsible for the contamination to perform cleanups or reimburse the EPA for the cleanup.<sup>6</sup> When there is no viable responsible party, as in the instance of the Gilt Edge Mine, Superfund gives EPA the funds and authority to clean up contaminated sites.<sup>7</sup>

H.R. 1638 would authorize the state of South Dakota to purchase approximately 266 acres of U.S. Forest Service (USFS) land in Lawrence County to help facilitate remediation of the mine site. The State of South Dakota owns a portion of the land base of the mine site and has an interest in consolidating adjoining Federal and private land within the Superfund site to mitigate acidic rock drainage and pursue additional water reclamation efforts. The land transfer authorized by this legislation would allow the state to conduct clean-up efforts within the boundary of the Gilt Edge Mine superfund site once the EPA completes its portion of the clean-up.

Any proceeds received by USFS from the conveyance will be deposited in a special fund created by the Sisk Act<sup>8</sup> and available to USFS for the maintenance and improvement of land or administration facilities in the Black Hills National Forest in South Dakota. ***Staff contact: Brandon Miller (x57611)***

### **H.R. 4178 (Huffman)**

The Whiskeytown-Shasta-Trinity National Recreation Area in Northern California is made up of 246,087 acres split between two separate areas: Whiskeytown (42,500 acres) and the Shasta and Trinity units (203,587 acres).<sup>9</sup> The National Park Service (NPS) manages the Whiskeytown National Recreation Area and USFS manages the Shasta and Trinity National Recreation Area within the Shasta-Trinity National Forest. Each of these units encompass separate large reservoirs and the proximity to these man-made lakes, along with an abundance of mountainous terrain, make these recreation areas very popular with hunters, anglers, and outdoor recreationists.

H.R. 4178 would extend the authority of the Shasta-Trinity National Forest to collect and retain existing marina fees to enhance recreation and improve access at the Shasta-Trinity National Recreation Area. This authority to collect and retain these fees expired in 2019 but was temporarily extended as a part of the fiscal year 2021 appropriations bill.<sup>10</sup> The marina fees retained by USFS are spent on recreation enhancement projects such as boat ramp improvements, lake cleanup efforts, maintaining recreational facilities, and educational programs.<sup>11</sup> This bill would not increase or otherwise effect the price of the current marina fees.

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<sup>5</sup> *Id.*

<sup>6</sup> United States Environmental Protection Agency. "What is Superfund?" <https://www.epa.gov/superfund/what-superfund>.

<sup>7</sup> *Id.*

<sup>8</sup> P.L. 90-171

<sup>9</sup> Shasta-Trinity National Forest - About the Forest. [https://www.fs.usda.gov/detail/stnf/about-forest/?cid=fsm9\\_008651](https://www.fs.usda.gov/detail/stnf/about-forest/?cid=fsm9_008651).

<sup>10</sup> H.R. 7608 (116<sup>th</sup> Congress) <https://rules.house.gov/sites/democrats.rules.house.gov/files/BILLS-116HR7608-RCP116-59.pdf>

<sup>11</sup> United States Forest Service. "Shasta-Trinity National Recreation Area frequently asked questions" [https://www.fs.usda.gov/Internet/FSE\\_DOCUMENTS/stelprdb5122791.pdf](https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5122791.pdf).

This effort is being co-led by Congressman Doug LaMalfa (R-CA-01), whose district also includes parts of the Shasta-Trinity National Recreation Area. *Staff contact: Brandon Miller (x57611)*

#### **H.R. 5093 (Rep. Herrera-Beutler)**

Skamania County in southern Washington has an area of more than 1 million acres, 77 percent of which is under federal ownership.<sup>12</sup> Less than 2 percent of the land base is eligible to be taxed at full market value.<sup>13</sup> This reality, which is one shared by many other western rural counties with high percentages of public lands, makes it difficult for communities in Skamania County to generate the revenue needed to fund schools, roads, and public services such as police and fire departments.

H.R. 5093 seeks to provide opportunity for historic, recreational, and economic activity by transferring ownership of approximately 23 acres of the former Wind River Nursery Administrative Site from USFS to Skamania County. USFS first established the Wind River Nursery Administrative Site in 1906.<sup>14</sup> The site is 65 acres and contains representative structures from three distinct USFS administrative units.<sup>15</sup> Most of the buildings at the site are presently leased to Skamania County, while others are available to be rented for lodging for travelers exploring the Gifford Pinchot National Forest.<sup>16</sup> Skamania County currently owns 187 acres adjacent to Wind River Nursery and intends to develop the site conveyed by this bill for additional lodging facilities to support recreation and other business opportunities that will generate much needed economic activity and revenue for the county. Additionally, this bill would allow USFS to consolidate its resources so it can focus on addressing the \$10 million deferred maintenance backlog at the Gifford Pinchot National Forest.<sup>17</sup>

The County and USFS both support this conveyance, as it will fulfil a 2016 agreement made between USFS and the County that will also allow USFS to proceed with a land purchase to benefit the Pacific Crest Trail while ensuring that Skamania County will not suffer a loss in tax revenues.<sup>18</sup> Originally, Skamania County voiced concerns about USFS's desire to purchase 273 acres for the Pacific Crest Trail project. Representative Herrera Beutler worked with Skamania County and USFS to negotiate an agreement for support of the land purchase in exchange for USFS's commitment and support for conveying the Wind River Nursery to the County. *Staff contact: Brandon Miller (x57611)*

#### **H.R. 5493 (Rep. Leger Fernandez)**

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<sup>12</sup> Skamania County. "Skamania County Acreage Breakdown" <https://www.skamaniacounty.org/departments-offices/assessment-and-gis/skamania-county-acreage-breakdown>.

<sup>13</sup> *Id.*

<sup>14</sup> United States Forest Service, "Wind River Historic District" <https://www.fs.usda.gov/recarea/giffordpinchot/recreation/recarea/?recid=83089&actid=70>.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> South Gifford Pinchot Collaborative. "The future of developed recreation on the GPNF" (May 29, 2018) <http://southgpc.org/2018/05/29/the-future-of-developed-recreation-on-the-gpnf/>.

<sup>18</sup> Skamania County Memorandum of Agreement, [https://republicans-naturalresources.house.gov/UploadedFiles/Skamania\\_County\\_MOA\\_2016.pdf](https://republicans-naturalresources.house.gov/UploadedFiles/Skamania_County_MOA_2016.pdf).

Following the Mexican American War, the United States gained more than half of Mexico's territory under the Treaty of Guadalupe Hidalgo (Treaty).<sup>19</sup> In New Mexico, more than 150 land grants, or mercedes (mer-seh-des), totaling roughly 9.3 million acres were given out by the Spanish crown, and then the Mexican government.<sup>20</sup> Under the Treaty, the United States was required to establish a process for adjudicating and recognizing land titles in the newly ceded territory.<sup>21</sup> During the lengthy adjudication process, many of those acres were lost as a result of lost documents, overlapping grants, corruption and exploitation by attorneys demanding huge fees to clear titles.<sup>22</sup> As a result, many local communities remain concerned by this loss of land and expressed a desire to work with the land management agencies to improve access to these historic public lands.

H.R. 5493 would require increased coordination between the U.S. Department of Agriculture (USDA), the Department of the Interior (DOI), and the governing bodies of certain community land grants made by Spain or Mexico in the 17<sup>th</sup> to mid-19<sup>th</sup> centuries to individuals, groups, and communities to promote the settlement of the southwestern United States. Specifically, the bill would direct the USDA and DOI to provide specific notice and mandatory meetings with the impacted governing bodies of land grant mercedes when developing or changing management plans or developing environmental impact statements on land that contains a part of a qualified land grant mercedes. Additionally, the bill would establish a process for determining and recognizing historical-traditional use boundaries of qualified land grant-mercedes. **Staff contact: Brandon Miller (x57611)**

### [H.R. 6366 \(Rep. Garamendi\)](#)

In 2015, President Obama used the Antiquities Act of 1906<sup>23</sup> to designate 330,780 acres of land surrounding Lake Berryessa in Northern California as the Berryessa Snow Mountain National Monument.<sup>24</sup> This was a small piece of President Obama's unprecedented abuse of the outdated and overly broad Antiquities Act to lock up massive amounts of land without public review and irrespective of whether legitimate antiquities were protected in the process. Altogether, President Obama designated 29 new monuments and expanded 5 existing monuments, comprising a total of 550 million acres of land, or roughly 189,000 acres every day he was in office.<sup>25</sup> This total not only surpassed the record for the number of *individual* national monuments created by any President, but also set the record for the largest *cumulative* amount of land and water designated as national monuments by any President.<sup>26</sup>

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<sup>19</sup> *Id.*

<sup>20</sup> Albuquerque Historical Society. "Land grants." <https://albuqhistsoc.org/SecondSite/pkfiles/pk208landgrants.htm>.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> P.L. 59-209

<sup>24</sup> National Archives and Records Administration. (n.d.). "Presidential proclamation -- establishment of the Berryessa Snow Mountain National Monument". National Archives and Records Administration. <https://obamawhitehouse.archives.gov/the-press-office/2015/07/10/presidential-proclamation-establishment-berryessa-snow-mountain-national>.

<sup>25</sup> Quartz, "Map: Obama has established more national monuments than any other president." Collins, K. <https://qz.com/881165/map-obama-established-more-national-monuments-than-any-other-president/>

<sup>26</sup> *Id.*

Despite this unprecedented land grab, this bill seeks to lock up even more land under onerous designations. H.R. 6366 seeks to expand the existing Berryessa Snow National Monument to include approximately 3,925 acres of adjacent public land administered by the federal Bureau of Land Management (BLM) in Lake County, California, known previously as the “Walker Ridge” tract. The BLM and USFS currently share joint management of the original monument. This bill would rename the BLM’s entire “Walker Ridge” tract in Lake and Colusa Counties to “Condor Ridge,” translated from “Molok Luyuk” in the Patwin language of the Yocha Dehe and other federally recognized tribes indigenous to the area.

While seeking to enact this policy through a proper legislative process is preferable to a blanket Presidential decree, locking up more land under onerous monument protections in a state where 1 out of every 8 acres has been torched by catastrophic wildfire in the last decade is incredibly unwise.<sup>27</sup> Northern California has been especially impacted by catastrophic fires, as has this monument. In fact, the dry eastern portion of the monument burned 5 times in the past 6 years, which is the most frequent fire recurrence in all of California.<sup>28</sup> *Staff contact: Brandon Miller (x57611)*

#### IV. MAJOR PROVISIONS & ANALYSIS

##### [H.R. 1638](#)

###### **Sec. 3. Land conveyance.**

- If South Dakota submits an offer to USFS to acquire approximately 266 acres of National Forest System land within the Gilt Edge Mine Superfund Boundary for the fair market value of such site, the USFS shall convey such land to South Dakota.
- Any proceeds received by USFS from the conveyance shall be (1) deposited in a specified fund for the exchange of lands, and (2) available to the Forest Service for the maintenance and improvement of land or administration facilities in the Black Hills National Forest in South Dakota.

##### [H.R. 4178](#)

###### **Sec. 1. Shasta-Trinity Marina fees.**

- This bill extends through fiscal year 2027 the authority of USDA to collect fees for a marina in the Shasta-Trinity National Forest in California.

##### [H.R. 5093](#)

###### **Sec. 3. Conveyance of land and improvements.**

- This bill directs the Forest Service to convey to Skamania County in Washington, upon request of the county, all right, title, and interest of the United States in

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<sup>27</sup>. (2021, October 1). *1 in 8 acres in California has burned in last decade*. The Hill. Castronuovo, C <https://thehill.com/policy/equilibrium-sustainability/574928-1-in-8-acres-in-california-has-burned-in-last-decade>

<sup>28</sup> Ray, D. (2021, February 23). *A tour of Berryessa Snow Mountain after the 2020 LNU fires*. Bay Nature. Retrieved February 23, 2022, from <https://baynature.org/2021/02/23/lnu-fire-complex-scalds-some-berryessa-snow-mountain-national-monument-landscapes-spares-others-tour-reveals/>

approximately 23.4 acres of National Forest System land, related infrastructure, and all improvements on the map titled *Wind River Administrative Site Conveyance Proposal* and dated July 7, 2020.

- The conveyance shall be
  - made by quitclaim deed;
  - subject to a right-of-way and restrictive easement reservation for the protection of the Pacific Crest National Scenic Trail; and
  - completed in accordance with certain Forest Service conveyance requirements, except that certain market value requirements shall not apply.
- The USFS must meet specified disclosure requirements for hazardous substances, pollutants, and contaminants and shall not otherwise be required to remediate or abate the hazardous substances, pollutants, or contaminants disclosed.
- The lands and related infrastructure conveyed must be maintained by the county pursuant to standards established by DOI regarding the preservation of historic property.

#### **[H.R. 5493 \(Rep. Leger Fernandez\)](#)**

##### **Sec. 3. Guidance on permit requirements for qualified land grant-mercedes.**

- This bill requires the USDA and DOI to issue guidance related to certain community land grants in New Mexico made by Spain or Mexico to individuals, groups, and communities to promote the settlement of the southwestern United States (land grant-mercedes).
- The guidance shall set forth the policies and procedures for notice and comment on planning decisions, routine engagement, and major federal actions that could impact historical-traditional uses of a qualified land grant-mercedes.

##### **Sec. 4. Consideration of historical-traditional use in land management planning.**

- In developing, maintaining, and revising land management plans and National Forest System land and resource management plans, as applicable, the USDA or DOI shall consider and, as appropriate, provide for and evaluate impacts to historical-traditional uses by qualified land grant-mercedes.

##### **Sec. 5. Savings**

- Nothing in this Act shall be construed:
  - to impact the State's authority to regulate water rights, in conformance with all State and Federal laws and regulations;
  - to impact the State's authority to regulate the management of game and fish, in conformance with all State and Federal laws and regulations;
  - to impact any valid existing rights or valid permitted uses, including grazing permits;
  - to create any implicit or explicit right to grazing on Federal lands; or
  - to alter or diminish any rights reserved for an Indian Tribe or members of an Indian Tribe by treaty or Federal law.

#### **[H.R. 6366 \(Rep. Garamendi\)](#)**

**Sec. 3. National monument expansion.**

- This bill expands the existing Berryessa Snow National Monument to include approximately 3,925 acres of adjacent public land administered by the BLM in Lake County known previously as the “Walker Ridge” tract.

**Sec. 4. Management Plan.**

- Directs the BLM and USFS to complete the management plan for the National Monument within one year of enactment.
- Requires the BLM and USFS to engage in consultation with federally recognized Indian tribes regarding the development and implementation of the National Monument’s management plan.

**Sec. 5. Agreements and partnerships.**

- Encourages BLM and USFS to enter into voluntary agreements with federally recognized Indian tribe for day-to-day management of the National Monument, including historic preservation, archaeological sites, and forest health.

**Sec. 6. Renaming of Walker Ridge in Lake and Colusa Counties, California.**

- Renames the BLM’s entire “Walker Ridge” tract in Lake and Colusa Counties to “Condor Ridge” translated from “Molok Luyuk” in the Patwin language of the Yocha Dehe and other federally recognized tribes indigenous to the area.

**V. COST**

None of the bills on this hearing received a formal Congressional Budget Office (CBO) cost analysis.

**VI. ADMINISTRATION POSITION**

The Biden administration’s position on these bills is unknown at this time.

**VII. EFFECT ON CURRENT LAW (RAMSEYER)**

[H.R. 4178 Ramseyer](#)