

ENGROSSED HOUSE
CONCURRENT
RESOLUTION NO. 1028

By: Turner, Adkins, Armes, Askins, Auffet, Balkman, Banz, Benge, Billy, Bingman, Blackburn, Blackwell, Braddock, Brannon, Brown, Calvey, Carey, Cargill, Case, Coody, Cooksey, Covey, Cox, Dank, Denney, DePue, Deutschendorf, DeWitt, Dorman, Duncan, Eddins, Ellis, Gilbert, Glenn, Hamilton, Harrison, Hastings, Hickman, Hiett, Hilliard, Hyman, Ingmire, Jackson, Jett, Johnson, Jones, Kern, Kiesel, Lamons, Liebmann, Lindley, Liotta, Martin, Mass, McCarter, McDaniel, McMullen, McPeak, Miller (Doug), Miller (Ken), Miller (Ray), Morgan (Danny), Morgan (Fred), Morrissette, Nance, Nations, Newport, Perry, Peters, Peterson (Pam), Peterson (Ron), Piatt, Plunk, Pruett, Reynolds, Richardson, Roan, Roggow, Rousselot, Shelton, Sherrer, Shoemake, Shumate, Smaligo, Smithson, Staggs, Steele, Sullivan, Sweeden, Terrill, Thompson, Tibbs, Toure, Trebilcock, Walker, Wesselhoft, Wilt, Winchester, Worthen, Wright and Young

A Concurrent Resolution requesting the United States Fish and Wildlife Service and the United States Congress to take certain action relating to critical habitat designation for threatened species; and directing distribution.

WHEREAS, on October 6, 2004, the United States Fish and Wildlife Service proposed to designate 1,244 river miles as critical habitat for the threatened Arkansas River shiner; and

WHEREAS, the proposal responds to a decision by the United States Court for the District of New Mexico and includes 300 feet of adjacent riparian areas as measured outward from each bank; and

WHEREAS, the designation includes portions of the Canadian River in New Mexico, Texas and Oklahoma, the Beaver/North Canadian River of Oklahoma, the Cimarron River in Kansas and Oklahoma, and the Arkansas River in Kansas and Oklahoma; and

WHEREAS, the United States Fish and Wildlife Service in developing the proposal considered whether to exclude any specific areas, and based on an analysis of the benefit of exclusion versus the benefit of inclusion, is proposing to exclude from the final critical habitat designation the Beaver/North Canadian River in Oklahoma and the Arkansas River in Kansas and Oklahoma; and

WHEREAS, after exclusion of certain areas, the current proposal being made by the United States Fish and Wildlife Service would encompass 838 river miles and include portions of the Canadian and Cimarron Rivers in Kansas, New Mexico, Texas and Oklahoma; and

WHEREAS, the United States Fish and Wildlife Service is currently soliciting information and comments from the public on all aspects of this proposal including data on economic and other impacts of the designation, with a final rule due by September 30, 2005; and

WHEREAS, critical habitat is defined in the Endangered Species Act as a geographic area that contains features essential for the conservation of a threatened or endangered species and may require special management consideration; and

WHEREAS, the Arkansas River shiner is a small silver-colored minnow that once inhabited wide, sandy-bottomed rivers and streams throughout the Arkansas River Basin in Kansas, New Mexico, Oklahoma, and Texas; and

WHEREAS, the current known distribution area of the Arkansas River shiner population is found in the Canadian/South Canadian River in New Mexico, Oklahoma and Texas with a possible small population found in the Cimarron River; and

WHEREAS, to date there is no reliable estimate of the actual population of the Arkansas River shiner in its distribution area; and

WHEREAS, in thirty years of implementing the Endangered Species Act, the United States Fish and Wildlife Service has found that the

designation of critical habitat provides little additional protection to most listed species; and

WHEREAS, there has also been no reliable evidence that the designation of critical habitat for the Arkansas River shiner will protect the species from competition with the Red River shiner, which evidence suggests has taken over most of the habitat of the Arkansas River shiner; and

WHEREAS, to date there has been limited analysis of the economic impact to Oklahoma landowners in the event that critical habitat area is designated for the Arkansas River shiner; and

WHEREAS, the economic impact to Oklahoma landowners would include the loss of production value of the land, fencing costs, and off-site watering facilities, which because of the lack of federal funding would fall solely on the shoulders of the landowners; and

WHEREAS, the proposal for critical habitat designation does not take into consideration the water rights of owners, both ground and surface, and the impact on the property rights of owners, including industries and municipalities, within the region; and

WHEREAS, the designation of critical habitat for the Arkansas River shiner as proposed will have substantial economic impact on the region and on private landowners and will outweigh the benefit of the proposal.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE 1ST SESSION OF THE 50TH OKLAHOMA LEGISLATURE, THE SENATE CONCURRING THEREIN:

THAT the Oklahoma Legislature finds that based on the uncertainty of the scientific information and potential economic impact to Oklahoma landowners the proposed designation of critical habitat for the Arkansas River shiner is too broad and therefore requests that the United States Fish and Wildlife Service reevaluate the proposal and expand the areas of exclusion.

THAT the Oklahoma Legislature requests that the United States Fish and Wildlife Service reevaluate the criteria used to conduct an economic analysis of critical habitat designations of threatened species such as the Arkansas River shiner to include a more inclusive and realistic consideration of the economic impact on landowners, industries and municipalities.

THAT the Oklahoma Legislature urges the United States Congress to amend the Endangered Species Act to limit the application of critical habitat designations for threatened species in cases where the economic burdens outweigh the benefits of the designation.

THAT copies of this resolution be distributed to each member of the Oklahoma Congressional Delegation, the Secretary of the Interior, and the Director of the United States Fish and Wildlife Service.

Adopted by the House of Representatives the 16th day of May, 2005.

Presiding Officer of the House of
Representatives

Adopted by the Senate the ____ day of _____, 2005.

Presiding Officer of the Senate