

FEDERAL REGULATIONS REVIEW



Bulletin No. 81-23

LEGISLATIVE COUNSEL BUREAU
STATE OF NEVADA

January 1981

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LEGISLATIVE REVIEW OF FEDERAL REGULATIONS

218.536 Legislative findings, declaration. The legislature finds and declares that the State of Nevada and its citizens are subjected to federal regulations which sometimes are unreasonable, arbitrary, beyond the intent of the Congress or the scope of the authority of the agency adopting them and that as a result certain federal regulations should be subjected to legislative review and comment, and judicially tested where appropriate, to protect the rights and interests of the State of Nevada and its citizens.

(Added to NRS by 1979, 5)

218.5361 "Committee" defined. As used in NRS 218.5361 to 218.5371, inclusive, "committee" means the legislative committee for the review of federal regulations.

(Added to NRS by 1979, 5)

218.5363 Legislative committee for the review of federal regulations; Establishment; membership; chairman; vacancies.

1. There is hereby established a legislative committee for the review of federal regulations consisting of four members. The chairman of the legislative commission shall designate two senators and two assemblymen as members of the committee.

2. The members of the committee shall elect a chairman who shall be an assemblyman in odd-numbered years and a senator in even-numbered years. If a vacancy occurs on the committee, the chairman of the legislative commission shall appoint a new member from the same house as the committee member whose position is vacant.

(Added to NRS by 1979, 5)

218.5365 Meetings, secretary, regulations of committee; quorum; salary, per diem allowance, travel expenses of members.

1. The members of the committee shall meet throughout each year at such times and at such places as shall be specified by a call of the chairman or a majority of the committee. The director of the legislative counsel bureau shall act as the nonvoting recording secretary. The committee shall prescribe regulations for its own management and government. Three members of the committee constitute a quorum, and a quorum may exercise all the power and authority conferred on the committee.

2. The members of the committee are entitled to receive a salary of \$40, a per diem allowance of \$40 and the travel expenses provided by law for each day of attendance at a meeting of the committee and while engaged in the business of the committee.

(Added to NRS by 1979, 5)

218.5367 Powers of committee.

1. The committee may:

(a) Review and comment on any administrative policy, rule or regulation of the Secretary of the Interior which pertains to policy concerning or management of public lands under the control of the Federal Government;

(b) Conduct investigations and hold hearings in connection with its review, including but not limited to investigating the effect on the state, its citizens, political subdivisions, businesses and industries of such policies, rules, regulations and related laws;

(c) Consult with and advise the state land use planning agency on matters concerning federal land use, policies and activities in this state.

(d) Direct the legislative counsel bureau to assist in its research, investigations, review and comment; and

(e) Recommend to the legislature as a result of its review any appropriate state legislation or corrective federal legislation.

2. Any reference in this state to federal policies, rules, regulations and related federal laws includes those which are proposed as well as those which are enacted or adopted.

(Added to NRS by 1979, 5)

218.5369 Oaths; depositions; subpoenas.

1. In conducting the investigations and hearings of the committee:

(a) The secretary of the committee, or in his absence any member of the committee, may administer oaths.

(b) The secretary or chairman of the committee may cause the deposition of witnesses, residing either within or without the state, to be taken in the manner prescribed by rule of court for taking depositions in civil actions in the district courts.

(c) The secretary or chairman of the committee may issue subpoenas to compel the attendance of witnesses and the production of books and papers.

2. If any witness refuses to attend or testify or produce any books and papers as required by the subpoena, the secretary or chairman of the committee may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) The witness has been subpoenaed by the committee pursuant to this section; and

(c) The witness has failed or refused to attend or produce the books and papers required by the subpoena before the committee which is named in the subpoena, or has refused to answer questions propounded to him,

and asking for an order of the court compelling the witness to attend and testify or produce the books and papers before the committee.

3. Upon such petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days from the date of the order, and then and there show cause why he has not attended or testified or produced the books or papers before the committee. A certified copy of the order shall be served upon the witness.

4. If it appears to the court that the subpoena was regularly issued by the committee, the court shall enter an order that the witness appear before the committee at the time and place fixed in the order and testify or produce the required books or papers, and upon failure to obey the order the witness shall be dealt with as for contempt of court.

(Added to NRS by 1979, 6)

218.5371 Fees and mileage for witnesses. Each witness who appears before the committee by its order, except a state officer or employee, is entitled to receive for his attendance the fees and mileage provided for witnesses in civil cases in the courts of record of this state. The fees and mileage shall be audited and paid upon the presentation of proper claims sworn to by the witness and approved by the secretary and chairman of the committee.

(Added to NRS by 1979, 6)

REPORT OF THE LEGISLATIVE COMMITTEE
FOR THE REVIEW OF FEDERAL REGULATIONS

To the Members of the 61st Session of the Nevada Legislature:

This report is transmitted to the members of the 1981 legislature for their information and appropriate action. It is designed to describe the activities of the legislative committee for the review of federal regulations since its creation by state statute in 1979, and to outline future direction.

This committee was established to primarily review and make comments on proposed regulations and policies by the U.S. Department of Interior which affect Nevada's public lands. Since its establishment the committee has met eight times, usually in conjunction with the select committee on public lands because all four members of the federal regulations review committee are also members of the select committee. It is the consensus of the members of the federal regulations review committee that it is performing a most valuable function concerning Nevada's oversight of federal activities on our public lands.

Respectfully submitted,

Legislative Committee for the
Review of Federal Regulations
State of Nevada

December 1980

COMMITTEE MEMBERS

Senator Norman D. Glaser, Chairman
Assemblyman Karen W. Hayes, Vice Chairman
Senator M. H. (Mike) Sloan
Assemblyman Dean A. Rhoads

SUMMARY OF RECOMMENDATIONS

The legislative committee for the review of federal regulations recommends for the consideration of the 61st session of the Nevada legislature:

1. Pass a resolution which would memorialize Congress to increase Nevada's share of the proceeds from sales of federal public lands in Nevada now controlled by the Bureau of Land Management. It is proposed that the state of Nevada's share of the net proceeds from sales of such public lands be increased from 5 percent to 50 percent, and that the remaining 50 percent of these proceeds be distributed to the counties in which lands sold are located. (BDR 90).
2. Enact legislation to expand the responsibilities of the legislative committee for the review of federal regulations to also include the policies, rules and regulations of the U.S. Forest Service. There should also be a provision in the law for the committee to communicate its findings to the attorney general for possible action. (BDR 17-89).
3. Pass a resolution which would memorialize Congress to release lands no longer under wilderness consideration by the federal government to original multiple use management status. (BDR 866).

REPORT TO THE 61ST SESSION OF THE NEVADA LEGISLATURE
FROM THE LEGISLATIVE COMMITTEE
FOR THE REVIEW OF FEDERAL REGULATIONS

I. INTRODUCTION AND BACKGROUND

Introduction

The legislative committee for the review of federal regulations was established in statute by the 1979 Nevada Legislature. A.B. 653, introduced and passed by the 1977 legislature to establish this committee, was subsequently vetoed by the governor in 1977. That veto was overridden by action of the 1979 legislature.

This committee was established to, among other things, review and make comments on regulations and policies by the U.S. Department of Interior affecting Nevada's public lands. Since its establishment the committee has adopted internal management regulations (Appendix I) and has met 8 times, usually in conjunction with the legislature's select committee on public lands. All four members of the federal regulations review committee are also members of the select committee on public lands. For 1979 and 1980, the members of the federal regulations committee were: Senator Norman D. Glaser, chairman in 1980; Senator M. H. (Mike) Sloan, vice chairman in 1979; Assemblyman Karen Hayes, vice chairman in 1980; and Assemblyman Dean A. Rhoads, chairman in 1979.

The veto of A.B. 653 in 1977 by Governor O'Callaghan was based on a belief that a federal regulations review committee would duplicate the efforts of Nevada's multiple use advisory committee on federal lands (NRS 232.151-232.157). However, since establishment of the federal regulations review committee in 1979, there have been no observed duplications between these two committees. In fact, the work of the two committees has proven to be complementary as the multiple use advisory committee primarily reviews problems in ongoing federal land programs and is advisory by nature, while the federal regulations review committee reviews specific proposed actions, policies and regulations and is authorized to make comments of policy on behalf of the legislature.

The federal regulations review committee, as part of each meeting agenda, reviews recommendations from the multiple use advisory committee for possible legislative action or other support. The federal regulations review committee once received a letter from a private group in eastern Nevada asking the committee to review a possible management conflict at Ruby Marshes involving fish and waterfowl.

After preliminary research into this matter by staff, it was discovered that the U.S. Fish and Wildlife Service was in an early study phase with no proposals expected for a year or two. The committee therefore referred this matter to the multiple use advisory committee to allow early discussion of this matter before federal proposals were developed.

Research staff assigned to the federal regulations review committee from the legislative counsel bureau was also asked to prepare an analysis of natural resource committees in Nevada and their functions (Appendix II). This analysis further illustrates the complementary nature of these various committees, with no unnecessary overlapping of functions or activities observed.

Background

The federal regulations review committee is directed by law to "review and comment on any administrative policy, rule or regulation of the Secretary of Interior which pertains to policy concerning or management of public lands under the control of the Federal Government." The committee is also authorized to "conduct investigations and hold hearings in connection with its review * * *," consult with and advise the state land use planning agency (division of state lands), and make recommendations to the legislature on "appropriate state legislation or corrective federal legislation." The research division of the legislative counsel bureau has provided continuing staff support to this committee as specified in the state law.

Research staff for the committee keeps up-to-date on the various federal proposals in three primary ways:

1. Review of the Federal Register on a daily basis as well as periodic review of the Weekly Regulatory Monitor. The Federal Register is a daily Federal Government publication which provides a uniform system for making available to the public regulations and legal notices issued by federal agencies. The Weekly Regulatory Monitor is a weekly publication by a private firm to provide a summary of federal agency proposals and newly adopted regulations of general interest.

2. The research division of the legislative counsel bureau has been placed on the permanent mailing list of several federal agencies for announcements, meeting notices, and proposed policies and actions. The Nevada office of the Bureau of Land Management (BLM) has been particularly cooperative in this respect. Other federal agencies which have been contacted for information include the Susanville, California, BLM district (administers 1,433,000 acres in Nevada), Bureau of Indian Affairs, National Park Service, Fish and Wildlife Service, Water and Power Resources Service and Heritage Conservation and Recreation Service.
3. The research division is also on the permanent mailing list of Nevada's state clearinghouse, located in the office of the state planning coordinator. The state clearinghouse will occasionally receive federal proposals which have not been listed in the Federal Register and for which direct notice by the responsible federal agency was not made to the research division. The state clearinghouse has been most cooperative in this respect, as well as in the involvement of the legislative branch of Nevada government in federal briefings and meetings designed for the agencies in Nevada's executive branch.

For regular meetings of the federal regulations review committee, research staff prepares comprehensive written summaries of recent Interior Department proposals, regulations, policies, and other actions. Appendix III is an example of one of these staff reports. The committee usually asks staff to present the entire staff report before making recommendations on the elements therein. Appendices IV and V are examples of formal comments made by the committee.

II. MEETINGS OF THE COMMITTEE, PUBLIC HEARING IN ELKO,
AND MEETINGS IN WASHINGTON, D.C.

The legislative committee for the review of federal regulations has met 8 times since its establishment. Following is a listing of those meetings and a brief summary of each meeting.

Meetings of Nevada's Legislative Committee
for the Review of Federal Regulations

<u>Date and Location</u>	<u>Meeting Summary</u>
1. August 10, 1979 Carson City, NV.	Election of chairman and vice chairman, committee management regulations, review of Bureau of Land Management (BLM) wilderness program and regulations and other proposed federal policies and regulations.
2. September 5, 1979 Reno, NV.	Review and comment on BLM wilderness program, forage allowance proposal and multiple use of public lands.
3a. November 1, 1979 Elko, NV.	Review and comment on BLM experimental stewardship program, BLM proposed rules for rights-of-way, wilderness program, and recent U.S. Fish and Wildlife Service land acquisitions in Clark County.
3b. November 1, 1979 Elko, NV.	Formal public hearing on revised forage allowance requirements for livestock grazing proposed by Nevada BLM.
4. February 2, 1980 Las Vegas, NV.	Review of proposed BLM land withdrawal rules, National Park Service (NPS) proposal for Great Basin National Park, natural and free flowing river proposal by Heritage Conservation and Recreation Service (HCRS), BLM wilderness program and electing committee chairman and vice chairman for 1980.
5. March 19, 1980 Washington, D.C. in conjunction with select committee on public lands.	Separate meetings with directors and key staff of BLM, NPS and HCRS on various regulations, policies and programs affecting public lands in Nevada.

Date and Location

Meeting Summary

6. June 7, 1980
Carson City, NV. Review and comment on Ruby Marshes management, proposed BLM regulations on mining, grasshopper control on public lands, BLM's grazing EIS program, and BLM land sales in Las Vegas area.
7. November 20, 1980
Salt Lake City, UT in conjunction with select committee on public lands. Review and comment on BLM's proposed grazing regulations, proposed guidelines from Nevada BLM on land use planning, and development of proposed legislation for 1981 session.
8. January 7-8, 1981
Carson City, NV. Review of BLM mining regulations, water permits, upcoming meeting of BLM's National Advisory Council and further refinement of BDR's for 1981 session.

Initially, the committee thought that meetings should be held approximately once every two months in order to keep up-to-date on various federal proposals. It was later decided to conduct meetings in conjunction with meetings of the select committee on public lands because all four members of the federal regulations review committee are also members of the select committee. Additionally, as an alternative emergency measure for federal proposals needing an immediate response, a telephone polling procedure of members has been authorized.

Elko Public Hearing

At its regular meeting in Reno on September 5, 1979, the federal regulations review committee discussed a proposal by the Nevada office of BLM to increase forage allowance requirements for livestock grazing. The requirement then used by Nevada BLM was approximately 800 pounds of dry forage material, as determined by range estimates, for each animal unit month (AUM) permitted on BLM rangelands. The BLM proposal under discussion was to require approximately 1,000 pounds of dry forage material per AUM.

At the September 5, 1979, meeting, the following persons presented information to the committee that generally contradicted the BLM proposal: Dave Secrist, Nevada

cattlemen's association; Dr. Tony Lesperance, University of Nevada-Reno (UNR) college of agriculture; Mike Kilpatrick, UNR cooperative extension service; William Behrens, UNR extension livestock specialist; and Jim Doughty, U.S. Soil Conservation Service. After these presentations, the committee questioned whether BLM was technically correct in this proposal which would cause a 20% reduction in livestock grazing on Nevada's public lands. It was feared that many ranching families would be forced out of business because public rangeland grazing is an integral part of most ranching operations in Nevada. There was also the opinion expressed that private land associated with ranches forced out of business would most likely be sold to either large corporate ranching firms or prematurely subdivided into lots for urban-type development.

Mr. Ed Evatz, chief of resources for the Nevada office of BLM, stated that BLM in Washington, D.C. had directed his office to "get on top" of the forage allowance issue. The proposal to raise the allowance requirement to 1,000 pounds per AUM was the result of this directive.

The members of the federal regulation review committee asked Mr. Evatz to postpone final adoption of this proposal until after the committee could hold a public hearing on this matter. A letter was subsequently sent to Nevada BLM requesting an extension of time until after a public hearing could be held in Elko on November 2, 1979. BLM was also requested to participate at this hearing and present documentation supporting their proposal.

The hearing in Elko was held at the Stockmen's Hotel on the evening of November 2, 1979. Approximately 50 persons were present for this hearing, many of whom testified. Many experts on the subject of rangeland management and livestock grazing testified and were almost unanimously opposed to the BLM proposal and the technical methodology used in its development.

Because of the opposition to this proposal, and questions regarding the validity of study methodology, Nevada BLM agreed to follow the advice and recommendations of Nevada's rangeland research and development committee on this matter. That committee is made up of the top rangeland experts in Nevada, including representatives of state and federal agencies, the University of Nevada, and some private interests. A letter was later sent to Nevada BLM by the federal regulations review committee requesting adherence to the recommendations of the rangeland research and development committee

Appendix VI). On April 2, 1980, Nevada BLM made an official announcement on this matter and agreed to continue using the 800 pound forage allowance figure for livestock grazing in Nevada rather than institute the proposed 1,000 pound requirement (Appendix VII).

Meetings in Washington, D.C.

From March 16-18, 1980, the Nevada legislature's select committee on public lands was in Washington, D.C., to actively promote public lands matters set forth in S.C.R. 5 (1979). The four members of the federal regulations review committee are also members of the select committee.

Prior to the trip to Washington, D.C., research staff was directed by the federal regulations review committee to set up meetings with the directors and key staff of three federal agencies. The agencies to be visited, all within the U.S. Department of Interior, were the Bureau of Land Management (BLM), National Park Service (NPS), and Heritage Conservation and Recreation Service (HCRS).

On the morning of March 19, 1980, after select committee meetings in Washington, D.C., had been concluded, the members of the federal regulations review committee had three separate meetings with representatives of BLM, NPS, and HCRS. Appendix VIII is a copy of the minutes of those meetings which proved to be very positive.

The meeting with HCRS director, Chris Delaporte, helped resolve possible designation of portions of the Humboldt River system as "natural and free-flowing". The highlight of the meeting with BLM Director Frank Gregg, was an invitation by Mr. Gregg for the State of Nevada, local governments and BLM to cooperatively develop a special program to expedite land sales and exchanges. Subsequent meetings with Nevada BLM Director, Ed Spang, and Nevada's administrator of state lands, Jac Shaw, have resulted in a basic framework through which local, state and federal land planning programs may be coordinated to facilitate public land sales and exchanges in Nevada. The meeting in Washington, D.C., with NPS Western Regional Director, Howard Chapman, and other key staff clarified some of the matters regarding a possible Great Basin National Park in eastern Nevada. If such a park is to be proposed, public review and comment must precede any final action. Also, air quality will be designated as Class II (category presently in effect for 99% of Nevada) in any future national park, and a change to Class I (pristine with no lowering of quality) could occur only by state initiative. In summary, the meetings in Washington, D.C., were most effective and also helped build better lines of communication between the Nevada legislature and the various federal agencies visited.

III. ACTIONS OF THE COMMITTEE AND ANALYSIS
OF ITS EFFECTIVENESS

Since the establishment of the legislative committee for the review of federal regulations, most formal recommendations have been made in the form of a letter to the appropriate federal agency. Following is a listing of matters on which the committee has made specific recommendations, including an analysis of committee effectiveness on each item.

<u>Date of letter</u>	<u>Issue</u>	<u>Final Federal Action</u>	<u>Committee Effectiveness</u>
8/14/79	Protest of BLM wilderness procedures to designate an area adjacent to proposed wilderness of another federal agency.	BLM continued existing procedures.	Not Effective.
9/10/79	Request for consideration by BLM and USAF of multiple use activities on portions of the Nellis Range.	Still pending.	Unknown.
9/10/79	Request for California BLM to expedite wilderness program in affected portions of Nevada.	BLM has until 1991 to complete their wilderness program by federal law, but will now complete efforts by 1987.	Effective.
9/10/79	Committee requests BLM to participate at a public hearing in Elko on grazing forage allowance policy.	BLM agrees to cooperate.	Very Effective

<u>Date of letter</u>	<u>Issue</u>	<u>Final Federal Action</u>	<u>Committee Effectiveness</u>
9/10/79	Committee commends BLM for land sales in Las Vegas Valley.	Land sales program in Las Vegas area is on-going.	Effective.
9/10/79	Committee supports release of 63,000 acres in S.E. Elko from further wilderness consideration.	BLM released area.	Effective.
9/10/79	Committee supports release of 420,000 acres in central Nevada from further wilderness consideration.	BLM released area.	Effective.
11/23/79	Committee endorses proposal by Nevada cattlemen's association for Tonopah area under BLM's experimental stewardship program.	Nevada BLM concurs. Matter also approved in Washington, D.C.	Very Effective.
12/3/79	Committee again protests BLM procedures designating certain wilderness study areas.	BLM continued existing procedure.	Not Effective.
12/10/79	Committee recommends that BLM follow advice of Nevada's rangeland research and development committee on forage allowance policy.	BLM agrees. (See Appendix VII)	Extremely Effective.
12/26/79	Committee comments on BLM "Sale of Public Lands" regulations.	Final regulations adopted on July 10, 1980.	Very Effective. Most comments put in final BLM regulations.

<u>Date of letter</u>	<u>Issue</u>	<u>Final Federal Action</u>	<u>Committee Effectiveness</u>
1/4/80	Committee comments on BLM "Rights-of-Way" regulations.	Final regulations adopted on July 31, 1980.	Not Effective. Recommendations considered by BLM, but generally not followed.
2/29/80	Committee comments on BLM "Land Withdrawals" regulations.	Final Regulations effective on March 30, 1981.	Effective. Comments followed concern coordination procedure with states on appropriations of water.
6/12/80	Letter to Nevada's multiple use advisory committee on federal lands urging study of bass-duck issue at Ruby Marshes.	Multiple Use Committee holds public meeting on subject later in 1980. Most concerns resolved.	Very Effective.
6/16/80	Letter to Nevada's multiple use advisory committee on federal lands urging study of bass-duck issue at Ruby Marshes.	Multiple use committee holds public meeting on subject later in 1980. Most concerns resolved.	Very Effective.
6/16/80	Committee recommendations to several federal agencies on grasshopper infestations in parts of Nevada, and press release.	BLM and other agencies develop a cooperative study program.	Somewhat Effective.
11/20/80	Committee recommendations to Nevada BLM on proposed "State Director Guidance to Land Use Planning in Nevada."	Final Guidance document now being prepared by Nevada BLM.	Effective. BLM reports that comments were quite helpful.

<u>Date of letter</u>	<u>Issue</u>	<u>Final Federal Action</u>	<u>Committee Effectiveness</u>
12/9/80	Committee comments on BLM "Grazing Administration" regulations.	Final regulations effective on January 19, 1981.	Effective.
12/9/80	Committee recommendations to Nevada's division of state lands on proposed rangelands management policy pursuant to NRS 218.5367 1.(c)	Final policy released in January 1981.	Effective

IV. CONCLUSIONS AND RECOMMENDATIONS OF THE COMMITTEE

Conclusions

Federal rules and regulations, whether most Americans realize it or not, play a significant role in our day to day lives. Also, implementation of such regulations by the Federal Government usually requires additional costs by affected industry and economic activities. Ultimately, all of these additional costs are borne by the American taxpayers and consumers.

A recent study entitled The Cost of Federal Regulation of Economic Activity¹ showed that the cost imposed on the American economy by Federal regulatory activities in 1976 totaled \$66.1 billion. This amount represented 4 percent of the gross national product, or \$307 per person living in the United States. Of this total amount, some \$8.2 billion was the cost of federal regulations for various types of environmental programs.

The members of the legislative committee for the review of federal regulations are committed to the wise use of our public lands, conservation of natural resources, and protection of the environment. However, most of the committee comments to date have been directed at examples of costly and unnecessary overregulation, over-protection and over-control by the Federal Government.

Many Nevada ranchers, including the president of the Nevada cattlemen's association, stated that if this committee had not stepped in and conducted a public hearing on the proposed revision to Nevada BLM's forage allowance policy, many Nevada ranchers would have been forced out of business. It should again be pointed out that in addition to the hardship that would have been placed on a good number of Nevada's ranching families, valuable private land would have been lost from agricultural production because of the loss of sufficient grazing privileges on adjacent public lands to create viable ranching units. Also, private lands no longer of value as individual agricultural units are sometimes prematurely subdivided into lots for urban-type development. It is the opinion of the committee that if this BLM proposal had been adopted, not only would it have seriously damaged Nevada's ranching economy, but the environment would also have deteriorated because of "forced" subdivision activity.

¹ The Cost of Federal Regulation of Economic Activity, Murray L. Weidenbaum and Robert DeFina, American Enterprise Institute for Public Policy Research, Washington, D.C., May 1978.

In conclusion, the committee believes that it has provided a valuable service to the state and is well worth the \$1,954 in committee expenses over the past 1½ years. The committee and its modest budget should be continued in the future.

Committee Recommendations

BDR 17-89 (Appendix IX) - This proposed bill calls for expansion of committee review responsibilities to also include the U.S. Forest Service. The current law restricts review to agencies within the Department of Interior, and does not include the U.S. Forest Service which is a part of the Department of Agriculture. Because the law which established the committee calls for review and comment on matters relating to federal policy and management of public lands in Nevada, and because the U.S. Forest Service controls over 5 million acres in the state, the proposals of this agency should also be included in the review of the federal regulations review committee. The committee should also be authorized to provide its comments to the Nevada attorney general for his information and possible action.

BDR 866 (Appendix X) - Currently, the Bureau of Land Management (BLM) has no apparent mechanism under law to allow for the return of lands dropped from wilderness study to multiple use status. Only Congress has that authority according to the Federal Land Policy and Management Act of 1976. A provision to allow for the orderly return of such lands to multiple use by administrative actions as proposed in Congress by BDR 866, would greatly improve BLM's wilderness study process and also benefit users of the public land.

BDR 90 (Appendix XI) - This proposal would memorialize Congress to increase Nevada's share of proceeds from sales of public lands. Currently, Nevada receives only 5 percent of the revenue from sales of Nevada lands controlled by the Federal Government. This proposal requests Congress to provide 50 percent of such land sales revenues to Nevada, with the other 50 percent going to the counties in which the lands are located. The "Whereas" provisions in the proposed resolution offer solid justification for this proposal.

APPENDIX A
COMMITTEE MANAGEMENT REGULATIONS

NEVADA LEGISLATURE
FEDERAL REGULATION REVIEW COMMITTEE
LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710



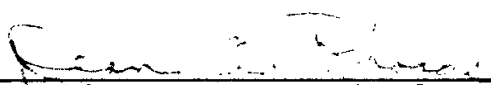
SENATOR NORMAN D. GLASER
SENATOR MIKE SLOAN
ASSEMBLYMAN KAREN W. HAYES
ASSEMBLYMAN DEAN A. RHOADS

STAFF DIRECTOR ROBERT E. ERICSON 1702-4545

MANAGEMENT REGULATIONS

1. The committee will select a vice chairman, who shall preside, and perform any other duties required of the chairman, in the chairman's absence. The vice chairman will be selected from the senate to serve in odd numbered years, and from the assembly to serve in even numbered years.

Adopted as of this date
upon formal committee action:



Assemblyman Dean A. Rhoads
Chairman

Date: November 1, 1979

APPENDIX B
SELECTED BOARDS, COMMISSIONS AND COMMITTEES IN NEVADA
PUBLIC LANDS AND NATURAL RESOURCES

SELECTED BOARDS, COMMISSIONS AND COMMITTEES IN NEVADA - PUBLIC LANDS AND NATURAL RESOURCES

GENERAL INFORMATION			MEMBERSHIP		
NAME	YEAR ORIGINALLY CREATED	AUTHORITY CREATED UNDER	NUMBER	ELECTED OR APPOINTED	QUALIFICATIONS REQUIRED
LEGISLATIVE COMMITTEE FOR THE REVIEW OF FEDERAL REGULATIONS	1979	NRS Chapter 218 (A.B. 653 - 1977 legislature, vetoed 1977, veto override 1979)	4	2 State Senators and 2 State Assemblymen appointed by Chairman of Legislative Commission.	Election to State Legislature.
SELECT COMMITTEE ON PUBLIC LANDS	1977	S.C.R. 9 - 1977 Legislature; S.C.R. 5 - 1979 Legislature.	7	3 State Senators appointed by Majority Leader of Senate and 4 State Assemblymen appointed by Speaker of the Assembly.	Election to State Legislature.
STATE MULTIPLE USE ADVISORY COMMITTEE ON FEDERAL LANDS	1965	NRS 232.151	13	Appointed by Governor.	10 members representing various state natural resource boards and local governments, and 3 representing various land user interests.
COMMISSION ON THE FUTURE OF NEVADA	1979 (terminates 12/31/80)	A.B. 451 - 1979 Legislature	25	Appointed by Governor	7 members from different geographic regions of Nevada, 4 state legislators, 10 members from various interests, 2 from local government and 2 from general public.
LAND USE PLANNING ADVISORY COUNCIL	1973	NRS 321.740	17	Appointed by Governor.	1 locally elected official or representative per county.
STATE CONSERVATION COMMISSION	1973	NRS 548.115	7 appointed members and 2 ex officio members.	Dean of UNR, College of Agriculture and Executive Director of State Department of Agriculture as ex officio members, with 7 members appointed by the Governor.	None, other than members shall come from various geographic regions of state and be recommended by the Nevada Association of Conservation Districts.
BOARD OF REVIEW (Under "Sagebrush Rebellion")	1979	A.B. 413 - 1979 Legislature (NRS Chapter 321)	9	Statute specifies that the members are the appointed heads of certain State resource agencies.	Heads of certain state resource agencies involved in natural resource management.
NEVADA RESOURCE ACTION COUNCIL	1960's	None	Approximately 40 agencies represented.	Open voluntary membership.	Generally the administrators or employees of the various state, federal, local and private agencies dealing with natural resources.

(continued on next page following)

RESPONSIBILITIES AND FUNCTIONS				
NAME	POLICY	COORDINATION	REGULATION	ADVISORY
LEGISLATIVE COMMITTEE FOR THE REVIEW OF FEDERAL REGULATIONS	Authorized to comment on behalf of state to federal government on proposed policies, rules and regulations.	In recommending certain courses of action with regard to proposed policies or regulations, may consult with all affected entities for input.	N/A	Responsible to advise the DIVISION OF State Lands, federal entities (particularly Secretary of Interior) and state legislature on public land issues.
SELECT COMMITTEE ON PUBLIC LANDS	Responsible to develop policies and carry out actions that primarily involve increasing the amounts of land in non-federal ownership in Nevada.	Serves as a lobbying, coordination and action arm of the state legislature on matters relating to decreasing the federal dominance on public lands in Nevada.	N/A	Responsible to advise the state legislature on best ways to increase the amounts of land in non-federal ownership.
STATE MULTIPLE USE ADVISORY COMMITTEE ON FEDERAL LANDS	N/A	Serves as a forum on public lands issues with recommendations made periodically to the Governor, legislature and governmental entities on the use of federal and state lands including any problem areas.	N/A	Provides advisory recommendations to Governor, legislature, and various governmental agencies concerning state and federal lands and the effect of governmental programs on the uses of the land.
COMMISSION ON THE FUTURE OF NEVADA	Develop policy recommendations on management of growth and other related issues.	Coordination with all affected entities and all levels of government.	N/A	N/A
LAND USE PLANNING ADVISORY COUNCIL	N/A	This body provides a forum for local land use planning issues affecting all parts of Nevada.	May prescribe land use plans and regulations which shall be used by local governments in cases of inconsistencies in local land use plans and in areas of critical environmental concern with approval of Governor.	Responsible to advise Division of State Lands on the development and distribution to cities and counties of information useful to land use planning.
STATE CONSERVATION COMMISSION	Carry out state policies for the conservation of renewable natural resources.	Assists local conservation districts (30 total) and serves as a liaison with federal and state agencies. Each local district has 6 or 7 members; 5 locally elected; 1 appointed by county commissioners; and 1 appointed by incorporated cities, if any.	N/A	Responsible to advise the Director of State Department of Conservation and Natural Resources on conflicts between local districts and other agencies regarding resource conservation.
BOARD OF REVIEW (Under "Sagebrush Rebellion")	Review and decision on appeals made regarding State Land Registrar management decisions on state-owned lands.	N/A	Review and approval authority on regulations for management of state-owned lands.	N/A
NEVADA RESOURCE ACTION COUNCIL	Serves as the U.S. Department of Agriculture Rural Development Committee for Nevada.	Brings together natural resource agencies on a regular basis to discuss current programs and projects. Council seeks to gain cooperative efforts on projects of common interest and to avoid duplications of effort.	N/A	N/A

Other boards and commissions with specific areas of responsibility under natural resources and public lands:

Board of Wildlife Commissioners; State Environmental Commission; Energy Resources Advisory Board; State Board of Agriculture; Central Committee of Nevada; State Grazing Boards; Oil, Gas and Mining Board; State Park Advisory Commission; Rangeland Research and Development Committee.

Compiled by:
Robert E. Erickson
LCB-Research 12/6/79

APPENDIX C
JUNE 7, 1980 STAFF REPORT

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU
LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710

LEGISLATIVE COMMISSION (702) 885-5427
KEITH ASHWORTH, *Senator, Chairman*
Arthur J. Palmer, *Director, Secretaries*
INTERIM FINANCE COMMITTEE (702) 885-5640
DONALD R. MELLO, *Assemblyman, Chairman*
Ronald W. Sparks, *Senate Fiscal Analyst*
William A. Bible, *Assembly Fiscal Analyst*



ARTHUR J. PALMER, *Director*
(702) 885-5627

FRANK W. DAYKIN, *Legislative Counsel* (702) 885-5627
JOHN R. CROSSLEY, *Legislative Auditor* (702) 885-5627
ANDREW P. GROSE, *Research Director* (702) 885-5627

June 7, 1980

CURRENT PROPOSED POLICIES, REGULATIONS
AND ACTIONS BY THE SECRETARY OF INTERIOR

LCB Staff Report to the Legislative Committee
For the Review of Federal Regulations

I. OLD BUSINESS

- A. BLM - Decision document for Caliente land use plan and grazing management program. Effective April 1, 1980. For livestock grazing, 77,513 AUMs were utilized in 1977, with 74,421 AUMs allocated by BLM for 1980. With range improvements and vegetation manipulation, BLM cites a possible future allocation of 105,000 AUMs to livestock by 1990.
- B. BLM - Draft EIS on proposed powerline and Anaconda molybdenum mining complex north of Tonopah. Public hearings were held on the draft EIS in May with written comments due by June 2, 1980. The Anaconda project is scheduled to employ approximately 400 persons when operational.
- C. BLM - Management Framework Plan Step II for Paradise-Denio Resource Area, Humboldt County. Although the Draft EIS for grazing will not be released until later this year, BLM is proposing that livestock AUMs be reduced to a level of 100,861 AUMs.
- D. BLM - Status of Wilderness Review on Public Lands by Nevada BLM (does not include Susanville BLM District in northern Washoe County)

Statewide Initial Inventory

- decision on protest announced in Federal Register

of February 6, 1980, appeal period ended March 7, 1980 without appeal; decision in effect to eliminate 25,140,136 acres from further wilderness study.

Statewide Intensive Inventory

- proposed decision announced in Federal Register of April 1, 1980; 90-day public comment period until June 30, 1980; proposal to recommend 2,963,498 acres for "wilderness study area" designation and eliminate 11,416,471 acres from further wilderness study.

Accelerated Inventories

- inventories completed ahead of normal scheduling to expedite certain mining projects, the Intermountain Power Project, "Overthrust Belt" area of oil and gas potential, and other proposals; out of 8,335,689 acres so inventoried, 1,326,770 acres were placed in "wilderness study area" status.

II. PROPOSED RULES AND REGULATIONS

- A. BLM - Proposed rulemaking to regulate through easements, permits, leases or other instruments, the use, occupancy and development of the public lands. Comments are due by July 11, 1980.

Staff will review these proposed regulations later this month and forward recommendations to committee members for their action.

- B. BLM - Proposed rulemaking and draft EIS for "surface management of public lands under the U.S. mining laws (43 CFR 3809)". These are commonly called the proposed "hardrock" mining regulations. The comment period has been extended 45 days to terminate on June 16, 1980.

Staff has talked to a number of concerned mining interests regarding these regulations, received copies of written input from several individuals, and attended one of two regional hearings held on these proposals. The proposed regulations have been criticized for a number of reasons:

1. Regulations are in conflict with both the 1872 Mining Law and BLM's 1976 Organic Act because the regulations may "impair" mining.
2. The "authorized officer" is given too much power and there may be an abuse of those powers. It was suggested that the authorized officer be

required to justify denials to prospective mining operators and cite the report of his staff geologist.

3. Reclamation requirements to restore lands to original contours would be unworkable.
4. The length of time BLM has to review a plan of operation is too long and will cause costly delays.
5. Instead of considering an alternative to amend the 1872 Mining Law, BLM should consider a positive public education program on the 1872 Mining Law.
6. The potential adverse economic impact of these regulations is not adequately addressed.

It is recommended that the committee comment on these regulations and authorize the Chairman to draft a response on behalf of the Committee. Staff will assist the Chairman along these lines.

III. PROPOSED POLICIES AND ACTIONS

- A. BLM - Intensive Wilderness Inventory for Nevada and Proposed Wilderness Study Areas. 11,416,471 acres recommended to be dropped from further wilderness consideration and 2,963,498 acres to be designated as wilderness study areas. Comments are due by June 30, 1980.

Although it is important that this Committee address the wilderness issue, it is most difficult to develop the type of comments which will carry the most weight. Some 405 separate land units (344 to be dropped and 61 proposed WSAs) are now open for public comment. BLM is not too interested in broad sweeping comments, at this stage, but instead desires detailed input with supporting documentation on each individual land unit. The committee could perhaps recommend the introduction of legislation in Congress to expedite the wilderness study area phase currently set to extend until October 1991.

- B. BLM - Draft Tonopah Grazing Environmental Impact Statement. Comments are due by June 30, 1980. Three public hearings have been held on this document (Battle Mountain, Tonopah, and Reno), but only one verbal comment was offered.

The proposed action calls for an AUM level for livestock of 126,390. Livestock use over the last five years has averaged 117,706 AUMs. For the long term, 159,474 livestock AUMs are estimated for the year 2015.

Of the 26 livestock permittees operating in the Tonopah Resource Area, in the short-term three would probably have to reduce herd size, move to rented pasture, go out of business, or buy feed as a result of the reduction in stocking rates and proposed periods of use.

It is recommended that the committee develop comments on this document and authorize the Chairman to respond, with staff support, on behalf of the Committee.

IV. NEW FINAL REGULATIONS

- A. BLM - Final rulemaking for Carey Act land grants including segregating and patenting public lands. Become effective June 20, 1980.

The Carey Act, dating from 1894, allows for State-Federal cooperation in the orderly reclamation, irrigation and settlement of 160-acre tracts of desert land for agricultural purposes. Renewed interest in the Carey Act in Nevada resulted in upgrading state legislation in 1977 and 1979. Some 2,000 applications have been filed in Nevada over the past few years. A moratorium was placed on further filing in 1978 until federal and state regulations became effective, speculative "filing services" could be controlled, and existing filings could be adequately evaluated in light of Nevada's limited water resources. Nevada's Division of State Lands and the BLM are the two lead agencies for this program.

- B. BLM - Final rulemaking regarding fees, rentals, royalties, and the requirement of minimum production or minimum royalty payments in potassium, sodium, sulfur, and phosphate leases. Becomes effective June 27, 1980.

BLM states that "this final rulemaking will require... that potassium, sodium, sulfur, and phosphate mineral leases contain a provision calling for minimum production or the payment of a specified minimum royalty. The minimum production or minimum royalty requirement is necessary to insure a fair return to the United States for the disposition of mineral rights. The long-term intended effect of the rulemaking is to encourage production of these minerals."

- C. BLM - Final rulemaking regarding the simultaneous oil and gas leasing system. Become effective June 16, 1980.

BLM states that "this final rulemaking sets forth changes in the simultaneous oil and gas leasing system, some of which apply to all onshore oil and gas leasing. These changes are intended to resolve problems with the present system by reducing speculation, requiring participants to have greater control of, and responsibility for, their involvement in the leasing system, and promoting development and exploration of oil and gas resources on the public lands."

- D. BLM - Interim final rulemaking relating to exploration and mining and the wilderness review program. Became effective April 2, 1980.

BLM states that "this interim final rulemaking provides for the management and protection of public lands under wilderness review. The Federal Land Policy and Management Act of 1976 requires that certain public lands be reviewed to determine their suitability for inclusion in the National Wilderness Preservation System. Mining operations may continue in wilderness study areas during the review in the same manner and degree as they were conducted on October 21, 1976, provided that no undue or unnecessary damage is being done to public lands and resources in wilderness study areas and that environmental protection is afforded. The intention of this rulemaking is to protect potential and identified wilderness study areas from the loss of wilderness suitability that might result from mining operations."

V. OTHER ISSUES

A. Recent BLM land sale proposals.

1. Proposed sale of five parcels of public land in Tonopah totaling about 64 acres at public auction on May 14, 1980. Appraised prices ranged from \$3,000 to \$4,000 per acre and the land is to be used for community expansion.
2. Proposed sale of 160 acres of public land northwest of Fernley at public auction on April 25, 1980. Appraised at \$160,000 and the land is to be used for industrial development.

3. Future sale of eleven parcels of public land between Ely and McGill totaling about 72.5 acres at a public auction to be announced. Land will be offered to "facilitate land use planning and accommodate growth" in the area.
4. Proposed noncompetitive sale of 960 acres of public land by BLM to Sierra Pacific Power Company at fair market value. The land is in Humboldt County and is necessary for the construction and future operation of the North Valmy Power Plant.

B. Recent BLM land withdrawal proposals.

1. Proposed withdrawal of 1,419 acres in Nye County to protect the essential habitat of the Warm Springs Pupfish. The land is proposed to be withdrawn from appropriation under the public land laws, including the mining laws, but not the mineral leasing laws.
2. Proposed withdrawal of 54,950 acres to expand the Desert National Wildlife Range in Lincoln and Clark Counties.

"The lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws."

- C. Nevada BLM Director Ed Spang recently clarified range expenditures in Nevada for 1979. \$1.3 million derived from grazing fees went for on-the-ground range improvements. \$3.3 million, directly appropriated by Congress, was spent on data gathering, grazing EISs, coordination of district grazing advisory boards, and other such responsibilities.
- D. On February 29, 1980, Interior Secretary Cecil Andrus suspended further issuance of on-shore non-competitive oil and gas leases on public lands. BLM Director Gregg had earlier reported possible violations of the criminal statutes including wire fraud, mail fraud, fraudulent statements and conspiracy. The suspension will end on June 16, 1980. BLM has established procedures that are intended to eliminate any abuse or violation of the program.

- E. BLM recently announced that it will initiate a tightly controlled program of combatting an unusually large hatch of grasshoppers in Nevada. Phil Martinelli of the State Department of Agriculture will present additional information to the Committee on the grasshopper situation.
- F. Mineral revenues from the public lands in Nevada have again increased. For the period of October 1, 1979 to March 31, 1980, BLM received \$6.7 million, half of which was paid to the State of Nevada. This amount was up 10% from the preceding 6 month period.
- G. Heritage Conservation and Recreation Service - An inventory of natural and cultural properties in the United States for the World Heritage List was recently announced. The Snake Range was the only area on the inventory in Nevada. Listing a property on the inventory confers no official status. The inventory provides the basis for selecting U.S. nominations for 1981 and subsequent years. The United States and 47 other nations are involved in this program to "establish a means by which natural and cultural areas of outstanding universal value to mankind may be recognized and protected."

On May 30, potential nominations were made from this listing, but the Snake Range was not included. Of the 275 areas originally listed, only 13 made the final nomination list. Included were such well known features and areas as the Statue of Liberty, Okefenokee National Wildlife Refuge, Great Smoky Mountains National Park, Mammoth Cave National Park, and the Wright Brothers National Memorial at Kitty Hawk.
- H. The U.S. Fish and Wildlife Service is now studying the Bonneville cutthroat trout to determine if it should be placed on the endangered or threatened species list. This species occurs in White Pine County, Nevada, and portions of Utah and Wyoming.
- I. The next meeting of BLM's National Public Lands Advisory Council will be held on June 26 and 27 at the Howard Johnson Hotel in Salt Lake City. A copy of the tentative agenda and program is attached to the staff report.
- J. BLM recently announced that it will be undertaking a major land use planning program in the Wells Resource Area. This area has been designated as

one of five pilot areas in the West for development and implementation of a Resource Management Plan (RMP). BLM schedules call for completion of a draft Wells RMP by February 28, 1983, and a final RMP by September 30, 1983, in order to comply with the court mandated deadline for the grazing EIS.

Respectfully submitted,



Robert E. Erickson
Senior Research Analyst

REE:jlc

APPENDIX D
LETTER TO BLM REGARDING PROPOSED RULES
FOR THE SALE OF PUBLIC LANDS

NEVADA LEGISLATURE
FEDERAL REGULATION REVIEW COMMITTEE

LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710



SENATOR NORMAN D. GLASER
SENATOR MIKE SLOAN
ASSEMBLYMAN KAREN W. HAYES
ASSEMBLYMAN DEAN A. RHOADS

STAFF DIRECTOR: ROBERT E. ERICKSON (702) F

December 26, 1979

Mr. Frank Gregg, Director (650)
Bureau of Land Management
1800 "C" Street, N.W.
Washington, D.C. 20240

Dear Mr. Gregg:

Nevada's Legislative Committee for the Review of Federal Regulations has reviewed your proposed rules for the "Sale of Public Lands". The following suggestions and comments are hereby made.

1. Section 2710.0-5(e) defines a "family sized farm". Our experience with the Carey Act and Desert Land Act in Nevada has provided insight into desert land reclamation. Our Committee therefore recommends that this definition not be applied to Desert Land Entry or Carey Act applications which have acreage limitations established through Federal law. Please keep in mind that under Section 203(b) of the Federal Land Policy and Management Act of 1976, desert agricultural land may be conveyed under either FLPMA or other existing law. We would also recommend the insertion of language in the "family sized farm" definition to specifically exclude its application to the Carey Act and Desert Land Entry programs.
2. Again under Section 2710.0-5(e), factors other than those listed have a direct bearing on the economic success or failure of a farming unit. This Committee would recommend the inclusion of these factors in your list of possible considerations in determining "smallest practical size". These factors include past farming experience of the individual, farmers

with adjacent private lands, and individuals already owning necessary farm equipment. By not allowing enough flexibility in your proposed definition, you may be inadvertently precluding the orderly conversion of small tracts of land into viable agricultural production. Our Committee would recommend that the definition be rewritten to allow for more flexibility by District Managers upon applications of interest through the land use planning process and Section 2710.0-6. Perhaps Section 2710.0-6(d) should also be modified to indicate that small tracts of potential agricultural land may be considered for sale under certain special situations such as those listed above.

3. Section 2710.0-6(b) specifies that sales of public lands shall be only at the initiative of BLM in coordination with the land use planning process. This Committee would recommend stronger language here that would require the prompt and expeditious sale of all tracts of land so identified through the land use planning process. Here in Nevada we have seen land exchange proposals drag on for many years with little or no progress. We would like to see some assurance in these rules that after application or expression of interest by a state or local government or private entity, which in turn would be followed by the necessary land use planning and the 2-year waiting period for lands with grazing leases, such lands would then be promptly offered for sale.
4. Section 203(a)(1) of the Federal Land Policy and Management Act of 1976 specifies that lands may be sold if such tracts, "because of their location or other characteristics, are difficult and uneconomic to manage as part of the public lands...". This Committee strongly recommends that this section of Federal law be more fully addressed by these proposed rules. We are specifically concerned with the broad swath of "checkerboard" railroad and public lands across

northern Nevada. The proposed rules should direct all District Managers to expeditiously evaluate disposal of most of these 640 acre units in the land use planning process.

5. Lack of adequate access to public lands is becoming a major issue here in Nevada. This Committee would recommend reference to easements, rights-of-way, or other access arrangements under Section 2711.5-2.

Thank you for your thoughtful consideration of these recommendations.

Sincerely,

Dean A. Rhoads, Chairman

DAR:jlc

cc: Mr. Ed Spang, Director, Nevada BLM
Mr. Jac Shaw, Division of State Lands
Mr. Mike Nolan, Governor's Office of Planning Coordination

APPENDIX E
LETTER TO BLM REGARDING
PROPOSED LAND USE PLANNING

NEVADA LEGISLATURE
DERAL REGULATION REVIEW COMMITTEE
LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710

SENATOR NORMAN D. GLASER
SENATOR MIKE SLOAN
ASSEMBLYMAN KAREN W. HAYES
ASSEMBLYMAN DEAN A. RHOADS



STAFF DIRECTOR: ROBERT E. ERICKSON (702) 883-563

November 20, 1980

Ed Spang, Director
Nevada Bureau of Land Management
P. O. Box 12000
Reno, NV 89520

Dear Mr. Spang:

Thank you for providing our committee with the opportunity to comment on your proposed "State Director Guidance to Land Use Planning in Nevada," dated October 1980. Our committee met earlier today and is forwarding the following comments and suggestions.

Page 3

I.1.F. Pursuant to section 206 of FLPMA, land exchanges are to be in the public interest rather than the national interest. Although some may argue that the two terms are synonomous, we would strongly recommend that you be consistent with FLPMA.

I.2.A. Please include "City of Wells" after Elko County. The language you use implies that only county and town board officials will be consulted. As you know, Nevada law provides for county and city government, with the option to create town boards in unin-corporated communities.

I.2.D. As a suggestion, you may wish to involve the Southern Pacific Land Company and any other large private landholders for boundary adjustment studies in the "checker-board" area.

Page 4

I.2.F. Again, use public interest instead of national interest.

Page 4

I.6.B. This section should be expanded to include the consideration of local planning and zoning and state planning in accordance with sections 202 and 210 of FLPMA.

Page 5

II.2.A.1 BLM should avoid competition with private enterprise in sand and gravel operations.

Page 7

III.2.B. We would recommend that you use the word "management" instead of "development" in this section. The Wild Horse and Burro Act requires the Secretary to "protect and manage" these animals. The terms "develop" and "development" imply some type of growth or expansion. In many areas of Nevada, additional growth and development of wild horse and burro herds would have adverse effects on both the animals and the rangeland.

Page 12

VII.3. This statement says that BLM's only priority is to recommend the inclusion of WSA's into the National Wilderness Preservation System (NWPS). Our committee strongly objects to this statement which is totally contrary to section 603 of FLPMA. BLM, in fact, is required to evaluate each "roadless area" (WSA) and make recommendations concerning the suitability or non-suitability of each for preservation as wilderness. Please reword this statement accordingly.

Page 13

VII.5. Our committee questions the following sentence, "A non-suitable recommendation

for a WSA must be viewed as a long term social value foregone." If the intent of this sentence and earlier sentences is to advocate preservation of as much public land as possible in wilderness status because such preservation is "good for society," then we would object to the deviation from the "multiple use" management concept specified by FLPMA.

Also, the second paragraph of this section talks about the "multimillion dollar wilderness recreational equipment industry" in the West. However, our studies indicate that most persons using existing or proposed wilderness areas in Nevada come to the area totally self-contained without spending any money in nearby rural communities other than perhaps for a tank of gasoline to get back home. We feel that this paragraph is irrelevant to Nevada and should be deleted.

IX.2.B. Disposal of public lands into state, local, private, or other federal management for the creation of parks and recreation areas is another possibility under this item. Section IX.6.C. is also along these lines. Both sections should indicate disposal or transfer of lands as another BLM option.

IX.3.A. The 1979 Nevada legislature established a special interim subcommittee to study the problems of access to public land over private land. The findings of that subcommittee indicate that problems of access to Forest Service lands are greatest, but with some problems of access to BLM lands also. We would encourage your agency to cooperate fully with state agencies such as the

department of wildlife and the division of state lands on the state's access program. We have enclosed copies of the final report of that subcommittee for your use.

Page 16

X.3. and
X.4

Section 106 is mentioned but we are unsure of what it means and where it comes from. Please clarify.

Page 17

XI.4.

Our committee prefers these alternatives to your proposed approach because most other BLM programs should have higher priority than the complete visual inventory. We would recommend that you reevaluate this entire section.

Page 18

XIII.

Access to public lands over private lands, including right-of-way acquisition or cooperative agreement with affected private landowners, should also be discussed in this section.

Page 25

II.6.E.

A statement should be added to this sentence providing that, when necessary, retention of rights-of-way over lands sold or exchanged is recommended to provide continuation of public access to remaining public lands.

Page 26

IV.2.D and
IV.2.E

Our committee believes that your water resources management plan should be completed before filing for water rights because you will need to know your intended use, point of diversion, volume, etc. before you can receive the water right. Your plan should come first to supply you with this needed information.

Page 27

- V. In conjunction with the state legislature's recent study on fire services in Nevada, BLM may wish to provide that current fire-fighting training is also available to state and local governments on a fee basis.

Page 28

- VI.2. Another objective should be the identification of areas with soil (and water) characteristics suitable for irrigated agriculture. This should tie in to item I.2.E. on page 3 of your report.

Please contact me if you should have any questions. Thanking you in advance for your consideration of these suggestions.

Sincerely,

Norman D. Glaser
Chairman

NDG/llp
Enc.

APPENDIX F

LETTER TO NEVADA BLM INVITING PARTICIPATION
AT PUBLIC HEARING ON LIVESTOCK GRAZING

NEVADA LEGISLATURE
FEDERAL REGULATION REVIEW COMMITTEE
LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710

SENATOR NORMAN D. GLASER
SENATOR MIKE SLOAN
ASSEMBLYMAN KAREN W. HAYES
ASSEMBLYMAN DEAN A. RHOADS



STAFF DIRECTOR: ROBERT E. ERICKSON (702) 885-561

December 10, 1979

Mr. Ed Spang, State Director
Bureau of Land Management-Nevada
300 Booth Street, Room 3008
Reno, NV 89509

Dear Mr. Spang:

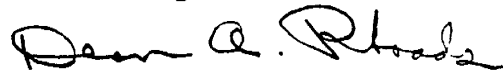
As you know, on November 1, 1979, Nevada's Legislative Committee for the Review of Federal Regulations conducted a public hearing in Elko to gather input relating to a Nevada BLM proposal relating to forage allowances on Nevada's public rangelands. There was considerable follow-up work performed on this matter by the Nevada Rangeland Research and Development Committee, which is composed of range experts from all of the involved state and federal agencies in Nevada.

At the most recent meeting of the Rangeland Committee, held on November 29, 1979, a general consensus of opinion was reached regarding what number BLM should use as a guide in calculating available forage on the rangelands of Nevada. The recommendation the Rangeland Committee made basically states that Nevada BLM should continue to use the 800 pound figure as an average forage allowance per AUM for Nevada until better information is available through monitoring. This figure will allow for a 25% forage "disappearance" rate for northern Nevada, with a rate of over 40% for central and southern Nevada. The Legislative Committee for the Review of Federal Regulations, based upon the testimony we received at our Elko hearing and the recommendation of the Nevada Rangeland Research and Development Committee, strongly recommends that Nevada BLM follow the Rangeland Committee recommendations.

I would also like to take this opportunity, on behalf of our entire Committee and staff, to thank you, Ed Evatz and Mike Phillips for your excellent cooperation and assistance.

The time extension you provided, the participation at our Elko hearing, and the willingness shown to work with other agencies on this matter was greatly appreciated. Would you also please advise me as soon as you have made a final decision on this matter.

Sincerely,

A handwritten signature in cursive script that reads "Dean A. Rhoads".

Dean A. Rhoads, Chairman

DAR:jlc

cc: Senator Glaser
Senator Sloan
Assemblyman Hayes
Mr. Ed Evatz
Mr. Mike Phillips
Mr. Dave Secrist
Dean Dale Bohmont
Mr. Tom Ballow
Mr. Jac Shaw

APPENDIX G
FINAL LIVESTOCK FORAGE ALLOWANCE
POLICY BY NEVADA BLM



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

4112
(N-951.2)

Nevada State Office
300 Booth Street
P.O. Box 12000
Reno, Nevada 89520

Instruction Memorandum No. NV-80-206
Expires: 9/30/81

APR 2 1980

To: District Managers, Nevada
From: State Director, Nevada
Subject: Livestock Forage Allowance

In an effort to obtain the dietary information required to make an equitable apportionment of available forage between grazing animals, an initial review of available studies and reference material pertaining to livestock forage allowance was made by NSO. Following this review and analysis, a recommendation was circulated for review and comment. During this comment period, numerous comments were submitted either in writing or made verbally during the public hearings conducted in Reno and Elko by Nevada's Legislative Committee for the Review of Federal Regulations. The reports that were submitted and comments made at these hearings indicated that there was not only many differences of opinion as to what the forage allowance should be, but more importantly, there was research that indicated different conclusions. In an effort to resolve these differences, the Bureau requested the Nevada Rangeland Research & Development Committee appoint a subcommittee to review all the reports and available reference materials and to submit a recommendation to the Committee.

On November 29, 1979, a meeting of the Rangeland Research & Development Committee was held to receive and discuss the subcommittee's report and develop a recommendation to submit to the Bureau. The subcommittee recommended that the Bureau use a forage allowance of 800 lbs. for an animal unit or its equivalent in Nevada.

The Rangeland Research & Development Committee unanimously accepted this recommendation, which was subsequently submitted to the Bureau for consideration in making the final determination.

We have reviewed the subcommittee's report, along with the supporting information, and concur with their findings. Therefore, until more site specific data is obtained all BLM Districts in Nevada will use the 800# forage allowance in the vegetation inventory process.

Distribution

Director (855) 2
SCD (D-559A) 3
DM (CA-020) 1
Nev. Dept. of Wildlife
Nev. Woolgrowers
Nevada's Legislative Committee for the Review
of Federal Regulations
Nevada Cattlemen's Association
Nevada Rangeland Research & Development Committee (13 copies)
W.O. 220

APPENDIX H

MINUTES OF COMMITTEE MEETINGS IN WASHINGTON, D.C.

NEVADA LEGISLATURE'S
COMMITTEE ON THE REVIEW OF FEDERAL REGULATIONS
Washington, D.C.
March 19, 1980

The Nevada Legislature's Committee for the Review of Federal Regulations held a series of three meetings with certain U.S. Department of Interior personnel.

LEGISLATIVE COMMITTEE MEMBERS PRESENT:

Senator Norman D. Glaser, Chairman
Senator M. H. (Mike) Sloan
Assemblyman Karen W. Hayes
Assemblyman Dean A. Rhoads

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Robert E. Erickson, Senior Research Analyst
Jeanne L. Douglass, Administrative Secretary

OTHERS PRESENT:

Jac Shaw, Administrator, Division of State Lands,
Department of Conservation and Natural Resources

The members of the committee first visited with Chris Terral Delaporte, Director, and other staff of the Heritage Conservation and Recreation Service, Department of Interior. The purpose of the visit was the committee's concern about the designation of certain Nevada rivers as "natural and free flowing." They asked if such designation would result in placing the rivers in the "wild and scenic" category whereby there would be restricted use of the waters.

Mr. Delaporte and his staff explained that the Heritage Conservation and Recreation Service has "custodial" responsibility for looking at resources in the country that have certain themes. The responsibility extends to advising and making recommendations to the Department of Interior, Congress and the President about those resources.

The committee was furnished details on the fact that the service is currently concluding an inventory of rivers of 25 miles or more to determine which rivers in the United States have the potential of wild, scenic or recreational designation. There are specific criteria set forth for such designations. The committee was assured that the "inventory is just a body of technical information." In the final analyses, a river can only be designated wild and scenic by one of two procedures: (1) A petition by the governor of the state in which the river is located submitted to the Secretary of Interior, or (2) A congressional act naming the specific river and the portion deemed wild and scenic.

In response to Mr. Rhoads, Mr. Delaporte's staff explained that after a river is designated wild and scenic, water resource projects that would affect the free flowing trait of the river are prohibited.

The committee then moved to the Bureau of Land Management to meet with Frank Gregg, Director, and James (Tim) Monroe, Assistant Director of Legislation and Plans. The committee had several concerns to discuss--the wild horse and burro situation, land exchanges in Nevada, wilderness designations, and grazing and EIS procedures.

Mr. Erickson began the discussion by explaining that the federal regulations review committee function is to provide legislative policy positions on various federal regulations, actions and policies. Mr. Rhoads added that the committee was active in its opposition to a 1979 BLM proposal to increase pounds of forage for an AUM from 800 to 1,000 pounds. Mr. Erickson asked if the BLM, in its evaluation of various comments on issues, would give the committee "a little more weight" than the comments by individuals. Mr. Gregg replied that "a governmental body acting in its official capacity ought to receive more weight than individuals," but he cautioned that a legislator not acting in an individual position cannot be given any more consideration than any other individual.

Mr. Gregg told the committee that he was pleased with the fact that the BLM is receiving comment from Nevada expressing the concerns of the state.

On the grazing and environmental impact statement concerns, Mr. Gregg stated the BLM first makes a judgment on whether the land is suited for grazing. If grazing is allowed, at the end of 3 years BLM assesses what is actually happening to the land and will make an adjustment accordingly. Then after 5 years, Mr. Gregg continued, the land is reassessed and the BLM can pretty well determine the grazing capacity. The 3 and 5 year range review included a process whereby the public is involved and allowed input.

Mr. Gregg then discussed land sales and exchange under the BLM Organic Act. He told the committee that the regulations governing the sales and exchanges are not yet final. A new issue paper on the subject is currently being analyzed by the Solicitor's Office, Department of Interior. Mr. Gregg stated that BLM wants to work with state and local governments for orderly disposal of lands and suggested that the various local entities provide assistance. BLM, he said, is trying to develop a land use planning process to meet the requirements of the BLM Organic Act. He added that he would be willing to set a special system for land disposal in Nevada and with the help of the committee, the state lands division, and the Nevada Association of Counties, a feasible plan could possibly be developed.

On the subject of wild horses, Mr. Gregg said the BLM has plans to remove 10,000 wild horses from the public lands in 1980, 6,000 of which will be taken from the Susanville district.

In addressing the wilderness issue, Mr. Gregg stated that 1.6 million acres in Nevada have been identified as wilderness study areas so there are some restrictions on land use until Congress makes a decision. Another 14 1/2 million acres are still in the review process to determine if they meet wilderness study criteria.

After concluding the meeting at BLM, the committee went to the National Park Service and met with Howard Chapman, the Western Regional Director; Barbara Brown, Chief of the Air Quality Office, and several other staff of the National Park Service.

Senator Glaser explained the committee's function and its concern about the proposal for a Great Basin National Park in the vicinity of Ely. He asked if the park service would explain its procedure for designating the area as a national park and what its effect would be on industry and economic development of the area.

Mr. Chapman said the Great Basin study will be completed in the summer of 1980. There would be opportunity for public comment during the review period. The purpose of the study is to determine an area that has the significant criteria to represent the Great Basin area--parts of Nevada, California, Utah and Oregon. The area must have representative parts of the Great Basin geology, flora and fauna. The entire review area consists of approximately 811,000 acres, 94 percent of which is BLM and Forest Service land.

Upon completion of the study, Mr. Chapman continued, a determination would be made whether the area should remain as it is or whether it should become a national park area. It could take several years to complete the whole process, he added.

In response to a question by Mr. Erickson, Mr. Chapman stated that the study may indicate certain uses in existence in the area that may be contrary to perpetuation of the area. A lot of the ranching in the Spring Valley area, however, would likely be an asset in national park designation because of their cultural value.

In replying to another question by Mr. Erickson, Mr. Chapman said that public comment on the study would likely be taken in the fall or winter of 1980. The report would be released by the state clearinghouse.

Mr. Erickson pointed out that the committee is particularly concerned about the mineral potential that is known to exist in the areas of the proposed Great Basin national park. He asked if there would be provisions to preserve those mineral interests.

A staff member responded that mining claims would be dealt with as private lands. There would not be any change in the status of those mines. However, he said, there are about 10 patented mining claims on the public lands that are leased and approximately 800 unpatented mining claims throughout the area. Unless Congress protects those mining claims legislatively, the National Park Service would have to determine if, in fact, they are valid claims.

Ms. Brown reported that any new national parks or wilderness areas established since August 1977 are automatically classified as Class II air quality areas. The only mechanism for redesignating an area to Class I would be by state initiative. Class II, she explained, allows air quality to change somewhat, whereas Class I would allow very little change. She submitted

a paper describing the classifications and the Clean Air Act provisions which would apply to the Great Basin area. (See Exhibit E.)

The committee also asked about the Immigrant Trail study area. They were told that there seems to be some disagreement whether the area should be made a part of the national parks system. The National Park Service study recommended against it but sponsors of the area are still pressing for further review for park designation.

There being no further business, the select committee on public lands and the committee for review of federal regulations concluded its meetings in Washington, D.C.

APPROVED BY:

SENATOR NORMAN D. GLASER, CHAIRMAN

APPENDIX I

BDR 17-89

SUMMARY--Provides for review by legislative committee of policies, rules and regulations of U.S. Forest Service.
(BDR 17-89)

Fiscal Note: Effect on Local Government: No.
Effect on the State or on Industrial
Insurance: Effect less than \$2,000.

AN ACT relating to the state legislature; adding the policies, rules and regulations of the U.S. Forest Service to those reviewed by the legislative committee for the review of federal regulations; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND
ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 218.5365 is hereby amended to read as follows:

218.5365 1. The members of the committee shall meet throughout each year at such times and at such places as shall be specified by a call of the chairman or a majority of the committee. The director of the legislative counsel bureau shall act as the nonvoting recording secretary. The committee shall prescribe regulations for its own management and government. Three members of the committee constitute a quorum, and a quorum may exercise all the power and authority conferred on the committee.

2. The members of the committee are entitled to receive a salary of [\$40, a per diem allowance of \$40 and the travel expenses] \$80 and the subsistence allowances and travel expenses provided by law for each day of attendance at a meeting of the committee and while engaged in the business of the committee.

Sec. 2. NRS 218.5367 is hereby amended to read as follows:

218.5367 1. The committee may:

(a) Review and comment on any administrative policy, rule or regulation of the :

(1) Secretary of the Interior which pertains to policy concerning or management of public lands under the control of the Federal Government; and

(2) Secretary of Agriculture which pertains to policy concerning or management of national forests;

(b) Conduct investigations and hold hearings in connection with its review, including but not limited to investigating the effect on the state, its citizens, political subdivisions, businesses and industries of such policies, rules, regulations and related laws;

(c) Consult with and advise the state land use planning agency on matters concerning federal land use, policies and activities in this state.

(d) Direct the legislative counsel bureau to assist in its research, investigations, review and comment; [and]

(e) Recommend to the legislature as a result of its review any appropriate state legislation or corrective federal legislation [.]
; and

(f) Advise the attorney general if it believes that any federal policy, rule or regulation which it has reviewed encroaches on the sovereignty respecting land or water or their use which has been reserved to the state pursuant to the Constitution of the United States.

2. Any reference in this section to federal policies, rules, regulations and related federal laws includes those which are proposed as well as those which are enacted or adopted.

APPENDIX J

BDR 866

SUMMARY--Memorializes Congress to provide for return to multiple use of public lands dropped from consideration as wilderness. (EDR 866)

Fiscal Note: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

ASSEMBLY JOINT RESOLUTION--Memorializing the Congress of the United States to provide for the return to multiple use of those public lands the Bureau of Land Management finds unsuitable for designation as wilderness.

WHEREAS, The Secretary of the Interior has designated more than 5 million acres or more than 10 percent of the public lands in Nevada to be reviewed for designation as wilderness, which constitutes 22 percent of all the land in the western United States being reviewed for wilderness by the Bureau of Land Management; and

WHEREAS, The lands being reviewed have been withdrawn from multiple use and placed in the status of protective use pursuant to section 603 of the Federal Land Policy and Management Act (43 U.S.C. § 1781) until completion of the review and legislative action by Congress; and

WHEREAS, The review of these lands in Nevada by the Bureau of Land Management will continue until at least 1989, the recommendations of the Secretary of the Interior need not be sent to the President until October 21, 1991, and the recommendations of the President need not be sent to Congress until October 21, 1993; and

WHEREAS, These lands must continue in the status of protective use until Congress acts on the President's recommendations; and

WHEREAS, The withdrawal of these lands from multiple use inhibits new uses of the lands during the entire period of review, including a period for consideration by Congress which is without limitation; and

WHEREAS, Some of these lands may not possess the qualities characteristic of wilderness or may contain important resources

which preclude the preservation of the land as wilderness, and these lands will not be recommended by the Bureau of Land Management for designation as wilderness; and

WHEREAS, During prior phases of this review, the Bureau's procedures allowed it immediately to restore to multiple use those lands it found to be unsuitable for designation as wilderness; and

WHEREAS, The lands which the Bureau decides not to recommend for designation as wilderness should be immediately returned to multiple use and not be tied up in protective status for more than a decade; now, therefore, be it

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That this legislature memorializes the President of the United States and Congress to amend section 603 of the Federal Land Policy and Management Act (43 U.S.C. § 1781) to provide for immediate return to multiple use of any public lands now being reviewed for designation as wilderness which the Bureau of Land Management finally determines to be unsuitable for such designation; and be it further

RESOLVED, That copies of this resolution be prepared and transmitted by the legislative counsel to the President of the United States, the Vice President as President of the Senate, the Speaker of the House of Representatives and each member of the Nevada congressional delegation; and be it further

RESOLVED, That this resolution shall become effective upon passage and approval.

APPENDIX K

BDR 90

SUMMARY--Memorializes Congress to increase Nevada's share of proceeds from sales of public lands. (BDR 90)
Fiscal Note: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

ASSEMBLY JOINT RESOLUTION--Memorializing the Congress of the United States to increase Nevada's share of the proceeds from sales of public lands from 5 percent to 50 percent.

WHEREAS, The enabling act which provided for the admission of Nevada into the Union on an equal footing with the original states, Act of Mar. 21, 1864, ch. 36, 13 Stat. 30, provided in section 10 for payment to Nevada of 5 percent of the net proceeds from the sales of public lands in Nevada; and

WHEREAS, The Federal Government still holds 87 percent of the land in Nevada, and only 3.9 percent of the land in Nevada has passed into private ownership in the last 116 years; and

WHEREAS, The Bureau of Land Management administers over 49 million acres or 69 percent of the land in Nevada, and from this Bureau's management of these lands in the years 1970-78, the state's 5-percent share of the proceeds from the sale of land and materials (including gravel, timber, Christmas trees and firewood) has been an average of only \$28,169 per year; and

WHEREAS, The Bureau of Land Management now manages the public lands in Nevada pursuant to the Federal Land Policy and Management Act of 1976, which provides that the public lands should not be disposed of unless the disposal is in the national interest; and

WHEREAS, The Congress in enacting the Federal Land Policy and Management Act, with its severe restrictions on the sale of the public lands, has effectually prohibited disposal of the public lands and has rendered inconsequential Nevada's 5-percent share of the proceeds from the sales of public lands; now, therefore, be it

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That the Nevada legislature hereby memorializes the Congress

of the United States to increase the State of Nevada's share of the net proceeds from sales of public lands from 5 percent to 50 percent, and to distribute the remainder of the net proceeds from those sales to the counties in which the lands are located; and be it further

RESOLVED, That copies of this resolution be prepared and transmitted by the legislative counsel to the President of the United States, the Vice President as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada congressional delegation; and be it further

RESOLVED, That this resolution shall become effective upon passage and approval.