

Testimony on H.R. 3538, the Idaho Wilderness Water Resources Protection Act  
Natural Resources Committee; Parks, Forests and Public Lands Subcommittee  
November 17, 2009

- Chairman Grijalva and Ranking Member Bishop, I want to thank you for holding this hearing today and giving me an opportunity to testify about H.R. 3538, the Idaho Wilderness Water Resources Protection Act.
- This bipartisan, non-controversial legislation is a technical fix intended to enable the Forest Service to authorize and permit *existing* historical water diversions within Idaho wilderness.
- Earlier this year, one of my constituents came to me for help with a problem. The Middle Fork Lodge has a water diversion within the Frank Church-River of No Return Wilderness Area that has existed since before the wilderness area was established and is protected under statute.

- The diversion was beginning to leak and is in desperate need of repairs to ensure that it does not threaten the environment and watershed, but it turns out that the Forest Service does not have authority to issue the Lodge a permit to make the necessary repairs.
- As we looked into this issue, we discovered that the Forest Service lacks this authority throughout both the Frank Church-River of No Return Wilderness, where there are 22 known water developments, and the Selway-Bitterroot Wilderness, where there are three. These diversions are primarily used to support irrigation and minor hydropower generation for use on non-Federal lands.
- The damage to the water diversion at the Middle Fork Lodge is severe enough that the Forest Service had to do temporary emergency repairs earlier this year, but without authority to issue them the necessary special use permit,

they will be unable to do the work necessary to permanently fix the problem.

- While the urgent situation at the Middle Fork Lodge brought this issue to my attention, it is obvious to me that this problem is larger than just one diversion. At some point in the future, all 25 of these existing diversions will need maintenance or repair work done to ensure their integrity.
- H.R. 3538 authorizes the Forest Service to issue special use permits for all qualifying historic water systems in these wilderness areas. I believe it is important to get ahead of this problem and ensure that the Forest Service has the tools necessary to manage these lands.
- For these reasons I have worked with my colleague, Walt Minnick, to introduce H.R. 3538. This legislation allows the Forest Service to issue the required special use permits to

owners of historic water systems and sets out specific criteria for doing so.

- Providing this authority will ensure that existing water diversions can be properly maintained and repaired when necessary and preserves beneficial use for private property owners who hold water rights under state law.
- I have deeply appreciated the cooperation of the Forest Service in addressing this problem. Not only have they communicated with me the need to find a system-wide solution to this issue, but at my request they drafted this legislation to ensure that it only impacts specific targeted historical diversions—those with valid water rights that cannot feasibly be relocated outside of the wilderness area.
- I also want to thank Lenise Lago, who is testifying on behalf of the Forest Service today. When this issue first came to my attention, Lenise took the time to come up and brief me

and my staff to let us know the limitations imposed on the Forest Service and offer insight into how this problem might be addressed. I have valued her input, as well as that of her colleagues at the Forest Service.

- H.R. 3538 is bipartisan and non-controversial. It is intended as a simple, reasonable solution to a problem that I think we can all agree should be solved as quickly as possible. I am encouraged that the Committee has decided to hold a hearing on this bill and am hopeful that we can move it through the legislative process without delay so that the necessary maintenance to these diversions may be completed before the damage is beyond repair.
- Thank you, Mr. Chairman.