

# Legislative Committee on Public Lands' Subcommittee to Study Wilderness and Wilderness Study Areas



January 2005



*Legislative Counsel  
Bureau*

*Bulletin No.  
05-9*



**LEGISLATIVE COMMITTEE ON PUBLIC LANDS' SUBCOMMITTEE TO STUDY  
WILDERNESS AND WILDERNESS STUDY AREAS**

**BULLETIN 05-9**

**JANUARY 2005**



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## ACRONYMS USED IN BULLETIN

BDR .....	Bill Draft Request
BLM.....	Bureau of Land Management, United States Department of the Interior
LCB .....	Legislative Counsel Bureau
S.C.R.....	Senate Concurrent Resolution
The Act .....	The Wilderness Act of 1964
WSA(s) .....	Wilderness study area(s)





## SUMMARY OF RECOMMENDATIONS

### LEGISLATIVE COMMITTEE ON PUBLIC LANDS' WILDERNESS AND WILDERNESS STUDY AREAS SUBCOMMITTEE

Senate Concurrent Resolution No. 7  
(File No. 63, *Statutes of Nevada 2003*)

This summary presents the recommendations approved by Nevada's Legislative Committee on Public Lands' Wilderness and Wilderness Study Areas Subcommittee at its final meeting on June 11, 2004.

### RECOMMENDATIONS FOR LEGISLATION

*Please note: The bill draft request (BDR) referenced in this document will be available during the 2005 Legislative Session.*

**The Subcommittee recommends that the 73<sup>rd</sup> Session of the Nevada Legislature adopt the following resolution:**

1. Urging Congress to:
  - a. Encourage the Nevada Congressional Delegation to work with all interested Nevadans and in particular, Native Americans, land managers, affected stakeholders, local governments, special interest organizations, and the larger American public to work collaboratively together in a spirit of cooperation and mutual respect in pursuit of wilderness area designation for Nevada's public lands.
  - b. Continue the policy of releasing federal lands for conversion to state or private lands as wilderness areas are designated or released to general use, in accordance with stakeholder agreements.
  - c. Carefully consider the requirements of existing and future military operations on wilderness land and in the airspace over wilderness land and make appropriate provisions therefore.
  - d. Support adoption of a schedule for timely consideration of a plan to release lands not designated as wilderness areas.

**(BDR R-432)**

## **RECOMMENDATIONS FOR COMMITTEE ACTION**

Additionally, the Subcommittee voted to:

Include a statement in the Subcommittee report urging all interested stakeholders to work cooperatively together on a county or regional basis to develop their own recommendations to the Congressional Delegation and additionally urge stakeholders to complete the process as soon as reasonably possible.

# **REPORT TO THE 73<sup>RD</sup> SESSION OF THE NEVADA LEGISLATURE BY NEVADA'S LEGISLATIVE COMMITTEE ON PUBLIC LANDS' WILDERNESS AND WILDERNESS STUDY AREAS SUBCOMMITTEE**

## **I. INTRODUCTION**

The Legislative Committee on Public Lands' Wilderness and Wilderness Study Areas Subcommittee is the result of Senate Concurrent Resolution No. 7 introduced in the 72<sup>nd</sup> Session of the Nevada Legislature. A copy of S.C.R. 7 is included in Appendix A.

### **A. SUBCOMMITTEE MEMBERS AND STAFF**

The Legislative Commission appointed the following legislators to serve on the Subcommittee:

Senator Dean A. Rhoads, Chairman  
Assemblyman Jerry D. Claborn, Vice Chairman  
Senator Bob Coffin  
Senator Mike McGinness  
Assemblyman Pete Goicoechea  
Assemblywoman Peggy Pierce

The following Legislative Counsel Bureau (LCB) staff members provided support for the Subcommittee:

Scott Young, Principal Research Analyst, Research Division  
R. René Yeckley, Principal Deputy Legislative Counsel, Legal Division  
Gayle Nadeau, Senior Research Secretary, Research Division

### **B. HEARINGS AND RECOMMENDATIONS**

The Subcommittee held five meetings during the course of the study. Meetings were held in Winnemucca, Caliente, Ely, Reno, and Carson City. Extensive testimony regarding the impact of wilderness designations and wilderness study areas (WSAs) was provided by state and federal agency representatives, local government officials, environmentalists, ranchers, miners, Native Americans, and the general public regarding the impact of wilderness designations and WSAs.

At its final meeting, the Subcommittee adopted recommendations for consideration by the Legislative Committee on Public Lands. The recommendations cover a variety of issues and are summarized in the "Summary of Recommendations" section of this bulletin, beginning on page v.

This bulletin: (1) provides an account of the Subcommittee's activities during the 2003-2004 Legislative Interim; (2) provides background information on the development of wilderness areas and WSAs in Nevada; and (3) summarizes the major issues considered and acted upon by the Subcommittee.

A large volume of data was collected during the course of the study and much of it is included in exhibits that became part of the Subcommittee minutes. All supporting documents and minutes of meetings are on file with the Research Library of the LCB (775/684-6827). Additionally, minutes are available online at:

<http://www.leg.state.nv.us/72nd/Interim/StatCom/Wilderness/>.

## **II. GENERAL BACKGROUND ON WILDERNESS ISSUES**

### **A. THE WILDERNESS ACT OF 1964**

The first people in America perhaps viewed the land as a vast wilderness with isolated outposts of humanity. In time, other groups came and the country's growing population fanned out across the continent, altering the natural landscape more and more, spreading the hallmarks of civilization far beyond the humbler precincts of the original waves of people. Gradually, the remaining wilderness areas began to appear more like the isolated outposts. As people began to appreciate the beauty and value of what was being lost, a feeling arose that some portions of this natural heritage should be preserved for future generations. These sentiments found expression in the federal Wilderness Act of 1964 (herein referred to as "the Act").

The Act established the National Wilderness Preservation System. This system now consists of more than 104 million acres of federal public land designated by Congress as wilderness areas, National Parks, National Forests, National Wildlife Refuges, and Western Heritage Lands. Some of these areas are under the jurisdiction of the Forest Service, United States Department of Agriculture; others are managed by the National Park Service and some by the Bureau of Land Management (BLM), U.S. Department of the Interior.

In accordance with the Act, Congress has designated numerous areas in the State of Nevada as wilderness areas, including the Alta Toquima Wilderness Area, Arc Dome Wilderness Area, Currant Mountain Wilderness Area, East Humboldt Wilderness Area, Grant Range Wilderness Area, Jarbidge Wilderness Area, Mt. Charleston Wilderness Area, Mt. Moriah Wilderness Area, Mt. Rose Wilderness Area, Quinn Canyon Wilderness Area, Ruby Mountains Wilderness Area, and Table Mountain Wilderness Area.

Under the Act, wilderness is defined as ". . . an area of undeveloped federal land retaining its primeval character and influence . . . which generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable. . . ." wilderness areas must also have ". . . outstanding opportunities for solitude or a primitive and

unconfined type of recreation,” contain at least 5,000 acres, and “may also contain ecological, geological or other features of scientific, educational, scenic, or historical value [Section 2(c)].”

If an area of federal public land is designated as a wilderness area, it must be managed in a manner that preserves the wilderness character of the area and ensures the area remains unimpaired for future use and enjoyment as a wilderness area. In conjunction with the provisions of the Act, the Secretary of the Interior may identify certain portions of federal public lands as WSAs to determine the suitability of those areas for designation by Congress as wilderness areas. Until a WSA is designated by Congress as a wilderness area or released back to general use, the wilderness study area must be managed in a manner that does not impair its suitability for preservation as a wilderness area.

## **B. BUREAU OF LAND MANAGEMENT WILDERNESS SURVEYS**

In 1977, at the direction of the Secretary of the Interior, the BLM conducted an initial inventory of 49 million acres of Nevada land for potential designation as WSAs. By 1979, the BLM had reduced this inventory to 15 million acres. In 1980, the BLM designated 110 WSAs in Nevada, covering 5.1 million acres. Then, in 1991, the BLM completed its survey and recommended 1.9 million acres within 52 WSAs for designation as wilderness areas and the release of the remaining 3.2 million acres. After the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area was created by Congress in 2000, the balance of Nevada lands remaining in WSAs dropped to just under 5 million acres.

## **C. CLARK COUNTY CONSERVATION OF PUBLIC LAND AND NATURAL RESOURCES ACT OF 2002**

During 2001-2002, Congress considered two measures, both called the “Clark County Conservation of Public Land and Natural Resources Act of 2002.” One bill, S.2612, was introduced by Nevada Senators Harry Reid (D) and John Ensign (R) on June 11, 2002. A similar measure, H.R. 5200, was introduced in the House of Representatives by U.S. Congressman Jim Gibbons. Working closely together, the Nevada Delegation was able to secure passage of H.R. 5200. The measure was signed into law by President George W. Bush on November 6, 2002, and is now Public Law 107-282.

Under the law, 444,000 acres of federal land are granted wilderness status, including portions of the following areas: (1) Mount Charleston, northwest of Las Vegas, Nevada; (2) North and South McCullough Mountains, south of Henderson, Nevada; (3) Muddy Mountains, northeast of Las Vegas; and (4) Arrow Canyon, east of the Desert National Wildlife Range. Additionally, the bill adds 26,433 acres to the Desert National Wildlife Refuge and creates the 48,438-acre Sloan Canyon National Conservation Area near Henderson.

The measure also releases 183,375 acres of BLM property throughout the county from WSA status and sets aside about 6,000 acres for a planned community north of Jean, Nevada,

near where Clark County plans to build a second airport. Furthermore, the measure provides for corridors for power lines and a possible high-speed magnetic levitation rail in the area south of Las Vegas. Finally, the bill provides for a land swap near Red Rock National Conservation Area involving 1,071 acres that were added to Red Rock in exchange for transferring 998 acres of federal land to the Howard Hughes Corporation. The legislation is viewed as a potential model for resolution of further WSA issues in Nevada.

#### **D. LINCOLN COUNTY CONSERVATION, RECREATION, AND DEVELOPMENT OF ACT OF 2004**

On June 16, 2004, just five days after the Subcommittee concluded its work, the Lincoln County Conservation, Recreation, and Development Act of 2004 (H.R. 4593; S. 2532) was introduced in both houses of Congress by the members of the Nevada Congressional Delegation. Among its principal provisions, the Act designates 769,611 acres as wilderness and releases 245,516 acres to general use. Additionally, the measure authorizes the sale of up to 87,005 acres of federal land through an auction process with forty-five percent of the proceeds being retained by Lincoln County for economic development, parks, trails, and natural areas. The bill also expands three state parks and establishes a 260-mile off-highway vehicle road trail.

A summary of the measure prepared by Congressional staff is included in the report as Appendix B. The bill itself is included in Appendix C. A map prepared by the BLM reflecting the changes proposed by the Act is included in Appendix D.

The measure was heard July 20, 2004, in the Subcommittee on National Parks, Recreation and Public Lands of the House Committee on Resources. According to news accounts, a coalition of some forty-five conservation and ranching groups as well as individuals have expressed opposition to portions of the measure on various grounds. A copy of a press release from several of these organizations outlining objections to some of the bill's provisions and identifying specific points of concern is included as Appendix E.

Despite objections to portions of the bill, the Nevada Congressional Delegation has expressed optimism that a proposal with broad support will ultimately be enacted.

### **III. MAJOR ISSUES CONSIDERED DURING THE STUDY**

#### **A. GENERAL APPROACH TO WILDERNESS ISSUES**

Consideration of wilderness issues historically has been contentious and discussions polarized. Against that backdrop, it is not surprising that the process of designating suitable areas and release of remaining land has continued for a quarter of a century. There are deep philosophical differences about what constitutes appropriate use of lands and what qualities really capture the essence of wilderness. A number of witnesses who testified before the Subcommittee stressed the need for positive interaction among interest groups,

better understanding of what the Act actually says, and willingness to meet at the local level to identify areas of common concern. The Clark County Conservation of Public Land and Natural Resources Act of 2002 was identified as an example of the type of constructive compromise that can be achieved when all stakeholders participate in crafting a resolution to outstanding issues and pursue a cooperative approach. Additionally, the Subcommittee felt that given the length of time wilderness issues have been under consideration, some attempt should be made to bring remaining matters to resolution, particularly in respect to areas where there was no dispute as to their failure to qualify as wilderness.

As a result of such testimony, the Subcommittee adopted the following recommendations:

**Encourage the Nevada Congressional Delegation to work with all interested Nevadans and in particular, Native Americans, land managers, affected stakeholders, local governments, special interest organizations, and the larger American public to work collaboratively together in a spirit of cooperation and mutual respect in pursuit of wilderness area designation for Nevada's public lands.**

**Support adoption of a schedule for timely consideration of a plan to release lands not designated as wilderness areas.**

## **B. LOCAL INPUT**

An important aspect of positive interaction among interested parties is recognition of impacts on local citizens and solicitation of input from those most directly affected by the decision making process. In this regard, the Subcommittee adopted the following recommendation:

**Include a statement in the Subcommittee report urging all interested stakeholders to work cooperatively together on a county or regional basis to develop their own recommendations to the Congressional Delegation and additionally urge stakeholders to complete the process as soon as reasonably possible.**

## **C. RELEASE OF FEDERAL LANDS FOR SALE**

Another area of concern to many people is the release of federal land for state and private use. The majority of land in Nevada is owned by the Federal Government. In some counties such as Lincoln, so much land is under federal control it is difficult to generate sufficient tax base to fund local government functions. The Clark County Conservation of Public Land and Natural Resources Act of 2002 established a procedure for releasing some federal land for state and private use. Responding to this need, the Subcommittee adopted the following recommendation:

**Continue the policy of releasing federal lands for conversion to state or private lands as wilderness areas are designated or released to general use, in accordance with stakeholder agreements.**

## **D. MILITARY ACTIVITIES IN WILDERNESS AREAS**

Testimony by representatives of the Armed Services indicated the importance of wilderness areas to certain training and operational functions of the military. A map prepared by the military reflecting the geographical extent of its operations in Nevada is included in Appendix F. Recent wilderness legislation has specifically recognized the military's need for access to wilderness areas. In connection with this testimony and cognizant of the additional and unique demands placed on the nation's fighting forces by international developments in recent years, the Subcommittee adopted the following recommendation:

**Carefully consider the requirements of existing and future military operations on wilderness land and in the airspace over wilderness land and make appropriate provisions therefore.**

## **IV. SUMMARY OF ACTIVITIES**

### **A. MEETINGS**

The Legislative Committee on Public Lands' Wilderness and Wilderness Study Areas Subcommittee met five times throughout Nevada. The Subcommittee met in populous areas of Nevada, and also held meetings in areas of the state where WSA issues are in the forefront. The meetings in rural Nevada counties include a scheduled time for local government officials to present their concerns and report happenings pertaining to WSAs within their counties.

Following are summaries of the Subcommittee's deliberations and activities at each of the meetings.

#### **1. Winnemucca Meeting (December 18, 2003)**

The Subcommittee's first meeting was held in Winnemucca. A brief side presentation of WSAs in the Winnemucca area was presented by representatives of Friends of Nevada Wilderness. Staff from the BLM explained the process that led to the designation of WSAs and how they are managed. There was a short period of public testimony.

#### **2. Caliente Meeting (January 23, 2004)**

The Subcommittee's second meeting was held at the Caliente Youth Center. Following opening remarks and introductions by the Chairman, the Subcommittee viewed a slide presentation from Brian Beffort of the Friends of Nevada Wilderness. The Subcommittee then heard from Tommy Rowe and Rhonda Hornbeck, Lincoln County Commissioners, regarding their efforts in crafting federal legislation for WSAs in Lincoln County. Meg Jensen, Deputy State Director for Natural Resources, Lands and Planning, Bureau of Land Management, then provided an update on the implementation of the Clark County



Conservation of Public Lands and Natural Resources Act of 2002. The meeting concluded with commentary from Jonathan Brown, Director of Environmental and Regulatory Affairs, Nevada Mining Association, regarding the Association's recommendations concerning WSAs in Lincoln County.

Several audience members provided testimony during the public comment period.

### **3. Ely Meeting (February 6, 2004)**

The Subcommittee's third meeting was held in Ely. Brian Beffort, Nevada Representative, Friends of Nevada Wilderness, gave a slide presentation on WSAs located within White Pine County, Nevada. Senator McGinness requested that Mr. Beffort report back to the Subcommittee regarding the number and recent increase or decrease of the goshawk and desert big horn sheep populations. Senator McGinness would like to know the status of any state or federal protections for the two animals.

White Pine County Commissioner Paul Johnson gave a progress report on efforts to craft a congressional wilderness bill for WSAs within the county. Jonathan Brown, Nevada Mining Association provided a brief overview of his organizations recommendations for WSAs.

Public testimony was received from: Pamela White, Les Thrasher, Roger Campbell, Liz Arnold, Ty Freeley, and Joanne Garrett.

### **4. Reno Meeting (March 25, 2004)**

The Subcommittee's fourth meeting was held in Reno. The Subcommittee heard a presentation on the history of wilderness legislation and implementation in Nevada by a representative from U.S. Senator John Ensign's office. Presentations were also made by representatives of Native American interests, the Nevada Cattlemen's Association, and wilderness advocates. Additionally, a number of people spoke during the public comment segment of the meeting.

### **5. Carson City Meeting/Work Session (June 11, 2004)**

The Subcommittee's final meeting and work session was held in Carson City. Following testimony regarding the military's need for use of wilderness areas for certain operations, the Subcommittee received public comment and proceeded with its work session. Please refer to the section titled "Summary of Recommendations," beginning on page v of this bulletin for a review of actions taken by the Subcommittee.

## **V. CONCLUDING REMARKS**

The Wilderness and Wilderness Study Areas Subcommittee spent much of the interim gaining information about the process and guidelines for designating wilderness areas and insight into the many concerns surrounding the issue. The Subcommittee recognized that reaching a recommendation for the disposition of WSAs in Nevada is not quickly or easily achieved. However, the forum provided by the Subcommittee allowed Nevada residents and government officials to express many diverse opinions regarding the topic. The Subcommittee anticipates that the relationships forged during this study will continue and Nevadan's will demonstrate their ability to continue to reach resolutions based upon participation and mutual respect for all parties involved.

The members of the Subcommittee would like to take this opportunity to thank the elected officials, representatives from federal, state, and local government, Native Americans, private organizations, the U.S. Armed Forces, and all other individuals who participated in this study's hearings. The Subcommittee appreciates the important assistance provided by the many talented people who testified at its meetings and participated in field excursions. Finally, the Subcommittee encourages these parties to continue working together to address the remaining wilderness issues in the state.

## VI. APPENDICES

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## **APPENDIX A**

### **Senate Concurrent Resolution No. 7**



Senate Concurrent Resolution No. 7–Committee on  
Natural Resources

FILE NUMBER.....

SENATE CONCURRENT RESOLUTION—Directing the Legislative Committee on Public Lands to continue the study of wilderness areas and wilderness study areas in this state.

WHEREAS, The provisions of 16 U.S.C. §§ 1131 et seq., commonly referred to as the Wilderness Act, establish the National Wilderness Preservation System, which consists of areas of federal public land that are designated by Congress as wilderness areas; and

WHEREAS, Congress has designated approximately 2 million acres of certain federal public lands in Nevada as wilderness areas; and

WHEREAS, If an area of federal public land is designated as a wilderness area, it must be managed in a manner that preserves the wilderness character of the area and ensures that the area remains unimpaired for future use and enjoyment as a wilderness area; and

WHEREAS, A reasonable amount of wilderness area in this state provides for a diverse spectrum of recreational opportunities in Nevada, promotes tourism and provides a place for Nevadans to escape the pressures of urban growth; and

WHEREAS, In conjunction with the provisions of the Wilderness Act, the Bureau of Land Management of the Department of the Interior manages approximately 3.86 million acres of federal public lands in Nevada identified as wilderness study areas; and

WHEREAS, Until a wilderness study area is designated by Congress as a wilderness area or released, the wilderness study area must be managed in a manner that does not impair its suitability for preservation as a wilderness area; and

WHEREAS, Because approximately 2 million acres of federal public land in Nevada have been designated as wilderness areas and approximately 8.6 percent of the federal public land in Nevada that is managed by the Bureau of Land Management has been identified as wilderness study areas and because such designation or identification is believed to impose significant restrictions concerning the management and use of such land, including land used for mining, ranching and recreation, the Legislative Commission appointed a subcommittee in 2001 to conduct an interim study of wilderness areas and wilderness study areas in this state; and

WHEREAS, During the 2001-2002 legislative interim, the subcommittee met several times throughout this state and facilitated important and wide-ranging discussions among many agencies, organizations and persons with diverse interests, perspectives and expertise concerning wilderness areas and wilderness study areas; and

WHEREAS, Although the subcommittee obtained valuable information concerning the selection, management and use of wilderness areas and wilderness study areas in this state, and although Congress recently enacted the Clark County Conservation of Public Land and Natural Resources Act of 2002, Public Law 107-282 (2002), which released approximately 224,000 acres in Clark County from its current status as a wilderness study area, additional study of these issues is still needed as a significant majority of the federal public land in Nevada that had been previously designated as a wilderness area or identified as a wilderness study area remains designated or identified as such; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the Legislative Committee on Public Lands is hereby directed to continue the study of wilderness areas and wilderness study areas in this state, and that the Legislative Commission is hereby directed to appoint two additional members of the Senate and two additional members of the Assembly who are representative of various geographical areas of this state to the Legislative Committee on Public Lands for the purposes of this study; and be it further

RESOLVED, That the study must include, without limitation:

1. An examination of the manner in which wilderness areas and wilderness study areas are selected, managed and used, and the laws, regulations and policies of the Federal Government relating to that selection, management and use;

2. Consideration of whether areas of this state are suitable for possible designation by Congress as wilderness areas; and

3. A review of any other issues or subjects concerning the establishment, management or use of a wilderness area or wilderness study area in this state, as deemed necessary by the subcommittee; and be it further

RESOLVED, That in conducting the study, the Legislative Committee on Public Lands shall seek input from various governmental agencies, organizations and persons concerning wilderness areas and wilderness study areas in this state; and be it further

RESOLVED, That any recommendations that result from the study relating to the manner in which Congress designates wilderness areas or identifies wilderness study areas must be submitted to each member of the Nevada Congressional Delegation; and be it further

RESOLVED, That the Legislative Committee on Public Lands shall submit a report of the results of the study and any recommendations for legislation to the 73rd Session of the Nevada Legislature.



## **APPENDIX B**

### **Congressional Summary of Lincoln County Conservation, Recreation, and Development Act of 2004**



## **LINCOLN CO. CONSERVATION, RECREATION & DEVELOPMENT ACT OF 2004**

### **TITLE I – FEDERAL LAND SALES**

This legislation directs the completion of the auctions of two parcels (totaling approximately 13,341 acres) authorized by the Lincoln County Land Act of 2000. The two parcels, of roughly 6,355 acres and 6,986 would be auctioned within 75 days of the bill's enactment. The proceeds from these auctions would be spent according to the provisions of the Lincoln County Land Act of 2000

The bill also authorizes the sale of up to 87,005 acres of federal land in areas adjacent to existing private property in Lincoln County. Land will be selected for annual auctions through a cooperative process between Lincoln County, municipalities in Lincoln County and the Bureau of Land Management. Land identified for sale through the joint selection process will be sold to the highest qualified bidder at annual auctions. The Secretary of Interior is authorized to withhold up to 10,000 acres identified for sale in this bill if such sale would be inconsistent with the protection of habitat and cultural resources.

The proceeds from these annual auctions would be distributed as follows:

- 5% -- State of Nevada Education Fund
- 45% -- Lincoln Co. for economic development including parks, trails and natural areas
- 50% -- Special Account available for use by the Secretary of Interior for:
  - A. Inventory, evaluation, protection, and management of archeological resources
  - B. Development of a multi-species habitat conservation plan for the County
  - C. Reimbursement of Ely BLM Field Office expenses associated with land sales
  - D. Management of the Silver State Off-Highway Vehicle Trail designated herein
  - E. Management of the Wilderness designated herein

### **TITLE II – WILDERNESS ISSUES**

The Lincoln County Conservation, Recreation and Development Act of 2004 designates approximately 769,611 acres as wilderness and releases 245,516 acres from wilderness study area consideration. Wilderness management and release provisions are similar to those used for BLM wilderness areas in the Clark County Conservation of Public Lands and Natural Resources Act of 2002.

<u>Wilderness Area</u>	<u>Acres Designated</u>	<u>Acres Released</u>
Far South Egans	36,384	16,195
Fortifications Range	28,837	13,574
White Rock Range	24,413	125
Parsnip Peak	45,837	44,078
Table Mountain	0	35,958
Tunnel Spring	5,530	0
Clover Mountains	85,757	4,993
Evergreen A, B, and C	0	2,694
Delamar Mountains	111,389	19,021
Meadow Valley Range	124,833	60,910
Mormon Mountains	153,939	16,875
Weepah Springs	51,117	11,524
Worthington Mountains	30,936	14,892
Big Rock	13,913	0
Mt. Irish	31,088	0
South Pahroc Range	25,638	4,677
<b>Total</b>	<b>769,611</b>	<b>245,516</b>

### **TITLE III – UTILITY CORRIDORS**

The Lincoln County Conservation, Recreation and Development Act of 2004 establishes utility corridors for the Southern Nevada Water Authority and the Lincoln County Water District. In addition, contingent upon the successful compliance with requirements of the National Environmental Policy Act of 1969, this legislation designates rights-of-way for the roads, wells, pipelines and other infrastructure needed for the construction and operation of a water conveyance system in Clark and Lincoln counties. The bill explicitly notes that the establishment of corridors and rights-of-way, in and of themselves, have no bearing on water rights adjudications, which are solely under the jurisdiction of the Nevada State Water Engineer. The bill also authorizes a U.S. Geological Survey water resource study for White Pine County.

The Lincoln County Conservation, Recreation and Development Act of 2004 relocates an existing utility corridor from the east to the west side of Highway 93 between the Highway 93-Highway 168 junction and the Kane Springs Road-Highway 93 junction. The relocated utility corridor will be in the same place it was prior to passage of the Nevada-Florida Land Exchange bill. The owners of the private property to the east of Highway 93 will pay the federal government fair market value for the appreciation of their property due to this provision.

### **TITLE IV – SILVER STATE OFF-HIGHWAY VEHICLE TRAIL**

The Lincoln County Conservation, Recreation and Development Act of 2004 establishes the Silver State Off-Highway Vehicle Trail in central Lincoln County. The Silver State Trail is a 260-mile combination of existing, back-country roads that are currently open and being used by off-highway vehicle enthusiasts. The bill provides for the creation of a Silver State Trail Management Plan to minimize impacts on natural resources and to protect cultural and archeological resources. The bill also provides for the temporary closure of the Trail in the event that there unintended adverse impacts on resources associated with the Trail.

### **TITLE V – STATE & COUNTY PARKS**

The Lincoln County Conservation, Recreation and Development Act of 2004 provides for the conveyance of BLM land to the State and County for use as parks and open space. The conveyance to the State is contingent upon a written agreement between the State and County supporting the transfer of ownership and totals 4,845 acres. The conveyances to the County total approximately 14,000 acres.

<u>State Parks</u>	<u>Acreage Conveyed</u>
Cathedral Gorge	160
Beaver Dam	3,236
Kershaw Ryan	1,449
<b>Total</b>	<b>4,845</b>

### **TITLE VI – JURISDICTION TRANSFERS**

The Lincoln County Conservation, Recreation and Development Act of 2004 transfers the administrative jurisdiction for 8,382 acres associated with the utility corridor relocated in Title IV from the Fish and Wildlife Service to the Bureau of Land Management. The bill further transfers jurisdiction for 8,503 acres of land from the BLM to the FWS at the northeast boundary of the Desert National Wildlife Range.

## **APPENDIX C**

Text of Lincoln County Conservation, Recreation, and Development Act of 2004



HR 4593 IH

108th CONGRESS

2d Session

**H. R. 4593**

To establish wilderness areas, promote conservation, improve public land, and provide for the high quality development in Lincoln County, Nevada, and for other purposes.

**IN THE HOUSE OF REPRESENTATIVES**

**June 16, 2004**

Mr. GIBBONS (for himself, Mr. PORTER, and Ms. BERKLEY) introduced the following bill; which was referred to the Committee on Resources

---

**A BILL**

To establish wilderness areas, promote conservation, improve public land, and provide for the high quality development in Lincoln County, Nevada, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the 'Lincoln County Conservation, Recreation, and Development Act of 2004'.

**SEC. 2. TABLE OF CONTENTS.**

Sec. 1. Short title.

Sec. 2. Table of contents.

**TITLE I--LAND DISPOSAL**

Sec. 101. Definitions.

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### **TITLE I--LAND DISPOSAL**

#### **SEC. 101. DEFINITIONS.**

In this title:



(1) COUNTY- The term 'County' means Lincoln County, Nevada.

(2) MAP- The term 'map' means the map entitled 'Lincoln County Conservation, Recreation, and Development Act Map' and dated June 14, 2004.

(3) SECRETARY- The term 'Secretary' means the Secretary of the Interior.

(4) SPECIAL ACCOUNT- The term 'special account' means the special account established under section 104(b)(3).

## **SEC. 102. CONVEYANCE OF LINCOLN COUNTY LAND.**

(a) In General- Notwithstanding sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711, 1712), the Secretary, in cooperation with the County, in accordance with that Act, this title, and other applicable law and subject to valid existing rights, shall conduct sales of the land described in subsection (b) to qualified bidders.

(b) Description of Land- The land referred to in subsection (a) consists of--

(1) the land identified on the map for disposal within 75 days, comprising 2 parcels totaling approximately 13,373 acres; and

(2) the land identified on the map for annual disposal, comprising approximately 87,005 acres.

(c) Availability- Each map and legal description shall be on file and available for public inspection in (as appropriate)--

(1) the Office of the Director of the Bureau of Land Management;

(2) the Office of the State Director of the Bureau of Land Management;

(3) the Ely District Office of the Bureau of Land Management; and

(4) the Caliente Field Office of the Bureau of Land Management.

(d) Joint Selection Required- The Secretary and the County shall jointly select which parcels of land described in subsection (b)(2) to offer for sale under subsection (a).

(e) Compliance With Local Planning and Zoning Laws- Before a sale of land under subsection (a), the County shall submit to the Secretary a certification that qualified bidders have agreed to comply with--

(1) County and city zoning ordinances; and

(2) any master plan for the area approved by the County.

(f) Method of Sale; Consideration- The sale of land under subsection (a) shall be--

(1) through a competitive bidding process; and

(2) for not less than fair market value.

(g) Segregation-

(1) IN GENERAL- Subject to valid existing rights and except as provided in paragraph (2), the land described in subsection (b) is segregated from--

(A) all forms of entry and appropriation under the public land laws, including the mining laws; and

(B) operation of the mineral leasing and geothermal leasing laws.

(2) EXCEPTION- Paragraph (1)(A) shall not apply to a competitive sale or an election by the County to obtain the land described in subsection (b) for public purposes under the Act of June 14, 1926 (43 U.S.C. 869 et seq; commonly known as the 'Recreation and Public Purposes Act').

(h) Deadline for Sale-

(1) IN GENERAL- Except as provided in paragraph (2), the Secretary shall--

(A) notwithstanding the Lincoln County Land Act of 2000 (114 Stat. 1046), not later than 75 days after the date of the enactment of this title, convey the land described in subsection (b)(1) if there is a qualified bidder for such land; and

(B) not later than 1 year after the date of the enactment of this title, and annually thereafter until the land is disposed of, convey the land described in subsection (b)(2).

(2) POSTPONEMENT; EXCLUSION FROM SALE-

(A) REQUEST BY COUNTY FOR POSTPONEMENT OR EXCLUSION-

(i) IN GENERAL- At the request of the County, the Secretary shall postpone or exclude from the sale all or a portion of the land described in subsection (b)(2).

(ii) INDEFINITE POSTPONEMENT- Unless specifically requested by the County, a postponement under clause (i) shall not be indefinite.

(B) EXCLUSION BY SECRETARY- Notwithstanding paragraph (1), the Secretary may exclude from sale not more than 10,000 acres of the land described in subsection (b)(2) if the Secretary determines that such sale is inconsistent with the protection of habitat and cultural resources.

## **SEC. 103. DISPOSITION OF PROCEEDS.**

(a) Initial Land Sale- Section 5 of the Lincoln County Land Act of 2000 (114 Stat. 1047) shall apply to the disposition of the gross proceeds from the sale of land described in section 103(b)(1).

(b) Subsequent Land Sales- Of the gross proceeds of the sale of the land described in section 103(b)(2)--

(1) 5 percent shall be paid directly to the State for use in the general education program of the State;

(2) 45 percent shall be paid to the County for use for economic development in the County, including County parks, trails, and natural areas; and

(3) the remainder shall be deposited in a special account in the Treasury of the United States and shall be available without further appropriation to the Secretary until expended for--

(A) the inventory, evaluation, protection, and management of unique archaeological resources (as defined in section 3 of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb)) of the County;

(B) the development of a multispecies habitat conservation plan for the County; and

(C) the reimbursement of costs incurred by the Nevada State Office and the Ely Field Office of the Bureau of Land Management for--

(i) preparing for the sale of land under section 103(a), including the costs of--

(I) conducting any land boundary surveys;

(II) complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(III) conducting any appraisals;

(IV) obtaining environmental and cultural clearances; and

(V) providing public notice of the sale;

(ii) processing public land use authorizations and rights-of-way relating to the development of the land conveyed under section 103(a);

(iii) processing the Silver State OHV trail and implementing the management plan required by section 401(c)(3) of this Act; and

(iv) processing wilderness designations, including the costs of appropriate fencing, signage, public education, and enforcement for the wilderness areas designated.

(c) Investment of Special Account- Any amounts deposited in the special account shall earn interest in an amount determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities.

## **TITLE II--WILDERNESS AREAS**

**SEC. 201. FINDINGS.**

Congress finds that--

- (1) public land in the County contains unique and spectacular natural resources, including--
  - (A) priceless habitat for numerous species of plants and wildlife; and
  - (B) thousands of acres of land that remain in a natural state; and
- (2) continued preservation of those areas would benefit the County and all of the United States by--
  - (A) ensuring the conservation of ecologically diverse habitat;
  - (B) protecting prehistoric cultural resources;
  - (C) conserving primitive recreational resources; and
  - (D) protecting air and water quality.

**SEC. 202. DEFINITIONS.**

In this title:

- (1) COUNTY- The term 'County' means Lincoln County, Nevada.
- (2) SECRETARY- The term 'Secretary' means the Secretary of the Interior.
- (3) STATE- The term 'State' means the State of Nevada.

**SEC. 203. ADDITIONS TO NATIONAL WILDERNESS PRESERVATION SYSTEM.**

(a) Additions- The following land in the State is designated as wilderness and as components of the National Wilderness Preservation System:

- (1) MORMON MOUNTAINS WILDERNESS- Certain Federal land managed by the Bureau of Land Management, comprising approximately 153,939 acres, as generally depicted on the map entitled 'Southern Lincoln County Wilderness Map', dated June 1, 2004, which shall be known as the 'Mormon Mountains Wilderness'.
- (2) MEADOW VALLEY RANGE WILDERNESS- Certain Federal land managed by the Bureau of Land Management, comprising approximately 124,833 acres, as generally depicted on the map entitled 'Southern Lincoln County Wilderness Map', dated June 1, 2004, which shall be known as the 'Meadow Valley Range Wilderness'.
- (3) DELAMAR MOUNTAINS WILDERNESS- Certain Federal land managed by the Bureau of Land Management, comprising approximately 111,389 acres, as generally depicted on the map entitled 'Southern Lincoln County Wilderness Map', dated June 1, 2004, which

shall be known as the 'Delamar Mountains Wilderness'.

(4) CLOVER MOUNTAINS WILDERNESS- Certain Federal land managed by the Bureau of Land Management, comprising approximately 85,757 acres, as generally depicted on the map entitled 'Southern Lincoln County Wilderness Map', dated June 1, 2004, which shall be known as the 'Clover Mountains Wilderness'.

(5) SOUTH PAHROC WILDERNESS- Certain Federal land managed by the Bureau of Land Management, comprising approximately 25,638 acres, as generally depicted on the map entitled 'Western Lincoln County Wilderness Map', dated June 1, 2004, which shall be known as the 'South Pahroc Wilderness'.

(6) WORTHINGTON MOUNTAINS WILDERNESS- Certain Federal land managed by the Bureau of Land Management, comprising approximately 30,936 acres, as generally depicted on the map entitled 'Western Lincoln County Wilderness Map', dated June 1, 2004, which shall be known as the 'Worthington Mountains Wilderness'.

(7) WEEPAH SPRING WILDERNESS- Certain Federal land managed by the Bureau of Land Management, comprising approximately 51,117 acres, as generally depicted on the map entitled 'Western Lincoln County Wilderness Map', dated June 1, 2004, which shall be known as the 'Weepah Spring Wilderness'.

(8) PARSNIP PEAK WILDERNESS- Certain Federal land managed by the Bureau of Land Management, comprising approximately 45,837 acres, as generally depicted on the map entitled 'Northern Lincoln County Wilderness Map', dated June 1, 2004, which shall be known as the 'Parsnip Peak Wilderness'.

(9) WHITE ROCK RANGE WILDERNESS- Certain Federal land managed by the Bureau of Land Management, comprising approximately 24,413 acres, as generally depicted on the map entitled 'Northern Lincoln County Wilderness Map', dated June 1, 2004, which shall be known as the 'White Rock Range Wilderness'.

(10) FORTIFICATION RANGE WILDERNESS- Certain Federal land managed by the Bureau of Land Management, comprising approximately 28,837 acres, as generally depicted on the map entitled 'Northern Lincoln County Wilderness Map', dated June 1, 2004, which shall be known as the 'Fortification Range Wilderness'.

(11) FAR SOUTH EGANS WILDERNESS- Certain Federal land managed by the Bureau of Land Management, comprising approximately 36,384 acres, as generally depicted on the map entitled 'Northern Lincoln County Wilderness Map', dated June 1, 2004, which shall be known as the 'Far South Egans Wilderness'.

(12) TUNNEL SPRING WILDERNESS- Certain Federal land managed by the Bureau of Land Management, comprising approximately 5,530 acres, as generally depicted on the map entitled 'Southern Lincoln County Wilderness Map', dated June 1, 2004, which shall be known as the 'Tunnel Spring Wilderness'.

(13) BIG ROCK WILDERNESS- Certain Federal land managed by the Bureau of Land Management, comprising approximately 13,913 acres, as generally depicted on the map entitled 'Western Lincoln County Wilderness Map', dated June 1, 2004, which shall be

known as the 'Big Rock Wilderness'.

(14) MT. IRISH WILDERNESS- Certain Federal land managed by the Bureau of Land Management, comprising approximately 31,088 acres, as generally depicted on the map entitled 'Western Lincoln County Wilderness Map', dated June 1, 2004, which shall be known as the 'Mt. Irish Wilderness'.

(b) Boundary- The boundary of any portion of a wilderness area designated by subsection (a) that is bordered by a road shall be at least 100 feet from the edge of the road to allow public access.

(c) Map and Legal Description-

(1) IN GENERAL- As soon as practicable after the date of enactment of this title, the Secretary shall file a map and legal description of each wilderness area designated by subsection (a) with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) EFFECT- Each map and legal description shall have the same force and effect as if included in this section, except that the Secretary may correct clerical and typographical errors in the map or legal description.

(3) AVAILABILITY- Each map and legal description shall be on file and available for public inspection in (as appropriate)--

(A) the Office of the Director of the Bureau of Land Management;

(B) the Office of the State Director of the Bureau of Land Management;

(C) the Ely District Office of the Bureau of Land Management; and

(D) the Caliente Field Office of the Bureau of Land Management.

(d) Withdrawal- Subject to valid existing rights, the wilderness areas designated by subsection (a) are withdrawn from--

(1) all forms of entry, appropriation, and disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

## **SEC. 204. ADMINISTRATION.**

(a) Management- Subject to valid existing rights, each area designated as wilderness by this title shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that--

(1) any reference in that Act to the effective date shall be considered to be a reference to the date of the enactment of this title; and

(2) any reference in that Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary of the Interior.

(b) Livestock- Within the wilderness areas designated under this title that are administered by the Bureau of Land Management, the grazing of livestock in areas in which grazing is established as of the date of enactment of this title shall be allowed to continue, subject to such reasonable regulations, policies, and practices that the Secretary considers necessary, consistent with section 4 (d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)), including the guidelines set forth in Appendix A of House Report 101-405.

(c) Incorporation of Acquired Land and Interests- Any land or interest in land within the boundaries of an area designated as wilderness by this title that is acquired by the United States after the date of the enactment of this title shall be added to and administered as part of the wilderness area within which the acquired land or interest is located.

(d) Water Rights-

(1) FINDINGS- Congress finds that--

(A) the land designated as Wilderness by this title is within the Northern Mojave Desert, is arid in nature, and includes ephemeral streams;

(B) the hydrology of the land designated as wilderness by this title is predominantly characterized by complex flow patterns and alluvial fans with impermanent channels;

(C) the subsurface hydrogeology of the region is characterized by ground water subject to local and regional flow gradients and unconfined and artesian conditions;

(D) the land designated as wilderness by this title is generally not suitable for use or development of new water resource facilities; and

(E) because of the unique nature and hydrology of the desert land designated as wilderness by this title, it is possible to provide for proper management and protection of the wilderness and other values of lands in ways different from those used in other legislation.

(2) STATUTORY CONSTRUCTION- Nothing in this title--

(A) shall constitute or be construed to constitute either an express or implied reservation by the United States of any water or water rights with respect to the land designated as wilderness by this title;

(B) shall affect any water rights in the State existing on the date of the enactment of this title, including any water rights held by the United States;

(C) shall be construed as establishing a precedent with regard to any future wilderness designations;

(D) shall affect the interpretation of, or any designation made pursuant to, any other Act; or

(E) shall be construed as limiting, altering, modifying, or amending any of the interstate compacts or equitable apportionment decrees that apportion water among and between the State and other States.

(3) NEVADA WATER LAW- The Secretary shall follow the procedural and substantive requirements of the law of the State in order to obtain and hold any water rights not in existence on the date of enactment of this title with respect to the wilderness areas designated by this title.

(4) NEW PROJECTS-

(A) WATER RESOURCE FACILITY- As used in this paragraph, the term 'water resource facility'--

(i) means irrigation and pumping facilities, reservoirs, water conservation works, aqueducts, canals, ditches, pipelines, wells, hydropower projects, and transmission and other ancillary facilities, and other water diversion, storage, and carriage structures; and

(ii) does not include wildlife guzzlers.

(B) RESTRICTION ON NEW WATER RESOURCE FACILITIES- Except as otherwise provided in this Act, on and after the date of the enactment of this Act, neither the President nor any other officer, employee, or agent of the United States shall fund, assist, authorize, or issue a license or permit for the development of any new water resource facility within the wilderness areas designated by this Act.

## **SEC. 205. ADJACENT MANAGEMENT.**

(a) In General- Congress does not intend for the designation of wilderness in the State pursuant to this title to lead to the creation of protective perimeters or buffer zones around any such wilderness area.

(b) Nonwilderness Activities- The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness designated under this title shall not preclude the conduct of those activities or uses outside the boundary of the wilderness area.

## **SEC. 206. MILITARY OVERFLIGHTS.**

Nothing in this title restricts or precludes--

(1) low-level overflights of military aircraft over the areas designated as wilderness by this title, including military overflights that can be seen or heard within the wilderness areas;

(2) flight testing and evaluation; or

(3) the designation or creation of new units of special use airspace, or the establishment of military flight training routes, over the wilderness areas.



## **SEC. 207. NATIVE AMERICAN CULTURAL AND RELIGIOUS USES.**

Nothing in this title shall be construed to diminish the rights of any Indian tribe. Nothing in this title shall be construed to diminish tribal rights regarding access to Federal land for tribal activities, including spiritual, cultural, and traditional food-gathering activities.

## **SEC. 208. RELEASE OF WILDERNESS STUDY AREAS.**

(a) Finding- Congress finds that, for the purposes of section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), the public land in the County administered by the Bureau of Land Management in the following areas has been adequately studied for wilderness designation:

(1) The Table Mountain Wilderness Study Area.

(2) Evergreen A, B, and C Wilderness Study Areas.

(3) Any portion of the wilderness study areas--

(A) not designated as wilderness by section 204(a); and

(B) depicted as released on--

(i) the map entitled 'Northern Lincoln County Wilderness Map' and dated February 10, 2004;

(ii) the map entitled 'Southern Lincoln County Wilderness Map' and dated February 10, 2004; or

(iii) the map entitled 'Western Lincoln County Wilderness Map' and dated June 1, 2004.

(b) Release- Any public land described in subsection (a) that is not designated as wilderness by this title--

(1) is no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c));

(2) shall be managed in accordance with--

(A) land management plans adopted under section 202 of that Act (43 U.S.C. 1712); and

(B) existing cooperative conservation agreements; and

(3) shall be subject to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

## **SEC. 209. WILDLIFE MANAGEMENT.**

(a) In General- In accordance with section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this title affects or diminishes the jurisdiction of the State with respect to fish and wildlife management, including the regulation of hunting, fishing, and trapping, in the wilderness areas designated by this title.

(b) Management Activities- In furtherance of the purposes and principles of the Wilderness Act, management activities to maintain or restore fish and wildlife populations and the habitats to support such populations may be carried out within wilderness areas designated by this title where consistent with relevant wilderness management plans, in accordance with appropriate policies such as those set forth in Appendix B of House Report 101-405, including the occasional and temporary use of motorized vehicles, if such use, as determined by the Secretary, would promote healthy, viable, and more naturally distributed wildlife populations that would enhance wilderness values and accomplish those purposes with the minimum impact necessary to reasonably accomplish the task.

(c) Existing Activities- Consistent with section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)) and in accordance with appropriate policies such as those set forth in Appendix B of House Report 101-405, the State may continue to use aircraft, including helicopters, to survey, capture, transplant, monitor, and provide water for wildlife populations, including bighorn sheep, and feral stock, horses, and burros.

(d) Wildlife Water Development Projects- Subject to subsection (f), the Secretary shall authorize structures and facilities, including existing structures and facilities, for wildlife water development projects, including guzzlers, in the wilderness areas designated by this Act if--

- (1) the structures and facilities will, as determined by the Secretary, enhance wilderness values by promoting healthy, viable, and more naturally distributed wildlife populations; and
- (2) the visual impacts of the structures and facilities on the wilderness areas can reasonably be minimized.

(e) Hunting, Fishing, and Trapping- In consultation with the appropriate State agency (except in emergencies), the Secretary may designate by regulation areas in which, and establish periods during which, for reasons of public safety, administration, or compliance with applicable laws, no hunting, fishing, or trapping will be permitted in the wilderness areas designated by this Act.

(f) Cooperative Agreement- The terms and conditions under which the State, including a designee of the State, may conduct wildlife management activities in the wilderness areas designated by this title are specified in the cooperative agreement between the Secretary and the State, entitled 'Memorandum of Understanding between the Bureau of Land Management and the Nevada Department of Wildlife Supplement No. 9,' and signed November and December 2003, including any amendments to that document agreed upon by the Secretary and the State and subject to all applicable laws and regulations. Any references to Clark County in that document shall also be deemed to be referred to and shall apply to Lincoln County, Nevada.

## **SEC. 210. WILDFIRE MANAGEMENT.**

Consistent with section 4 of the Wilderness Act (16 U.S.C. 1133), nothing in this title precludes a Federal, State, or local agency from conducting wildfire management operations (including operations using aircraft or mechanized equipment) to manage wildfires in the wilderness areas

designated by this title.

## **SEC. 211. CLIMATOLOGICAL DATA COLLECTION.**

Subject to such terms and conditions as the Secretary may prescribe, nothing in this title precludes the installation and maintenance of hydrologic, meteorologic, or climatological collection devices in the wilderness areas designated by this title if the facilities and access to the facilities are essential to flood warning, flood control, and water reservoir operation activities.

## **TITLE III--UTILITY CORRIDORS**

## **SEC. 301. UTILITY CORRIDOR AND RIGHTS-OF-WAY.**

### **(a) Utility Corridor-**

(1) IN GENERAL- Notwithstanding sections 202 and 503 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711, 1763), the Secretary of the Interior (referred to in this section as the 'Secretary') shall establish a 2,640-foot wide corridor for utilities in Lincoln County and Clark County, Nevada, as depicted on the map entitled 'Lincoln County Conservation, Recreation, and Development Act', and dated June 14, 2004.

(2) AVAILABILITY- Each map and legal description shall be on file and available for public inspection in (as appropriate)--

(A) the Office of the Director of the Bureau of Land Management;

(B) the Office of the State Director of the Bureau of Land Management;

(C) the Ely District Office of the Bureau of Land Management; and

(D) the Caliente Field Office of the Bureau of Land Management.

### **(b) Rights-of-Way-**

(1) IN GENERAL- Notwithstanding sections 202 and 503 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711, 1763), the Secretary shall grant to the Southern Nevada Water Authority and the Lincoln County Water District rights-of-way to Federal land in Lincoln County and Clark County, Nevada, for any roads, wells, well fields, pipes, pipelines, pump stations, storage facilities, or other facilities and systems that are necessary for the construction and operation of a water conveyance system, as depicted on the map.

(2) APPLICABLE LAW- A right-of-way granted under paragraph (1) shall be managed in accordance with section 4 of the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2344).

(3) COMPLIANCE WITH NEPA- Before granting a right-of-way under paragraph (1), the Secretary shall comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), including the identification and consideration of potential impacts to fish and wildlife resources and habitat.

(c) Withdrawal- Subject to valid existing rights, the utility corridors designated by subsection (a) are withdrawn from--

- (1) all forms of entry, appropriation, and disposal under the public land laws;
- (2) location, entry, and patent under the mining laws; and
- (3) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(d) State Water Law- Nothing in this title shall--

- (1) prejudice the decisions or abrogate the jurisdiction of the Nevada State Engineer with respect to the appropriation, permitting, certification, or adjudication of water rights;
- (2) preempt Nevada State water law; or
- (3) limit or supersede existing water rights or interest in water rights under Nevada State law.

(e) Water Resources Study-

(1) IN GENERAL- The Secretary, acting through the United States Geological Survey and the Desert Research Institute, shall conduct a study to investigate ground water quantity, quality, and flow characteristics in the deep carbonate and alluvial aquifers of White Pine County, Nevada. The study shall--

- (A) include new and review of existing data;
- (B) determine the volume of water stored in aquifers in those areas;
- (C) determine the discharge and recharge characteristics of each aquifer system;
- (D) determine the hydrogeologic and other controls that govern the discharge and recharge of each aquifer system; and
- (E) develop maps at a consistent scale depicting aquifer systems and the recharge and discharge areas of such systems.

(2) TIMING; AVAILABILITY- The Secretary shall complete a draft of the water resources report required under paragraph (1) not later than 30 months after the date of the enactment of this Act. The Secretary shall then make the draft report available for public comment for a period of not less than 60 days. The final report shall be submitted to the Committee on Resources in the House of Representatives and the Committee on Energy and Natural Resources in the Senate and made available to the public not later than 36 months after the date of the enactment of this Act.

## **SEC. 302. RELOCATION OF RIGHT-OF-WAY AND UTILITY CORRIDORS LOCATED IN CLARK AND LINCOLN COUNTIES IN THE STATE OF NEVADA.**

(a) Definitions- In this section:

(1) AGREEMENT- The term `Agreement' means the land exchange agreement between Aerojet-General Corporation and the United States, dated July 14, 1988.

(2) CORRIDOR- The term `corridor' means--

(A) the right-of-way corridor that is--

(i) identified in section 5(b)(1) of the Nevada-Florida Land Exchange Authorization Act of 1988 (102 Stat. 55); and

(ii) described in section 14(a) of the Agreement;

(B) such portion of the utility corridor identified in the 1988 Las Vegas Resource Management Plan located south of the boundary of the corridor described in subparagraph (A) as is necessary to relocate the right-of-way corridor to the area described in subsection (c)(2); and

(C) such portion of the utility corridor identified in the 2000 Caliente Management Framework Plan Amendment located north of the boundary of the corridor described in subparagraph (A) as is necessary to relocate the right-of-way corridor to the area described in subsection (c)(2).

(3) SECRETARY- The term `Secretary' means the Secretary of the Interior.

(b) Relinquishment and Fair Market Value-

(1) IN GENERAL- The Secretary shall, in accordance with this section, relinquish all right, title, and interest of the United States in and to the corridor on receipt of a payment in an amount equal to the fair market value of the corridor (plus any costs relating to the right-of-way relocation described in this title).

(2) FAIR MARKET VALUE- The fair market value of the corridor shall be determined based on the amount of the discount described in the Agreement that was applied to the land underlying the corridor, as adjusted for inflation in accordance with the Consumer Price Index for the West Urban area as of the date of enactment of this title.

(c) Relocation-

(1) IN GENERAL- The Secretary shall relocate to the area described in paragraph (2), the portion of IDI-26446 and UTU-73363 identified as NVN-49781 that is located in the corridor relinquished under subsection (b)(1).

(2) DESCRIPTION OF AREA- The area referred to in paragraph (1) consists of an area--

(A) 1,000 feet wide; and

(B) located west of and parallel to the centerline of United States Route 93.

(3) REQUIREMENTS- The relocation under paragraph (1) shall be conducted in a manner that--

(A) minimizes engineering design changes; and

(B) maintains a gradual and smooth interconnection of the corridor with the area described in paragraph (2).

(4) AUTHORIZED USES- The Secretary may authorize the location of any above ground or underground utility facility, transmission lines, gas pipelines, natural gas pipelines, fiber optics, telecommunications, water lines, wells (including monitoring wells), cable television, and any related appurtenances in the area described in paragraph (1).

(d) Effect- The relocation of the corridor under subsection (c) shall not require the Secretary to--

(1) update the 1998 Las Vegas Valley Resource Management Plan or the 2000 Caliente Management Framework Plan Amendment; or

(2) undertake any further environmental assessment work before the relocation of the corridor.

(e) Waiver of Certain Requirements- The Secretary shall waive the requirements of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) that would otherwise be applicable to the holders of the right-of-way corridor described in subsection (a)(2)(A) with respect to an amendment to the legal description of the right-of-way corridor.

#### **TITLE IV--SILVER STATE OFF-HIGHWAY VEHICLE TRAIL**

### **SEC. 401. SILVER STATE OFF-HIGHWAY VEHICLE TRAIL.**

(a) Definitions- In this section:

(1) SECRETARY- The term 'Secretary' means the Secretary of the Interior.

(2) MAP- The term 'Map' means the map entitled 'Lincoln County Conservation, Recreation and Development Act Map' and dated June 14, 2004.

(3) TRAIL- The term 'Trail' means the system of trails designated in subsection (b) as the Silver State Off-Highway Vehicle Trail.

(b) Designation- The trails that are depicted on the Map are hereby designated as the 'Silver State Off-Highway Vehicle Trail'.

(c) Management-

(1) IN GENERAL- The Secretary shall manage the Trail in a manner that--

(A) is consistent with motorized and mechanized use of the Trail that is authorized on the date of the enactment of this title pursuant to applicable Federal and State laws and regulations;

(B) ensures the safety of the people who use the Trail; and

(C) does not damage sensitive habitat or cultural resources.

(2) MANAGEMENT PLAN-

(A) IN GENERAL- Not later than 2 years after the date of the enactment of this title, the Secretary, in consultation with the State, the County, and any other interested persons, shall complete a management plan for the Trail.

(B) COMPONENTS- The management plan shall--

- (i) describe the appropriate uses and management of the Trail;
- (ii) authorize the use of motorized and mechanized vehicles on the Trail; and
- (iii) describe monitoring and enforcement actions carried out to minimize environmental impacts and prevent damage to cultural resources from the use of the Trail.

(3) CLOSURES-

(A) IN GENERAL- The Secretary, in consultation with the State and the County, may temporarily close a portion of the Trail if the Secretary determines that--

- (i) the Trail is having an adverse impact on--
  - (I) natural resources; or
  - (II) cultural resources;
- (ii) the Trail threatens public safety;
- (iii) closure of the Trail is necessary to repair damage to the Trail; or
- (iv) closure of the Trail is necessary to repair resource damage.

(B) NOTICE- The Secretary shall provide information to the public regarding any routes on the Trail that are closed under subparagraph (A), including by providing appropriate signage along the Trail.

(4) NOTICE OF OPEN ROUTES- The Secretary shall ensure that visitors to the Trail have access to adequate notice regarding the routes on the Trail that are open through use of appropriate signage along the Trail and other information considered appropriate by the Secretary.

(d) No Effect on Non-Federal Land and Interests in Land- Nothing in this section shall be construed to affect ownership, management, or other rights related to non-Federal land or interests in land.

(e) Map on File- The Map shall be kept on file at the appropriate offices of the Secretary.

(f) Authorization of Appropriations- There are authorized to be appropriated such sums as are

necessary to carry out this section.

## **TITLE V--OPEN SPACE PARKS**

### **SEC. 501. OPEN SPACE PARK CONVEYANCE TO LINCOLN COUNTY, NEVADA.**

(a) Conveyance- Notwithstanding section 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1171, 1712), the Secretary may convey to the County, subject to valid existing rights, for no consideration, all right title, and interest of the United States in and to the parcels of land described in subsection (b).

(b) Description of Land- The parcels of land referred to in subsection (a) are the parcels of land depicted as 'Lincoln County Parks Proposal' on the map entitled 'Lincoln County Conservation, Recreation, and Development Act Map' and dated June 1, 2004.

(c) Costs- Any costs relating to any conveyance under subsection (a), including costs for surveys and other administrative costs, shall be paid by the County, or in accordance with section 104(b)(2) of this Act.

(d) Use of Land-

(1) IN GENERAL- Any parcel of land conveyed to the County under subsection (a) shall be used only for--

(A) the conservation of natural resources; or

(B) public parks.

(2) FACILITIES- Any facility on a parcel of land conveyed under subsection (a) shall be constructed and managed in a manner consistent with the uses described in paragraph (1).

(e) Reversion- If a parcel of land conveyed under subsection (a) is used in a manner that is inconsistent with the uses specified in subsection (d), the parcel of land shall, if determined to be appropriate by the Secretary, revert to the United States.

### **SEC. 502. OPEN SPACE PARK CONVEYANCE TO THE STATE OF NEVADA.**

(a) Conveyance- Notwithstanding section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712), the Secretary may convey to the State of Nevada, subject to valid existing rights, for no consideration, all right, title, and interest of the United States in and to the parcels of land described in subsection (b), if there is a written agreement between the State and Lincoln County, Nevada, supporting such a conveyance.

(b) Description of Land- The parcels of land referred to in subsection (a) are the parcels of land depicted as 'NV St. Park Expansion Proposal' on the map entitled 'Lincoln County Conservation, Recreation, and Development Act Map' and dated June 1, 2004.

(c) Costs- Any costs relating to any conveyance under subsection (a), including costs for surveys and other administrative costs, shall be paid by the State.



(d) Use of Land-

(1) IN GENERAL- Any parcel of land conveyed to the State under subsection (a) shall be used only for--

(A) the conservation of natural resources; or

(B) public parks.

(2) FACILITIES- Any facility on a parcel of land conveyed under subsection (a) shall be constructed and managed in a manner consistent with the uses described in paragraph (1).

(e) Reversion- If a parcel of land conveyed under subsection (a) is used in a manner that is inconsistent with the uses specified in subsection (d), the parcel of land shall, if determined to be appropriate by the Secretary, revert to the United States.

**TITLE VI--JURISDICTION TRANSFER**

**SEC. 601. TRANSFER OF ADMINISTRATIVE JURISDICTION BETWEEN THE FISH AND WILDLIFE SERVICE AND THE BUREAU OF LAND MANAGEMENT.**

(a) In General- Administrative jurisdiction over the land described in subsection (b) is transferred from the United States Bureau of Land Management to the United States Fish and Wildlife Service for inclusion in the Desert National Wildlife Range and the administrative jurisdiction over the land described in subsection (c) is transferred from the United States Fish and Wildlife Service to the United States Bureau of Land Management.

(b) Description of Land- The parcel of land referred to in subsection (a) is the approximately 8,503 acres of land administered by the United States Bureau of Land Management as generally depicted on the map entitled 'Lincoln County Conservation, Recreation, and Development Act Map' and identified as 'Lands to be transferred to the Fish and Wildlife Service' and dated June 1, 2004.

(c) Description of Land- The parcel of land referred to in subsection (a) is the approximately 8,382 acres of land administered by the United States Fish and Wildlife Service as generally depicted on the map entitled 'Lincoln County Conservation, Recreation, and Development Act Map' and identified as 'Lands to be transferred to the Bureau of Land Management' and dated June 1, 2004.

(d) Availability- Each map and legal description shall be on file and available for public inspection in (as appropriate)--

(1) the Office of the Director of the Bureau of Land Management;

(2) the Office of the State Director of the Bureau of Land Management;

(3) the Ely District Office of the Bureau of Land Management; and

(4) the Caliente Field Office of the Bureau of Land Management.

*END*



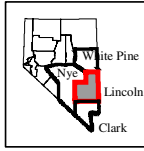
## **APPENDIX D**

### **Lincoln County Conservation, Recreation, and Development Act Map**





# Lincoln County Conservation, Recreation, and Development Act Map



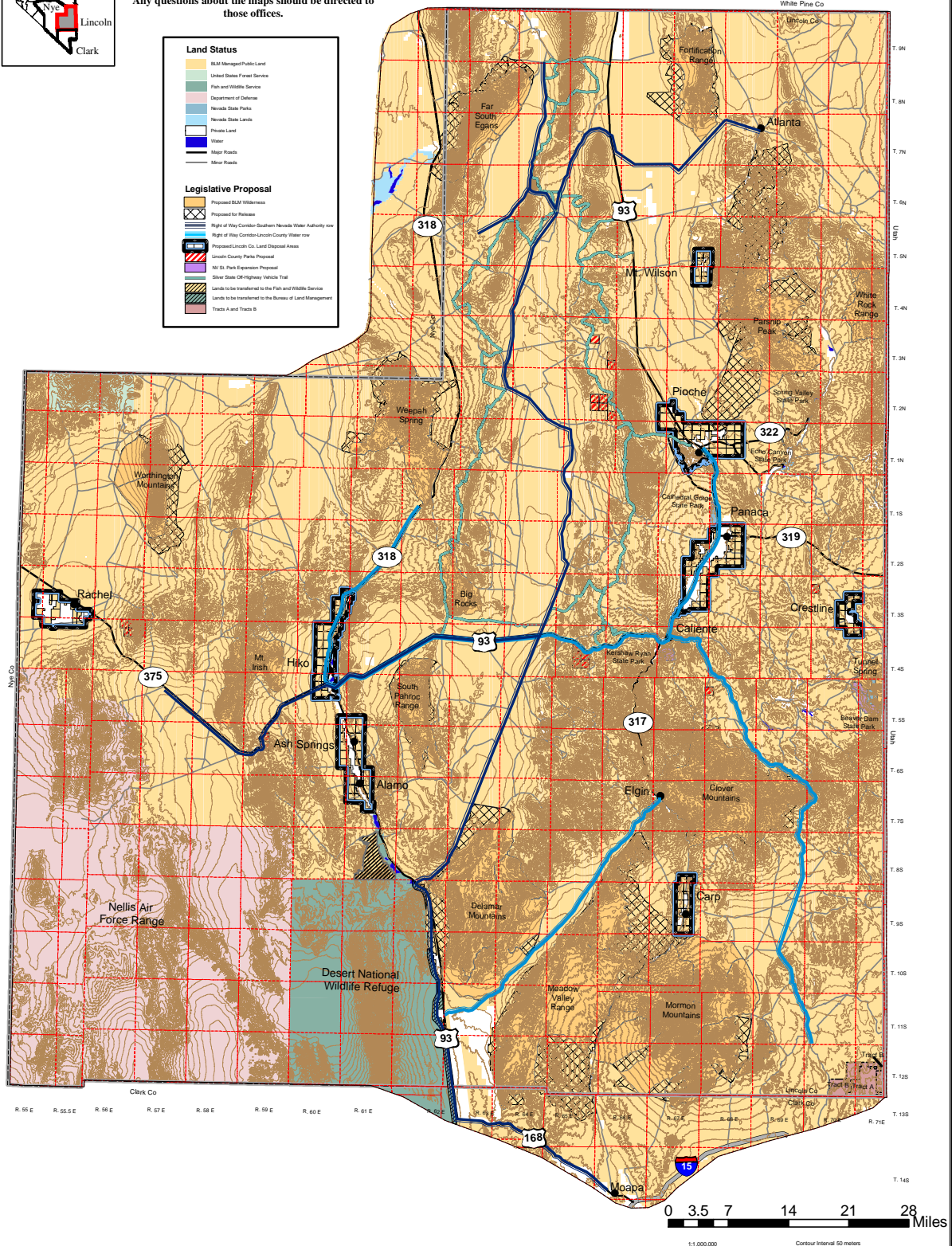
This map has been provided by the BLM at the request of Senator John Ensign, Senator Harry Reid, and Congressman Jim Gibbons. Any questions about the maps should be directed to those offices.

**Land Status**

- BLM Managed Public Land
- United States Forest Service
- Fish and Wildlife Service
- Department of Defense
- Nevada State Parks
- Nevada State Lands
- Private Land
- Water
- Major Roads
- Minor Roads

**Legislative Proposal**

- Proposed BLM Withdrawal
- Proposed for Release
- Right of Way Condition Southern Nevada Water Authority use
- Right of Way Condition Lincoln County Water use
- Proposed Lincoln Co. Land Disposal Areas
- Lincoln County Parks Proposal
- NV St. Park Expansion Proposal
- Other State On Highway Vehicle Trail
- Lands to be transferred to the Fish and Wildlife Service
- Lands to be transferred to the Bureau of Land Management
- Tracts A and Tracts B






## **APPENDIX E**

Nevada Wilderness Coalition Press Release, June 26, 2004





 Close Window

## THE WILDERNESS SOCIETY

## News Release

## Coalition Seeks Additional Wilderness Protection in Lincoln County Bill, Nevada

**June 16, 2004 (Reno, NV)** - Today, the Nevada Wilderness Coalition reacted to the introduction of the Lincoln County Conservation, Recreation and Development Act of 2004, an omnibus public lands bill sponsored by Senators Reid and Ensign along with Representatives Gibbons, Porter and Berkley. The bill includes a title designating several wilderness areas in Lincoln County. The bill also removes some land from Wilderness Study Area status. Other controversial public land issues are included in various titles of the bill. The environmental community is united in opposition to provisions in the bill that grant rights of way for pipelines that could transport rural Nevada's water to Las Vegas.

The Nevada Wilderness Coalition has proposed approximately 2.5 million acres for wilderness designation in the County. The Lincoln County legislation would designate significantly less wilderness.

"While the legislation will protect some important places, much more needs to be done," said John Wallin, Director of the Nevada Wilderness Project. "This legislation takes some important steps forward in conserving Nevada's wild heritage, but fails to protect several worthy areas."

"We are pleased to see our Congressional delegation addressing wilderness in Lincoln County," said Shaaron Netherton, Executive Director of Friends of Nevada Wilderness. "However, many areas have been left out that need wilderness protection—at the top of that list is the Pahrnagat Range."

As part of its "Citizen's Wilderness Proposal for Eastern Nevada," the Coalition has advocated for protecting the Badger Peak area of the Pahrnagat Range. This rugged mountain range just 90 miles from Las Vegas boasts the "Shooting Gallery," a remarkable series of petroglyph panels.

"The Pahrnagat Range should be protected as wilderness," said John Hiatt of Red Rock Audubon Society. "It includes many archeological treasures threatened by irresponsible off road vehicle use and vandalism. We are hopeful that this special place will be added to the bill as it works its way through Congress."

The Nevada Wilderness Coalition is also concerned that some protected areas may include too many "cherry systems," or jeep trails, that penetrate deep into wilderness areas. These trails can result in destroyed habitat and lead to off road vehicle traffic criss-crossing terrain.

"We'll want to take a close look at all the cherry systems to ensure that they do not damage cultural resources and harm fragile springs," said Hiatt.

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#### **Related News**

## **APPENDIX F**

### **Special Use Airspace and Military Lands with Designated Wilderness and Wilderness Study Areas Map**











## APPENDIX G

### Suggested Legislation

The following Bill Draft Requests will be available during the 2005 Legislative Session, or can be accessed after “Introduction” at the following Web site: <http://www.leg.state.nv.us/73rd/BDRList/page.cfm?showAll=1>.

BDR R-432      Urges Congress to take certain actions regarding the designation of wilderness areas and the release of public lands not designated as wilderness areas.

