

BUSINESS MEETING

Wednesday, July 26, 2017

United States Senate

Committee on Environment and Public Works

Washington, D.C.

The committee met, pursuant to notice, at 10:02 a.m. in room 406, Dirksen Senate Office Building, the Honorable John Barrasso [chairman of the committee] presiding.

Present: Senators Barrasso, Carper, Inhofe, Capito, Boozman, Wicker, Fischer, Moran, Rounds, Ernst, Sullivan, Cardin, Merkley, Gillibrand, Markey, Duckworth, and Harris.

Also Present: Senator Shelby.

STATEMENT OF THE HONORABLE JOHN BARRASSO, A UNITED STATES
SENATOR FROM THE STATE OF WYOMING

Senator Barrasso. Good morning. I call this business meeting to order. I want to thank everyone for coming in this morning.

We are here to consider S. 1514, the Hunting Heritage and Environmental Legacy Preservation for Wildlife Act, or the HELP for Wildlife Act.

Ranking Member Carper and I will give opening statements, then I will call up the bill for amendment. After we vote to report the bill to the Senate, I will recognize other members for other additional statements that they would like to make.

The HELP for Wildlife Act is a bipartisan comprehensive conservation bill designed to enhance recreational hunting and sport fishing activities, ensure common sense environmental regulations, and protect wildlife and wildlife habitat.

I introduce this bipartisan bill along with Senators Cardin, Boozman, Klobuchar, Capito, and Baldwin. The bill also has been co-sponsored by Senators Johnson, Enzi, King, and Inhofe. I want to thank them for working with me in crafting this legislation that over 50 environmental and sportsmen organizations have endorsed and that the Teddy Roosevelt Conservation Partnership has called the strongest legislative package of sportsmen's priorities in years.

Last week, the Senate Environment and Public Works Committee heard testimony from several witnesses who agreed with the rest of the dozens of environmental and sportsmen organizations that the HELP for Wildlife Act is a significant conservation bill worth supporting.

The Wyoming Game and Fish Department's chief game warden and chief of the wildlife division applauded the bill for exhibiting, as he described it, "a reliance on the underlying trust in the abilities of States to make decisions regarding important issues affecting their citizenry" and for "placing priority on and providing resources for America's fish and wildlife resources and the places that they live."

The CEO of Ducks Unlimited, who is a former director of the U.S. Fish and Wildlife Service testified, "This bill is very important and has a lot of components in it that are important to all of us in the conservation community. This significant bipartisan conservation bill will improve habitat and protect wildlife throughout the Chesapeake Bay Watershed in States like New York, Maryland, Delaware, and West Virginia."

The Vice President of the Environmental Protection and Restoration for the Chesapeake Bay Foundation testified, "The Chesapeake Bay Foundation strongly supports the conservation programs included in this bill. They are important to the sportsmen and anglers in our region and to restoring the

Chesapeake Bay.”

The environmental sportsmen’s communities are enthusiastic about the HELP for Wildlife Act for good reason. The bill protects the environment and it conserves wildlife and wildlife habitats by creating fish habitat, conservation partnerships, and by reauthorizing the North American Wetlands Conservation Act, the National Fish and Wildlife Foundation Act, the Neotropical Migratory Bird Conservation Act, the Chesapeake Bay Program, and the Chesapeake Bay Gateways Grants Assistance Program.

The bill enhances opportunities for sportsmen by ensuring anglers can continue to use lead tackle and by promoting public target ranges for recreational shooting.

The bill provides farmers with regulatory certainty by ensuring that they are not held liable for bird baiting for hunting purposes when they adhere to USDA and State agriculture best practices.

The bill puts an end to the Endangered Species Act listing of the gray wolf in Wyoming and the Great Lakes, which will free up the U.S. Fish and Wildlife Service to redirect resources that were being spent on the already fully recovered gray wolf to other species that are truly in need.

It is time for this Committee to take a major step towards furthering conservation efforts in our States in a bipartisan

way. I urge my colleagues to stand with the 50-plus environmental and sportsmen's organizations and constituents that they represent who want further conservation efforts in this Country.

I look forward to passing this important legislation out of the Committee today and working with my colleagues to pass it on the Senate Floor.

I will now turn to Ranking Member Carper for his statement.

[The prepared statement of Senator Barrasso follows:]

STATEMENT OF THE HONORABLE THOMAS R. CARPER, A UNITED STATES
SENATOR FROM THE STATE OF DELAWARE

Senator Carper. Thank you, Mr. Chairman.

Good morning, everyone. As we heard from our witnesses last week, the HELP for Wildlife Act addresses many issues that are important for our Nation's sportsmen and sportswomen who are currently working collectively to ensure that outdoor recreational opportunities abound for our generation and for future generations.

I am especially pleased that the programs reauthorized in this legislation are highly leveraged by private funding, funding that is often secured by the outdoor recreation community. I am encouraged that these dedicated individuals are willing to work hard to better conserve our Nation's wildlife and to work together.

These programs also create wonderful opportunities in my home State of Delaware. I was pleased to learn from Dale Hall last week that Delaware has 10 projects completed or underway for funding through the North American Wetlands Conservation Act. These projects have conserved more than 10,000 acres of wetlands, and, for a little State like Delaware, that is a lot. Contributions from partners tripled the government's investment in these projects. Tripled the government's investment.

Delaware receives approximately \$2 million per year through

the Chesapeake Bay Program for a variety of non-point source pollution control, habitat conservation, and other initiatives that help improve local water quality, benefit fish and wildlife, and reduce the flow of harmful nutrients and sediments downriver to the Chesapeake Bay.

I just want to take a moment just to applaud Ben Cardin for his continued work and commitment to cleaning up the Chesapeake Bay. I became governor in 1993, and we had not been very good neighbors in Delaware; we were contributing to the degradation of the Chesapeake Bay. I think we have cleaned up our act a whole lot and I hope we are much better neighbors to these guys. But nobody has worked harder than Ben.

And we have received, as recently as last week, an update report on the Chesapeake Bay and all the efforts for the last 20 years actually paying off. Water quality continues to improve and the people who make their livelihoods there are better off because of that, so, Ben, I want to thank you.

Senator Cardin. Chairman, if the Ranking Member would just yield for a second.

Senator Carper. I refuse to yield.

[Laughter.]

Senator Cardin. You can take as much time as you want. You said take a moment. Take more time if you need it.

But let me first, you are kind in your praise, but I think

the Committee should know that Senator Carper has been one of the great leaders on this issue and we have done things together in Delmarva on the Bay, so thank you, Senator Carper.

Senator Carper. Thanks for saying that.

Building upon these necessary investments in the Bay watershed, the National Fish and Wildlife Foundation enables complimentary water quality improvements by working with Delaware communities in agricultural industries. The National Fish and Wildlife Foundation also recently funded monitoring the restoration in our beloved First State National Historical Park, which is the newest national park, I believe, in America, in order to provide a better park experience for our residents and our visits.

Last, but not least, the Migratory Bird Conservation Act and National Fish Habitat Partnership create and conserve habitat for some of our State's most important birds and fish species.

For all these reasons, I support the HELP for Wildlife Act. However, no bill is perfect, certainly none that I have ever written, and this one is no exception. I must respectfully reaffirm my concern with the provision in this bill that removes Endangered Species Act protection for gray wolves and prohibits judicial review in the Great Lakes and in Wyoming. I have listened carefully, as we all have, to our colleagues and

stakeholders on both sides of this difficult issue, and while I understand the Chairman's concerns, I continue to believe that congressional intervention is not the best path forward, and I urge us not to make it a habit.

Having said that, though, Mr. Chairman, I want to thank you for your efforts to produce a bipartisan bill and for everyone who has worked on this to get us here to this point today, and I look forward to working with our Chairman and with all of you colleagues going forward.

Thanks so much.

[The prepared statement of Senator Carper follows:]

Senator Barrasso. Thank you very much, Senator Carper.

We do have a quorum, so we are ready to move.

I would like to call up S. 1514, the Hunting Heritage and Environmental Legacy Preservation for Wildlife Act, the HELP for Wildlife Act.

[The text of S. 1514 follows:]

Senator Barrasso. Members have filed amendments to S. 1514. The record will reflect any member requesting to be recorded on any item on today's agenda, as long as he or she does so by the close of business today and it does not change the outcome of the vote that was obtained in the Committee meeting.

I would now recognize Senator Duckworth to offer Duckworth Amendment No. 1.

Senator Duckworth. Thank you, Mr. Chairman. My amendment is based on a bipartisan bill that was introduced by longstanding leaders on Great Lakes issues, Senator Peters, Senator Stabenow, Senator Portman. It simply authorizes and increases funding for the Great Lakes Science Center, which is foundational for fishery management decisions on each Great Lake.

The Center currently lacks a dedicated funding stream and has no permanent authorization. This uncertainty undermines the Great Lakes Science Center's ability to conduct long-term planning and most effectively carry out its mission to manage the Great Lakes.

I urge all my colleagues to support this amendment and yield back. Thank you.

[The text of the amendment offered by Senator Duckworth follows:]

Senator Barrasso. Thank you very much, Senator Duckworth. I am pleased to support your amendment, Duckworth No. 1.

Would anyone else like to be heard on this amendment?

Senator Carper. I would also like to record my support. I have a statement for the record. I applaud the Senator from Illinois for good work on this. Pleased to be able to support you.

Senator Barrasso. I then move to vote on the amendment. Is there a second?

Senator Inhofe. Second.

Senator Barrasso. All those in favor, please say aye.

[Chorus of ayes.]

Senator Barrasso. Opposed, no.

[No audible response.]

Senator Barrasso. In the opinion of the Chair, the ayes have it. The Duckworth No. 1 amendment is agreed to.

Senator Inhofe has filed Amendment No. 1 to S. 1514.

Senator Inhofe. Mr. Chairman, when an entity would like to fund an eligible project using Pittman-Robertson funds, they can use the value of the land as part of their match, and the match is required. However, an exception is made in that, if it is a land grant university, they are precluded from doing this. All this would do is allow the land grant universities to have the same opportunities for a match that other universities have.

[The text of the amendment offered by Senator Inhofe follows:]

Senator Barrasso. It is my understanding, Senator Inhofe, that this is a revised amendment that will allow land grant universities to use land they own to satisfy the in-kind cost share requirement under the Pittman-Robertson Wildlife Restoration. That is certainly my understanding. I am pleased to support Inhofe No. 1, as revised.

Would anyone else like to comment on the Inhofe amendment?

[No audible response.]

Senator Barrasso. Seeing none, move to vote on the amendment. Is there a second?

Senator Shelby. Second.

Senator Barrasso. All those in favor, please say aye.

[Chorus of ayes.]

Senator Barrasso. Opposed, no.

[No audible response.]

Senator Barrasso. In the opinion of the Chair, the ayes have it. The revised Inhofe No. 1 is agreed to.

I now recognize Senator Sullivan to offer Sullivan Amendment No. 1.

Senator Sullivan. Thank you, Mr. Chairman. This is an amendment that permits the importation of polar bear trophies that were taken from legal hunts in Canada by American citizens prior to the 2008 listing of the polar bear as threatened.

In 2014, the Obama Administration issued a statement of

administration policy in support of this exact language. It is a provision that is very narrowly tailored to address just these 41 sets of legal trophies, and I ask my colleagues for their support on this narrowly drafted legislation that was previously supported by the Fish and Wildlife Service of the Obama Administration, and I think should have bipartisan support in this Committee.

[The text of the amendment offered by Senator Sullivan follows:]

Senator Barrasso. Thank you, Senator Sullivan. I am pleased to support your Amendment No. 1.

Would anyone else like to be heard on the Sullivan Amendment No. 1?

Mr. Merkley. Mr. Chairman?

Senator Barrasso. Senator Merkley.

Senator Merkley. I know my colleague has brought this forward and he accurately cites the previous support. I do oppose this because essentially when there is consideration of listing, you are on the verge of a listing, there has been a surge in hunting for species that this would encourage. Should we have some other endangered species that has a certain date, then there would be a rush to go do takings of that endangered species. I think it is not great policy and I think we should oppose it.

Senator Barrasso. Thank you very much, Senator Merkley.

Would anyone else like to be heard on the Sullivan Amendment No. 1?

Senator Sullivan. I just would respond.

Senator Barrasso. Senator Sullivan.

Senator Sullivan. There is no evidence that that rush takes place. There is no evidence at all; that is speculation. And, second, these were legal hunts, completely legal. The previous Administration supported this. If you are kind of

retroactively saying to people who engage in conservation and hunting that you can no longer do something even though it was legal at the time, I think that is bad policy, and we are just trying to correct it. It is very narrowly tailored, and I ask my colleagues to support it.

Senator Barrasso. Would anyone else like to be heard on the Sullivan Amendment?

Senator Carper. I have a statement I would like to submit for the record, if I could. Thank you.

Senator Barrasso. Absolutely. Without objection.

[The referenced information follows:]

Senator Barrasso. Seeing no others wishing to make a statement, I move that we vote on this amendment. Is there a second?

Senator Inhofe. Second.

Senator Barrasso. All those in favor, please say aye.

[Chorus of ayes.]

Senator Barrasso. Opposed, nay.

[Chorus of nays.]

Senator Barrasso. In the opinion of the Chair, the ayes have it and Sullivan No. 1 is agreed to.

Senator Merkley. Mr. Chairman, I would like to be recorded as a no vote. Thank you.

Senator Barrasso. The record will reflect that.

I would now like to recognize Senator Carper --

Senator Cardin. Would you also put me as no on that?

Senator Barrasso. Yes, sir.

I now recognize Senator Carper to offer Carper Amendment No. 1.

Senator Carper. Thanks, Mr. Chairman.

Mr. Chairman, I realize that gray wolf management is a priority for you and for a number of our colleagues. I fully acknowledge that wolves present unique challenges in your State that much of our Country may not understand. We have heard compelling arguments for why wolves should be managed at the

State level in Wyoming, and I commend you for allowing that robust defense to occur in our Committee.

Having said that, though, I have a strong interest in preserving the publicly informed, science-driven process that currently exists for making endangered species determinations, and I am not sure that legislatively delisting species is consistent with that interest.

States and wildlife agencies typically have many years, sometimes decades of advanced notice that a species is declining, and Endangered Species Act protection is only required when State management to protect and recover species has failed. For this reason, I believe the rigors of judicial review are warranted.

There is a genuine concern on our side of the aisle, I think as you know, about the implications of legislatively delisting species. We have heard from stakeholders and citizens from across our Country who do not believe that this is the right approach, and I believe it is my duty as Ranking Member of this Committee to ensure that these concerns are represented and that our Committee has an opportunity to vote on these provisions based on their standalone merits.

Thank you.

[The text of the amendment offered by Senator Carper follows:]

Senator Barrasso. Well, thank you very much, Senator Carper. I strongly oppose the Carper Amendment. It should be no surprise. This amendment would strike Sections 7 and 8 of the bill, which contains language strongly supported by not just me, but by a number of Democratic colleagues, including Senator Baldwin and Senator Klobuchar.

The Obama Administration's Fish and Wildlife Service delisted the gray list in Wyoming and the western Great Lakes only to be dragged through seemingly never-ending court processes. These sections put the species management back where they have always belonged, in the hands of the States. Neither Section 7 nor Section 8 of the bill prohibit future rules listing the gray wolf, should either population become threatened or endangered.

In 2011, Senators Carper, Cardin, Merkley, Whitehouse, and Gillibrand voted in favor of H.R. 1473. That was the Department of Defense and Full-Year Continuing Appropriations Act. That bill included a similar gray wolf delisting provision for both Montana and Idaho that was sponsored by Senators Tester and Risch. Responsibly controlling wolves while maintaining healthy populations is the goal of Wyoming and the Great Lakes States embodied in the language in this conservation bill.

Wyoming, Wisconsin, and Minnesota have far exceeded their population recovery goals for the gray wolf. Wolf populations

have increased so much that they have led to serious conflicts within these States. Attacks on household pets, hunting dogs, and other domestic animals are very serious.

As this chart shows, in Wisconsin, this is in Wisconsin, from 2013 to 2016, death and injury of domesticated animals, this is of domesticated animals, of hunting dogs, of pets, in that single year were 42. So that is what we are looking at.

In addition, killing of wildlife populations in Wyoming has also raised concerns about maintaining our State's iconic elk population. This shows a number of elk that were taken. It shows an example of what is called a surplus kill done by wolves of native elk that occurred in 2016 in Bondurant, Wyoming.

Finally, I was looking at this and thinking about a friend of mine who is an athletic trainer, who I have worked with for a number of years, me being an orthopedic surgeon, he an athletic trainer. I ran into him one day and I said, how are you doing? He said, terrible. I said, what happened? He said, well, I had my hunting dog with me in western Wyoming, and then he pulled out his iPhone to show me pictures of his dog that had an interaction with a wolf, and it was graphic. And you knew that this dog was not going to survive and then ultimately didn't survive. This hunting dog, this was a member of my family, and got into a scrape with a wolf and very quickly was lost.

So this is serious matters and certainly meaningful to all

the people who have been experiencing it, so it is for these reasons that I urge a no vote on the Carper Amendment.

Would anyone else like to be heard on Carper Amendment No. 1?

Senator Carper. Mr. Chairman, I would ask for a roll call vote, please.

Senator Barrasso. Okay.

Seeing none, I move to a vote, and a roll call has been asked. Is there a second?

Senator Inhofe. Second.

Senator Barrasso. We would ask the Clerk to call the roll.

The Clerk. Mr. Booker?

Senator Carper. Yes by proxy.

The Clerk. Mr. Boozman?

Senator Boozman. No.

The Clerk. Mrs. Capito?

Senator Barrasso. No by proxy.

The Clerk. Mr. Cardin?

Senator Cardin. Aye.

The Clerk. Mr. Carper?

Senator Carper. Aye.

The Clerk. Ms. Duckworth?

Senator Duckworth. Aye.

The Clerk. Mrs. Ernst?

Senator Ernst. No.

The Clerk. Mrs. Fischer?

Senator Fischer. No.

The Clerk. Mrs. Gillibrand?

Senator Gillibrand. Aye.

The Clerk. Ms. Harris?

Senator Harris. Aye.

The Clerk. Mr. Inhofe?

Senator Inhofe. No.

The Clerk. Mr. Markey?

Senator Markey. Aye.

The Clerk. Mr. Merkley?

Senator Merkley. Aye.

The Clerk. Mr. Moran?

Senator Barrasso. No by proxy.

The Clerk. Mr. Rounds?

Senator Rounds. No.

The Clerk. Mr. Sanders?

Senator Carper. Yes by proxy.

The Clerk. Mr. Shelby?

Senator Shelby. No.

The Clerk. Mr. Sullivan?

Senator Sullivan. No.

The Clerk. Mr. Whitehouse?

Senator Carper. Yes by proxy.

The Clerk. Mr. Wicker?

Senator Wicker. No.

The Clerk. Mr. Chairman?

Senator Barrasso. No.

The Clerk will report.

The Clerk. Mr. Chairman, the yeas are 10, the nays are 11.

Senator Barrasso. On this vote, the amendment has failed.

Does any Senator seek recognition to offer any additional amendments to the bill?

[No audible response.]

Senator Barrasso. Seeing none, I move that we vote on the bill. Is there a second?

Senator Inhofe. Second.

Senator Carper. Second.

Senator Barrasso. All those in favor, please say aye.

[Chorus of ayes.]

Senator Barrasso. All those opposed, no.

[Chorus of nos.]

Senator Carper. Can we have a roll call vote, please?

Senator Barrasso. The roll call vote has been requested.

The Clerk will please call the roll.

The Clerk. Mr. Booker?

Senator Carper. No by proxy.

The Clerk. Mr. Boozman?

Senator Boozman. Yes.

The Clerk. Mrs. Capito?

Senator Barrasso. Aye by proxy.

The Clerk. Mr. Cardin?

Senator Cardin. Aye.

The Clerk. Mr. Carper?

Senator Carper. Aye.

The Clerk. Ms. Duckworth?

Senator Duckworth. Aye.

The Clerk. Mrs. Ernst?

Senator Ernst. Aye.

The Clerk. Mrs. Fischer?

Senator Fischer. Aye.

The Clerk. Mrs. Gillibrand?

Senator Gillibrand. No.

The Clerk. Ms. Harris?

Senator Harris. No.

The Clerk. Mr. Inhofe?

Senator Inhofe. Aye.

The Clerk. Mr. Markey?

Senator Markey. No.

The Clerk. Mr. Merkley?

Senator Merkley. No.

The Clerk. Mr. Moran?

Senator Barrasso. Aye by proxy.

The Clerk. Mr. Rounds?

Senator Rounds. Aye.

The Clerk. Mr. Sanders?

Senator Carper. No by proxy.

The Clerk. Mr. Shelby?

Senator Shelby. Aye.

The Clerk. Mr. Sullivan?

Senator Sullivan. Aye.

The Clerk. Mr. Whitehouse?

Senator Carper. No by proxy.

The Clerk. Mr. Wicker?

Senator Wicker. Aye.

The Clerk. Mr. Chairman?

Senator Barrasso. Aye.

The Clerk will report.

The Clerk. Mr. Chairman, the yeas are 14, the nays are 7.

Senator Barrasso. So we have approved S. 1514, as amended, by a vote of 14 to 7. It shall be reported favorably to the Senate.

The voting part of the business meeting is finished; however, I would be happy to remain and recognize any member who wishes to make a statement on this legislation that we have just

approved.

Senator Cardin. Mr. Chairman, I ask consent to put a statement in the record.

Senator Barrasso. Without objection, so ruled.

[The referenced information follows:]

Senator Barrasso. I ask unanimous consent that the staff have authority to make technical and conforming changes to each of the matters approved today. I also ask unanimous consent that the amendments that we just agreed to be considered incorporated into the underlying text of S. 1514 and the revised text be considered as the amendment in the nature of the substitute. Without objection.

With that, our business meeting is concluded.

[Whereupon, at 10:25 a.m. the committee was adjourned.]