

Legislative Committee on Public Lands

(Nevada Revised Statutes 218E.510)

WORK SESSION DOCUMENT (Includes Exhibits)



August 24, 2012

Prepared by the Research Division
Legislative Counsel Bureau

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WORK SESSION DOCUMENT

Legislative Committee on Public Lands
(*Nevada Revised Statutes* 218E.510)

August 24, 2012

This “Work Session Document” has been prepared by the Chair and staff of the Legislative Committee on Public Lands (*Nevada Revised Statutes* [NRS] 218E.510) and is designed to assist the Committee in determining which legislative measures it will request for the 2013 Session of the Nevada Legislature and what other actions the Committee will endorse.

The members of the Committee may vote to send as many Committee statements or letters as they choose. However, pursuant to NRS 218D.160, the Committee is limited to ten legislative measures, including both bill draft requests (BDRs) and requests for the drafting of resolutions.

The inclusion of proposed actions in this work session document does not imply the support of the Committee. The members will review them and decide whether they should be adopted, changed, rejected, or further considered. Each item in this document may be the subject of further discussion, refinement, or action. The proposals have been grouped by topic but are not preferentially ordered.

Although possible actions are identified for each recommendation, the Committee may modify the possible action and select one of the following actions: (1) draft a bill or resolution; (2) send a letter; or (3) include a statement in the final report. To the extent the Committee urges or suggests action by public officials, it is understood that any such actions would be subject to the limits of those officials’ existing authority and all applicable laws.

As set forth in NRS 218E.515, five members of the Committee constitute a quorum and a quorum may exercise all the powers of the Committee.

The source of each proposed action is noted. A proposed action may have been modified during the preparation of this document for a variety of reasons, such as: (1) to combine it with similar proposals; (2) to propose a different type of action; or (3) to add details needed for drafting.

As in the past, the Committee members may use a consent calendar to approve proposals that require no consideration or clarification beyond what is set forth in the “Work Session Document.” Items on the consent calendar primarily include Committee letters and statements in the final report. Any Committee member may request that one or more items on the consent calendar be removed for further discussion and consideration.

To the extent that a proposed action may contain unquantified or unknown fiscal impacts, Legislative Counsel Bureau (LCB) staff will coordinate with the interested parties to obtain fiscal estimates, if needed, for inclusion in the final report. Also, some proposals may include references to specific chapters or statutes in the NRS, but as part of the legislative process, amendments to other related chapters or sections of the NRS may be added to fully implement the requested legislation.

Finally, please note that in the fall of 2012 during the legislative drafting process, specific details of Committee-requested legislation or other Committee action may be further clarified in consultation with the Chair of the Committee or others, as directed or as appropriate.

PROPOSED ACTIONS RELATING TO ENERGY

1. **Amend the statutes** (such as NRS 704.787) to allow full implementation of the Hoover Power Allocation Act of 2011 (P.L. 112-72). (Jayne Harkins, P.E., Executive Director, Colorado River Commission [CRC] of Nevada)

The Committee heard testimony from Ms. Harkins on this subject at the meeting of May 4, 2012. Statutory changes are necessary to allow full implementation of the Act, which, in part, establishes the basis for allocations of low-cost renewable hydropower from Hoover Dam to Nevada-based customers for a 50-year term. Current Hoover Dam hydropower contracts between the federal Western Area Power Administration and its customers, including the CRC, expire on September 30, 2017. The Act sets aside a portion of the energy from Hoover Dam as a resource pool for new hydropower customers. Thus, the CRC will offer 50-year contracts to its current hydropower customers and yet-to-be-identified new customers in Nevada. Section 704.787 of NRS provides that the CRC may serve only the customers under contract as of July 1997 and the Southern Nevada Water Authority (SNWA) and its member agencies without subjecting itself to the

jurisdiction of the Public Utilities Commission of Nevada (PUCN). Since the CRC does not seek to subject itself to PUCN jurisdiction, amendments to NRS are necessary to authorize the CRC to serve the new customers after September 30, 2017, in the same manner as it will serve its existing customers. [PLEASE SEE TAB A.]

PROPOSED ACTIONS RELATING TO THE GREATER SAGE-GROUSE

2. **Send letters** to the United States Secretary of Agriculture and the U.S. Secretary of the Interior supporting the recommendations of the Governor's Greater Sage-grouse Advisory Committee and emphasizing what is being done and what can be accomplished in Nevada to preclude the listing of the Greater Sage-grouse as an endangered species under the federal Endangered Species Act (ESA) of 1973. (Ron Cerri, Orovada, Nevada, and Joe Guild, National Cattlemen's Beef Association, June 2012 meeting)

Governor Sandoval established the Governor's Greater Sage-grouse Advisory Committee by executive order in March 2012, to provide an updated strategy and recommended approach for sage-grouse conservation in Nevada. The Advisory Committee received presentations on such subjects as habitat, invasive species, livestock grazing, mitigation, and predation; updated the sage-grouse threat assessment; and recommended a sage-grouse management area map. The Advisory Committee's report covers conservation goals and strategies, implementation responsibilities, and recommended actions in response to identified threats. [PLEASE SEE TAB B]

According to testimony at the January 2012 meeting of the Committee on Public Lands, some of the ongoing efforts to preclude listing of the sage-grouse are:

- *Activities supported by the federal Natural Resources Conservation Service (NRCS) on private lands;*
- *Amendments to Bureau of Land Management (BLM), U.S. Department of the Interior (DOI), and U.S. Forest Service (USFS) land use plans;*
- *Coordination among Nevada's Department of Wildlife (NDOW), the BLM, and the USFS to raise the priority of sagebrush habitat in wildfire prevention and suppression;*
- *Hunting restrictions in certain counties and game management areas;*
- *Restoration of Pinyon-juniper woodlands;*
- *The work of the Great Basin Landscape Conservation Cooperative (LCC) on education, management, research, partnerships, restoration, and science; and*

- *The work of Nevada Partners for Conservation and Development, using sportsmen's money.*
3. **Send a letter** to Nevada's agricultural producers, expressing the Committee's support for their efforts to help preclude the listing of the sage-grouse and urging them to continue those efforts. (Ron Cerri, Orovada, Nevada, and Joe Guild, National Cattlemen's Beef Association, June 2012 meeting)

According to testimony at the June 2012 meeting of the Committee on Public Lands, some of the efforts of agricultural producers to preclude the listing of the sage-grouse include:

- *Activities supported by the NRCS;*
- *Contract with Resource Concepts, Inc. (Carson City) to compile an online library of sage-grouse research and science documents;*
- *Fence removal or flagging in sage-grouse habitat;*
- *Maintenance of water troughs;*
- *Restoration of meadows, Pinyon-juniper woodlands, and riparian zones, in cooperation with the Eastern Nevada Landscape Coalition and others;*
- *Rest-rotation and deferred grazing systems; and*
- *Weed identification and control.*

To address Nevada's agricultural producers, it may be appropriate to send the letter to the following organizations:

- *Nevada Cattlemen's Association*
 - *Nevada Farm Bureau*
 - *Nevada Woolgrowers Association*
 - *State Grazing Boards, Central Committee*
4. **Send a letter** to Nevada's Congressional delegation emphasizing the potential impacts of listing the sage-grouse on both the rural and urban parts of the State, and emphasizing what is being done to preclude the listing. (Ron Cerri, Orovada, Nevada, and Joe Guild, National Cattlemen's Beef Association, June 2012 meeting)

If the sage-grouse were listed as an endangered species, numerous direct and indirect socioeconomic impacts could occur. A listing would likely have direct impacts on the mining, ranching, and renewable energy sectors, since operators would be required to adjust their activities and plans on both private and public lands and would encounter more complex and lengthy regulatory proceedings.

A listing may have widespread indirect impacts stemming from slower growth in the mining and renewable energy sectors and lower-than-anticipated employment and tax revenues statewide, and may hamper the State's economic diversification efforts. Recreation on the public lands could also be affected.

At the January 2012 meeting of the Committee on Public Lands, Allen Biaggi, representing the Nevada Mining Association, testified that a listing of the sage-grouse would affect the economic recovery of the State, and the impacts on rural Nevada would be large.

PROPOSED ACTIONS CONCERNING THE PUBLIC LANDS, GENERALLY

- 5. Include a statement in the final report** calling for more collaboration and cooperation in the management of the public lands. (Chair Carlton)

The Committee on Public Lands heard testimony at each of its meetings in the 2011-2012 Interim on the need for better cooperation, coordination, and collaboration among managers and users of the public lands. While there are some excellent examples of collaboration (e.g., the work of the Eastern Nevada Landscape Coalition, the Pine Forest Working Group, and the Wildfire Support Group), issues or problems were cited in these areas:

- Completion of travel management plans, particularly in the Humboldt-Toiyabe National Forest;*
- Conservation of cultural resources and consultation with tribal governments;*
- Construction of water improvements for livestock and wildlife on the public lands;*
- Difficulty in adding appropriate flexibility to grazing leases and permits, especially related to management of fine fuels that contribute to the cheatgrass-fire cycle;*
- Lack of consultation with and inclusion of local elected officials in federal land use planning and permitting;*
- Management of wild horses and burros;*
- Pending but unresolved wilderness designations;*
- Resolution of issues related to maintenance and ownership of R.S. 2477 rights-of-way on the public lands;*
- Virtually automatic protests and legal challenges to most regulatory actions of the BLM and USFS;*
- Water resource management, monitoring, and planning; and*
- Weather-related and other restrictions on grazing leaseholders and permittees.*

Federal, state, and local agencies; users of the public lands; and interest groups need to work together to develop consensus strategies and plans for the benefit of all parties, to put those strategies and plans into action, and to monitor progress over time.

6. **Include a statement in the final report** supporting improved accountability and transparency in administration of the Equal Access to Justice Act (EAJA) of 1980, while respecting the intent of the EAJA, which is to create a level playing field on which individual citizens may question management decisions of federal agencies. (Leonard J. Fiorenzi, Chair, Board of Eureka County Commissioners, July 20, 2012)

Certain federal environmental laws, including the Clean Water Act (CWA) of 1972, the ESA, and the National Environmental Policy Act (NEPA) of 1969 grant standing to individuals to sue for enforcement of those laws. These citizen-suit provisions are important aspects of environmental protection efforts generally.

The federal EAJA seeks to curb excessive governmental regulation by eliminating the financial disincentive for an individual to challenge unreasonable governmental actions, given the disparity in expertise and resources between a government agency and an average person. The EAJA allows prevailing parties to recover attorney fees, expert witness fees, and other expenses, unless the government's action was substantially justified.

Nonprofit environmental groups have pursued citizen suits against the BLM, the U.S. Environmental Protection Agency (USEPA), the USFS, and the U.S. Fish and Wildlife Service (USFWS), DOI, to enforce the CWA, the ESA, and NEPA, and have recovered fees and expenses under the EAJA. For example, from 2004 to 2010, the USFWS paid attorneys' fees of about \$1.5 million in 26 cases. From 2003 to 2010, the U.S. Treasury paid \$14.2 million to plaintiffs in litigation with the USEPA.

Although provisions in federal laws authorizing citizen suits and providing for recovery of attorneys' fees were enacted to help protect the rights of individuals, there needs to be improved reporting and transparency on the amount of recovery under the EAJA and the outcomes of the litigation against the public land management agencies.

7. **Adopt a resolution** similar to Senate Joint Resolution No. 4 (File No. 32), *Statutes of Nevada*, of the 2011 Session, urging Congress to ensure public lands in Nevada remain open to multiple use and that Nevada and its local governments receive a portion of revenues from activities conducted on the public lands. (Central Nevada Regional Water Authority [CNRWA], July 9, 2012)

In the 2011 Session, the Legislature adopted S.J.R. 4 (File No. 32) by unanimous vote in both the Assembly and the Senate. Since the resolution refers specifically to federal legislation introduced in the 112th Congress, which will have adjourned before the beginning of Nevada's 2013 Legislative Session, the Legislature should consider and adopt an updated resolution similar to S.J.R. 4.

8. **Include a statement in the final report** supporting streamlining of both State and federal permitting of activities on public lands, provided that such streamlining preserves necessary community and natural resource protections. (Leonard J. Fiorenzi, Chair, Board of Eureka County Commissioners, July 20, 2012)

Since the last legislative interim, federal agencies have announced plans to fast-track approval of seven renewable energy transmission projects; identified solar energy zones designed to identify conflicts early and avoid delays and litigation; required prescreening of renewable energy projects; and proposed the use of adaptive management plans in energy project permitting.

9. **Include a statement in the final report** supporting: (a) full funding for the Payments in Lieu of Taxes (PILT) program; (b) reauthorization of the Secure Rural Schools and Community Self-Determination Act (SRS) of 2000; (c) no reduction in PILT payments based on SRS payments; and (d) a shift in emphasis for these programs toward management of rangelands and forests to earn revenue by creating jobs and producing receipts for revenue sharing. (Leonard J. Fiorenzi, Chair, Board of Eureka County Commissioners, July 20, 2012)

According to "Public Lands News" (July 27, 2012), President Barack Obama signed legislation in July that provides \$398 million for the PILT program in Federal Fiscal Year (FFY) 2013 and extends SRS through FFY 2012 at \$346 million. Members of Congress are attempting to develop a long-term approach to PILT and SRS funding, but there has been no agreement to date. Some members support using revenues from timber sales and other commercial uses of the public lands to fund the SRS program.

10. **Include a statement in the final report** supporting sharing of federal receipts from commercial activity on public lands among the federal government, the State of Nevada, and Nevada's counties.

In 2010, U.S. Senator Harry Reid and then-U.S. Representative Dean Heller introduced legislation that would have established a leasing program for solar projects on federal lands and provided for payments of 25 percent of the revenue to the host state and counties.

In 2011, Senator John Testor (Montana) introduced the Public Lands Renewable Energy Development Act of 2011, of which Senators Reid and Heller are co-sponsors. Among its other provisions, it would establish a distribution formula for wind and solar energy development on public lands, dividing rental and royalty income among the State, county, the DOI, and a fund for land and wildlife conservation.

The Energy Policy Act of 2005 (42 USC 15873(a)) created a revenue sharing provision for geothermal energy generation on federal lands, helping affected state and local governments deliver governmental services and make necessary capital improvements to accommodate the energy development.

11. **Send a letter** to the Forest Supervisor, Humboldt-Toiyabe National Forest, urging the USFS to revise its process for preparing and updating travel management plans for the National Forest. (Leonard J. Fiorenzi, Chair, Board of Eureka County Commissioners, July 20, 2012)

AND

Send a letter to the Director of the Nevada Office of the BLM, urging the BLM to work with local governments, the State of Nevada, and the users of the public lands to expedite verification of R.S. 2477 rights-of-way for access to private property.

The Committee on Public Lands received testimony on travel management on the Humboldt-Toiyabe National Forest at the November 2011 and January 2012 meetings. Elko County Commissioner Demar Dahl testified that the travel management plan was the County's biggest natural resource challenge. He said: (a) the County had been unable to get good answers on how many miles of roads would be closed and how cross-country travel would be managed; and (b) the County had concerns related to big game retrieval, dispersed camping, mineral prospecting, and road marking. Representatives of Eureka County and Lander County also expressed concern with the travel management process.

Jeannie Higgins, Forest Supervisor, Humboldt-Toiyabe National Forest, testified that the USFS has been establishing a designated system of roads and trails for public wheeled motorized use, in response to the Travel Management Rule (36 CFR Subpart B). She said: (a) there are over 5,700 miles of system roads and motorized trails and about 8,000 miles of additional routes created by users but not managed as part of the Forest Road system; (b) each ranger district has proposed a series of roads and trails for public use, including system routes and other routes; (c) the product is a motor vehicle use map for the public to use to know where they can drive various classes of vehicles; (d) USFS decisions include a concerted effort to maintain motorized access to dispersed campsites and

recreation opportunities; and (e) guides, outfitters, mineral exploration firms, and ranchers will have the same level of access they currently have.

On the related subject of R.S. 2477 rights-of-way, federal law enacted in 1866, as amended, granted rights-of-way for construction of highways over public lands to provide access to mining claims and other private property. With the passage of the Federal Land Policy and Management Act of 1976 (FLPMA), the act of 1866 was repealed, but FLPMA also provides that nothing in FLPMA shall be construed as terminating any valid right-of-way existing on the date of FLPMA's approval. The NRS deem such rights-of-way as accessory roads, declare them open to public use, and urge the U.S. government to recognize the rights so acquired. (See NRS 405.191 through 405.204.)

In separate rulings in 2005 and 2007, the Tenth U.S. Circuit Court of Appeals ruled that the BLM cannot adjudicate the validity of R.S. 2477 right-of-way assertions, that only a federal court holds that right, and that environmental groups may intervene in R.S. 2477 suits if such groups demonstrate that the federal government is not adequately defending its rights. ("Public Lands News," October 12, 2007, and January 6, 2012.)

PROPOSED ACTIONS RELATED TO GRAZING ON PUBLIC LANDS

- 12. Adopt a resolution** urging the BLM and the USFS to consider increasing livestock grazing under certain circumstances in order to prevent range fires. (Senator Dean Rhodes)

The Committee considered this recommendation at the November 2011 meeting. Senator Rhoads stated, in light of numerous fires affecting grazing allotments and sage-grouse habitat on the public lands in northeastern Nevada and other parts of the State, it would make sense to use grazing to help control fine fuel loads. He cited examples from Nevada and elsewhere where grazing has been used to control fuel loads and weeds.

The BLM's Elko District Manager testified that, because of NEPA requirements, it is not practical to extend the season of a grazing permit if the permittee seeks permission during that grazing season. He said grazing is one of the tools that is available to reduce fuels; that other resources (e.g., sage-grouse habitat) need to be considered also; and that if the BLM can partner with the livestock industry to control cheatgrass stands on hundreds of thousands of acres, the BLM will do so.

At the June 2012 meeting, the Committee heard testimony on research conducted at the University of Nevada's Gund Ranch, near Austin, Nevada, which showed great promise for dramatically reducing cheatgrass by grazing in successive years in the fall, after seed drop. The ranch manager testified that the researchers hope to expand the experiment to other sites in Nevada and Oregon.

13. **Send letters** to the Nevada System of Higher Education, the USFS, and other parties as appropriate, supporting ongoing research concerning the control of cheatgrass and other annual grasses that contribute to the cheatgrass-fire cycle in Nevada. (Chair Carlton)

In addition to the research conducted at the University of Nevada's Gund Ranch, the Committee also heard testimony at the June 2012 meeting regarding the phenomenon of cheatgrass die-off. According to testimony, 500,000 acres of cheatgrass in northern Nevada has died, resulting in soil erosion and secondary weed invasion. The likely causes are fungal or other pathogens interacting with weather. More research is needed to determine whether there is a potential to use pathogens for biocontrol and how best to restore areas where die-off has occurred.

14. **Send a letter** to the BLM and the USFS urging the agencies to work with grazing permittees to ensure that: (a) management decisions are based on the best rangeland science; (b) flexibility is included in grazing permits to allow for adaptive management as conditions change; and (c) the quality and quantity of data collected is adequate to support decisions based on measurable resource objectives. (Leonard J. Fiorenzi, Chair, Board of Eureka County Commissioners, July 20, 2012)

Eureka County expresses concern for arbitrary and unjustified closures of livestock grazing in certain areas, and cites these examples: (a) when the BLM is conducting a vegetation treatment in a small area of an allotment and closes the entire allotment for two or more years; and (b) when the BLM closes allotments to grazing during hot weather because of perceived impacts on riparian areas. The County says the science behind these actions is flawed, they prevent ranchers from being able to provide for their livestock at the right time of year, and they shift the resource burden to private lands without solving the resource issue.

15. **Include a statement in the final report** supporting streamlining the process for renewing grazing permits, providing both accountability and flexibility, extending the term of a grazing permit from 10 to 20 years when appropriate, and eliminating unwarranted delays in the renewal process. (Chair Carlton)

With appropriate accountability and safeguards, it may be appropriate to extend the term of some grazing permits to 20 years, to reduce the administrative burden on both the federal agencies and the permittees. When grazing leases or permits are due for renewal, no significant changes are proposed, and conditions on the range are stable, the renewal process should be streamlined. The process for adapting lease and permit provisions to changing conditions on the ground should also be streamlined, so that land managers and users can work together to manage fuel loads, conserve wildlife habitat, and make other adaptations for the benefit of everyone.

PROPOSED ACTIONS RELATED TO PINYON-JUNIPER WOODLANDS

16. **Adopt a resolution** expressing the Legislature's support for the Nevada Pinyon-Juniper Partnership (NPJP) and its mission of promoting proactive, sound management to achieve healthy ecosystems for stronger communities;

OR

Send a letter to the NPJP expressing the Committee's support for the Partnership and its mission. (NPJP, July 31, 2012)

A resolution or letter would assist the NPJP in its efforts to obtain contracts, grants, and other funding to maintain and expand its programs.

17. **Adopt a resolution** expressing the desire and intent of the State of Nevada to establish a biomass industry, in order to expand efforts to restore Pinyon-juniper and sagebrush ecosystems at a landscape scale on the public lands for the benefit of economic stability, energy production, hydrologic function, rangeland health, and wildlife habitat;

AND/OR

Send a letter to the U.S. Secretary of the Interior, the U.S. Secretary of Agriculture, the Acting Director of the BLM, the Chief of the USFS, and Nevada's Congressional Delegation expressing the Committee's support for establishment of a biomass industry for this purpose.

(NPJP, July 31, 2012, and Leonard J. Fiorenzi, Chair, Board of Eureka County Commissioners, July 20, 2012)

The NPJP recommends support for additional federal funding for planning, implementing, and monitoring Pinyon-juniper and sagebrush restoration projects, which would provide an opportunity to use biomass generated by the those projects. This concept would benefit sage-grouse habitat. Policies to encourage the establishment of a biomass industry in Nevada would include: (a) providing more federal funding for implementing, monitoring, and planning Pinyon-juniper and sagebrush restoration projects; (b) reprogramming fire suppression funding to strategic hazardous fuels reduction projects in Pinyon-juniper woodlands with heavy fuel loading; (c) amending the White Pine and Lincoln County Public Lands Acts to authorize utilization of money from land sales in restoration projects; and (d) supporting continued Stewardship Contracting authority with the Departments of Agriculture and Interior, and extending the maximum length of stewardship contracts from 10 to 20 years. [PLEASE SEE TAB C.]

Letters from the White Pine and Lincoln County Boards of County Commissioners supporting amendments to their respective public lands acts are attached. [PLEASE SEE TAB D.]

Stewardship contracts are designed to meet environmental restoration and maintenance objectives and may include capture of the value of forest or rangeland material created as part of the project, offsetting the cost to taxpayers. The contracts may allow for the exchange of goods for services, use the value of traded goods to meet land health goals, be awarded on the basis of best value, and have long terms in order to reduce uncertainty and encourage investment in local communities. Agreements with nonprofit organizations are encouraged.

Letters and resolutions on this subject should include the Committee's recognition of the concerns of tribal members regarding the cultural importance of Pinyon-juniper woodlands and the need for thorough consultation with the tribal governments on woodlands management projects.

<p style="text-align: center;">PROPOSED ACTIONS RELATED TO MANAGEMENT OF WATER RESOURCES AND WATER SUPPLIES</p>
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18. **Include a statement in the final report** supporting legislative authority for and funding of drought monitoring, response planning, and mitigation measures resulting from the work of Nevada's Drought Response Committee. (Humboldt River Basin Water Authority [HRBWA], July 20, 2012)

In 1988, Nevada's former Governor Richard H. Bryan appointed the drought response and reporting committee, chaired by the State Climatologist. The State Department of Conservation and Natural Resources (SDCNR) prepared the first drought plan in 1991. The plan was updated in 2003 at the direction of the State Engineer and by an interagency collaborative effort in 2012. The Water Planning Section, Division of Water Resources, SDCNR, must support activities in response to drought as provided for in the drought plan established for the State. (See NRS 540.051.)

19. **Send a letter** to the chairs of the Assembly Committee on Ways and Means and the Senate Committee on Finance in support of restoration of funding to the Division of Water Resources (DWR), SDCNR, for processing the backlog of water rights applications and enhancing online data sources. (HRBWA, July 20, 2012)

According to the HRBWA, the Legislature eliminated 4.4 positions within the DWR in 2009, and 5 positions and one-half of the funding of the cost of the Deputy State Engineer in Las Vegas in 2011. The HRBWA says these reductions in staff impair the ability of the DWR to maintain the progress it had made in reducing the backlog of pending applications for water rights and the related public access to online data on water rights and water resources.

20. **Amend the statutes** (such as Chapter 519A of NRS) to require parties applying to the Nevada's Division of Environmental Protection (NDEP), State Department of Conservation and Natural Resources (SDCNR), for a waiver of mine reclamation requirements for pit lakes to demonstrate that they hold water rights covering pit lake evaporation, as a condition of approval of the waiver; (HRBWA, July 20, 2012)

AND/OR

Send a letter to the Nevada State Director of the BLM urging implementation of a policy requiring proponents of mining projects on BLM lands that would result in pit lakes to apply, at time of closure, for water rights to cover evaporative losses. (HRBWA, July 20, 2012)

Many large gold mines in the Humboldt River Basin are open pit projects. Mining companies often need extensive groundwater dewatering systems to keep water levels below the pit floors. Section 519A.250 of the Nevada Administrative Code allows an exemption from the NDEP's mine reclamation requirements for open pits. According to the HRBWA: (a) exempt open pits often become pit lakes; (b) the aggregate surface area of present and future lakes in the Basin is several hundred acres or more; (c) as a result of surface evaporation, pit lakes act like high-production wells, drawing groundwater from surrounding aquifers;

(d) the closed Lone Tree Mine between Winnemucca and Battle Mountain, when full, will lose 2,400 to 2,700 acre-feet per year to evaporation in perpetuity, for which no water right has been issued and which is not reflected in the Basin's water budget; (e) since no water right is required and pit lakes are not accounted for in water budgets, the State Engineer may over-appropriate basins with pit lakes; and (f) obtaining a water right for a pit lake is, at present, voluntary and few mines have chosen to do so.

The BLM's Battle Mountain District required a water right in the Record of Decision on the Cortez Hills expansion project (March 2011). However, this approach is not used consistently throughout Nevada. [PLEASE SEE TAB E.]

If the Committee supports these recommendations in general, it may be appropriate to consider the applicability of such policies and whether they would apply to existing pit lakes or only new pit lakes.

21. **Amend the statutes** to require the State Engineer to consider the possible connection between surface water and groundwater systems when making a decision on a water right application. (CNRWA, July 9, 2012)

In 2009, the Legislature passed A.B. 377, declaring that it is the policy of the State to encourage the State Engineer to consider the best available science in rendering decisions concerning the available surface and underground sources of water in Nevada. (See subsection 1(c) of NRS 533.024.) As introduced, A.B. 377 would have required the State Engineer to make a finding when processing an application for a water right that the proposed use or change does not adversely affect any surrounding surface or underground source of water. The CNRWA says that groundwater and surface water systems are connected in certain areas, Nevada should acknowledge the possible connection in State law, and Nevada should ensure a proposed use or change in use of water does not adversely affect a nearby ground or surface source.

22. **Amend the statutes** (such as Chapter 533 of NRS) to require the State Engineer to adjudicate claims for vested water rights prior to acting on an application for a large appropriation of water within a basin with claims for vested water rights. (CNRWA, July 9, 2012)

The CNRWA says it is critical for the State Engineer to have a correct accounting of legal water rights in a basin before issuing a permit for a new water right which might impair the vested right of a person to the use of water. The Committee should also recognize that such adjudications are very resource intensive and require a significant amount of time to complete, since all adjudications are decided in district court after the State Engineer completes a preliminary order.

23. **Send a letter** to the Chief of the USFS and the Forest Supervisor, Humboldt-Toiyabe National Forest, urging no further delays in approving and investing in water-related range improvements, notwithstanding the USFS concerns with Nevada water law on stockwater rights. The letter should request the USFS to revise its policy requiring federal ownership of stockwater rights as a prerequisite to authorizing federal expenditures on livestock water improvements on the National Forest. (HRBWA, July 20, 2012)

In 2003, the Legislature passed S.B. 76, which provides that the State Engineer may issue a permit to water livestock only to the rancher or operator of the livestock. (See NRS 533.040 and 533.503.) Therefore, since 2003, the BLM and the USFS cannot normally obtain a stockwater permit in their own name. Although the BLM adapted its policy to allow stockwater-related improvements on public lands in Nevada without the BLM having to own the stockwater right, the USFS has not done so, and has maintained a policy that stockwater rights associated with any water improvement on the National Forest must be owned by the USFS before an improvement will be approved. The HRBWA says this policy has blocked many water-related range improvements to the detriment of the environment, the livestock industry, and wildlife.

24. **Send a letter** to the Director of the Nevada State Office of the BLM expressing concern about the management of the Shoshone Ponds Area of Critical Environmental Concern (ACEC) in Spring Valley in White Pine County and inviting the BLM to meet with the Chair and interested members of the Committee on Public Lands to review the management objectives. (Chair Carlton)

The Ely District of the BLM manages the Shoshone Ponds ACEC to maintain unique and valuable vegetation and aquatic habitat resources. In the 1970s, NDOW installed a well in the ACEC for the purpose of providing protected water flows to three ponds used as places of refuge for the endangered Pahrump poolfish. Poolfish were introduced into the ponds in 1972 and 1976 and are managed under the species recovery plan published by the USFWS. The ponds are within a fenced enclosure designed to keep livestock away from the ponds.

On a visit to the Shoshone Ponds in June 2012, the Chair observed that the vegetation within the enclosure is overgrown, the water appears to be stagnant, and it is unclear whether the Poolfish are being managed effectively inside the enclosure. An adjacent pond and stream, which are unfenced, appear to be in better condition and to house a thriving population of poolfish. The Chair wishes to meet with the BLM and other interested parties to review the management objectives and the present status of the ponds.

Tab A

Letter to Chair Carlton, Committee on Public Lands, from
Jane Harkins, P.E., Executive Director, Colorado River Commission
of Nevada (July 27, 2012), with attachments

BRIAN SANDOVAL, *Governor*

GEORGE F. OGILVIE III, *Chairman*

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JAYNE HARKINS, P.E., *Executive Director*

STATE OF NEVADA



BOB COFFIN, *Commissioner*

TOM COLLINS, *Commissioner*

J. BRIN GIBSON, *Commissioner*

DUNCAN R. MCCOY, *Commissioner*

BERLYN D. MILLER, *Commissioner*

**COLORADO RIVER COMMISSION
OF NEVADA**

July 27, 2012

The Honorable Maggie Carlton, Chairwoman
Legislative Committee on Public Lands
Nevada Legislature
401 South Carson Street
Carson City, NV 89701-4747

SUBJECT: Request of the Colorado River Commission of Nevada for Sponsorship of a 2013 Bill Draft Request by the Legislative Committee on Public Lands

Dear Chairwoman Carlton:

The Colorado River Commission of Nevada (CRC) submits this request for Committee sponsorship of legislation before the 2013 Session of the Nevada Legislature to address statutory changes necessary to allow full implementation of the Hoover Power Allocation Act of 2011 passed by Congress in December, 2011 (Public Law 112-72, December 20, 2011, 125 Stat. 777) which, in part, establishes the basis for allocations of low-cost renewable hydropower from Hoover Dam to Nevada-based customers for a 50-year term.

A separate briefing memorandum addressing the history, content and implications of the Hoover Power Allocation Act for the CRC and its Nevada customers is attached to this letter for the use of the Committee.

Pursuant to NRS 218.525(2), your Committee is charged with the authority to "review the programs and activities" of the CRC as part of its overall focus on use of land, water and related natural resources within Nevada. The historic development of a series of federally owned hydroelectric dams on the Colorado River began in the 1930's with the construction of Hoover Dam. While dams like Hoover Dam are primarily built for flood control, water storage, agricultural irrigation supply, and municipal water supply, placement of the hydroelectric generators as an integral element at Hoover Dam created a low cost, low-polluting power supply for customers within Nevada, Arizona and California. These customers have paid *all* costs of construction, operation and maintenance, rehabilitation and upgrades for all Hoover Dam

operations (including the visitor center) from the 1930's to date. All Colorado River water users in the affected states, including Nevada, directly benefit from the presence of Hoover Dam.

As an executive agency, the CRC has presented its request for sponsorship of legislation to the Office of the Governor for potential inclusion in the Executive Branch's legislative package. The Governor's office internal review is not complete at this time. The Governor's office is aware that the CRC is submitting this request.

Current Hoover hydropower contracts between the federal Western Area Power Administration (Western) and its customers, including the CRC, expire on September 30, 2017. While federal hydropower allocations are almost always made through administrative processes, Hoover Dam's hydropower capacity and output has always been allocated directly by Congressional Act. The Hoover Power Allocation Act of 2011 was sought by the current hydropower customers at Hoover Dam, including the CRC. Under that legislation, current Hoover customers in Nevada, Arizona and California will be "offered" 50-year contracts beginning on October 1, 2017, for ninety-five percent of their current allocations of contingent capacity and energy. The remaining 5 percent of available contingent capacity and energy has been set-aside as a resource "pool" to be offered to "new allottees", i.e. new hydropower customers. Pursuant to that Act and applicable State law, the CRC will in turn offer 50-year contracts to its current Hoover hydropower customers within Nevada, and, to yet-to-be-identified "new allottees" within Nevada.

Under Nevada State law, the CRC is broadly empowered to contract for the supply of electric energy and is required to receive, protect and safeguard *and hold in trust for the State of Nevada* the state's share of power generated at federally owned hydroelectric facilities on the Colorado River. (NRS 538.161 (2), NRS 538.171(1) and NRS 538.181 (8)). However, NRS 704.787 states that the CRC may serve only the customers listed therein without subjecting itself to the jurisdiction of the Public Utilities Commission of Nevada (PUCN). As a sister state agency, the CRC does not seek to subject itself to the jurisdiction of the PUCN.

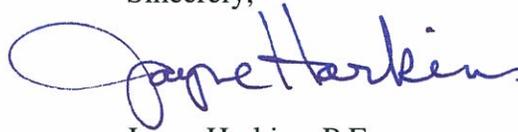
NRS 704.787 presents an obstacle to the CRC's ability to carry out its responsibilities under Hoover Power Allocation Act of 2011. The CRC desires to have the ability, to serve the new allottees after September 30, 2017 in the same manner as it will serve its existing hydropower customers.

The CRC respectfully requests the Legislative Committee on Public Lands exercise its legislative jurisdiction over the "programs and activities" of the CRC by sponsoring a formal Bill Draft Request. The proposed legislation would be designed to authorize the CRC to serve the new Nevada-based Hoover hydropower allottees in a similar manner as current hydropower customers. The new hydropower customers will be identified through a formal, public allocation process by the CRC consistent with the Hoover Power Allocation Act of 2011 and applicable State law.

We will be happy to discuss this request with you, Members of the Committee and your legislative staff and look forward to a productive process and ultimate passage of this legislation to continue to protect the ability of the State of Nevada to benefit to the maximum extent possible from Hoover Dam hydropower.

We thank you for your consideration. If you have any questions, do not hesitate to contact me at 702-486-2670.

Sincerely,

A handwritten signature in blue ink that reads "Jayne Harkins". The signature is fluid and cursive, with a large loop at the beginning.

Jayne Harkins, P.E.
Executive Director

JH/JS/ja

Attachments:

CRC Briefing Memorandum Regarding Need for Legislation
Hoover Power Allocation Act of 2011
Current Hoover Power Customers

cc: Dave Ziegler, Legislative Counsel Bureau
dziegler@lcb.state.nv.us

Cory Hunt, Office of the Governor
cthunt@gov.nv.gov

BRIEFING MEMORANDUM REGARDING

**NEED FOR 2013 LEGISLATION TO AUTHORIZE THE COLORADO RIVER
COMMISSION OF NEVADA TO ALLOCATE HOOVER POWER
TO NEW ALLOTTEES UNDER THE FEDERAL
HOOVER POWER ALLOCATION ACT OF 2011**

Current Hoover hydropower contracts between the Western Area Power Administration (Western) and the Colorado River Commission of Nevada (CRC), as well as hydropower contracts between the CRC and its Nevada customers, expire on September 30, 2017. Congress' passage of the Hoover Power Allocation Act of 2011 (the Act) lays the groundwork for the CRC to offer new Hoover hydropower contracts effective on October 1, 2017 through September 30, 2067. Under the Act, current Hoover customers will be "offered" post-2017 contracts for ninety-five percent of their current allocations of contingent capacity and energy. The remaining 5 percent of available contingent capacity and energy has been set aside as a resource "pool" to be offered to "new allottees." The CRC, the federal Western Area Power Administration (Western), and the Arizona Power Authority (APA) are each directed by the Act to select and make allocations to new allottees for designated portions of the available resources in the "pool." As a result of these allocation processes, the CRC will enter into 50-year contracts with its current customers and with new customers not currently served by the CRC.

Under Nevada State law, the CRC is broadly empowered to contract for the supply of electric energy and is required to receive, protect and safeguard and hold in trust for the State of Nevada the state's share of power generated at federally owned hydroelectric facilities on the Colorado River. NRS 538.161 (2) and NRS 538.171(1). NRS 538.181 (8) states,

"Except as otherwise provided in NRS 704.787, notwithstanding any provision of Chapter 704 of NRS, any purchase of:

- (a) Power or water for distribution or exchange, and any subsequent distribution or exchange of power or water by the Commission; or
 - (b) Water for distribution or exchange, and any subsequent distribution or exchange of water by any entity to which or with which the Commission has contracted the water,
- is not subject to regulation by the Public Utilities Commission of Nevada."
(PUCN)

Also, the CRC is subject to limiting language contained in NRS 704.787 (1), (2) and (3) which state,

1. The Colorado River Commission of Nevada may sell electricity and provide transmission service or distribution service, or both, only to meet the existing and future requirements of:

(a) Any customer that the Colorado River Commission of Nevada on July 16, 1997, was serving or had a contract to serve; and

(b) The Southern Nevada Water Authority and its member agencies for their water and wastewater operations,
 without being subject to the jurisdiction of the Public Utilities Commission of Nevada.

2. The Public Utilities Commission of Nevada shall establish a just and reasonable tariff for such electric distribution service to be provided by an electric utility that primarily serves densely populated counties to the Colorado River Commission of Nevada for its sale of electricity or electric distribution services, or both, to any customer that the Colorado River Commission of Nevada on July 16, 1997, was serving or had a contract to serve, and to the Southern Nevada Water Authority and its member agencies to meet the existing and future requirements for their water and wastewater operations.

3. An electric utility that primarily serves densely populated counties shall provide electric distribution service pursuant to the tariff required by subsection 2.

Conceptually the CRC may possess adequate statutory authority under NRS 538 to contract to sell electricity and related services to its current Hoover hydropower customers and any new allottee customers selected through allocation procedures as mandated by the Hoover Power Allocation Act of 2011. However, NRS 704.787 states that the CRC may serve only the customers listed therein without subjecting itself to the jurisdiction of the PUCN. As a sister state agency, the CRC does not seek to subject itself to the jurisdiction of the PUCN.

NRS 704.787 presents an obstacle to the CRC's carrying out of its responsibilities under the Hoover Power Allocation Act of 2011. On its face NRS 704.787 appears to limit CRC's ability to serve new customers, unless the CRC does so under the jurisdiction of the PUCN. The CRC proposes to serve the new allottees mandated by the Act, in the same manner it is authorized to serve existing customers today under NRS 704.787.

Therefore, in order to fulfill its trust responsibility to protect Nevada's share of power generated at Hoover Dam while implementing the "new allotments" contemplated by the Hoover Power Allocation Act, the CRC should seek unequivocal authority to serve new customers without subjecting itself to the jurisdiction of the PUCN. As a result, it is necessary to seek legislative relief during the 2013 Session of the Nevada Legislature.

One Hundred Twelfth Congress of the United States of America

AT THE FIRST SESSION

*Began and held at the City of Washington on Wednesday,
the fifth day of January, two thousand and eleven*

An Act

To further allocate and expand the availability of hydroelectric power generated
at Hoover Dam, 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 "Hoover Power Allocation Act of 2011".

SEC. 2. ALLOCATION OF CONTRACTS FOR POWER.

- (a) SCHEDULE A POWER.—Section 105(a)(1)(A) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(a)(1)(A)) is amended—
- (1) by striking "renewal";
 - (2) by striking "June 1, 1987" and inserting "October 1, 2017"; and
 - (3) by striking Schedule A and inserting the following:

"Schedule A

Long-term Schedule A contingent capacity and associated firm energy for offers of
contracts to Boulder Canyon project contractors

Contractor	Contingent capacity (kW)	Firm energy (thousands of kWh)		
		Summer	Winter	Total
Metropolitan Water District of Southern California	249,948	859,163	368,212	1,227,375
City of Los Angeles	495,732	464,108	199,175	663,283
Southern California Edison Company	280,245	166,712	71,448	238,160
City of Glendale	18,178	45,028	19,297	64,325
City of Pasadena	11,108	38,622	16,553	55,175
City of Burbank	5,176	14,070	6,030	20,100
Arizona Power Authority	190,869	429,582	184,107	613,689
Colorado River Commission of Nevada	190,869	429,582	184,107	613,689
United States, for Boulder City	20,198	53,200	22,800	76,000
Totals	1,462,323	2,500,067	1,071,729	3,571,796"

- (b) SCHEDULE B POWER.—Section 105(a)(1)(B) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(a)(1)(B)) is amended to read as follows:

“(B) To each existing contractor for power generated at Hoover Dam, a contract, for delivery commencing October 1, 2017, of the amount of contingent capacity and firm energy specified for that contractor in the following table:

“Schedule B

Long-term Schedule B contingent capacity and associated firm energy for offers of contracts to Boulder Canyon project contractors

Contractor	Contingent capacity (kW)	Firm energy (thousands of kWh)		
		Summer	Winter	Total
City of Glendale	2,020	2,749	1,194	3,943
City of Pasadena	9,089	2,399	1,041	3,440
City of Burbank	15,149	3,604	1,566	5,170
City of Anaheim	40,396	34,442	14,958	49,400
City of Azusa	4,039	3,312	1,438	4,750
City of Banning	2,020	1,324	576	1,900
City of Colton	3,030	2,650	1,150	3,800
City of Riverside	30,296	25,831	11,219	37,050
City of Vernon	22,218	18,546	8,054	26,600
Arizona	189,860	140,600	60,800	201,400
Nevada	189,860	273,600	117,800	391,400
Totals	507,977	509,057	219,796	728,853

(c) SCHEDULE C POWER.—Section 105(a)(1)(C) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(a)(1)(C)) is amended—
 (1) by striking “June 1, 1987” and inserting “October 1, 2017”; and
 (2) by striking Schedule C and inserting the following:

“Schedule C

Excess Energy

Priority of entitlement to excess energy	State
First: Meeting Arizona's first priority right to delivery of excess energy which is equal in each year of operation to 200 million kilowatthours: Provided, That in the event excess energy in the amount of 200 million kilowatthours is not generated during any year of operation, Arizona shall accumulate a first right to delivery of excess energy subsequently generated in an amount not to exceed 600 million kilowatthours, inclusive of the current year's 200 million kilowatthours. Said first right of delivery shall accrue at a rate of 200 million kilowatthours per year for each year excess energy in an amount of 200 million kilowatthours is not generated, less amounts of excess energy delivered.	Arizona
Second: Meeting Hoover Dam contractual obligations under Schedule A of subsection (a)(1)(A), under Schedule B of subsection (a)(1)(B), and under Schedule D of subsection (a)(2), not exceeding 26 million kilowatthours in each year of operation.	Arizona, Nevada, and California

“Schedule C—Continued
Excess Energy

Priority of entitlement to excess energy	State
Third: Meeting the energy requirements of the three States, such available excess energy to be divided equally among the States.	Arizona, Nevada, and California”.

(d) SCHEDULE D POWER.—Section 105(a) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(a)) is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(2) by inserting after paragraph (1) the following:

“(2)(A) The Secretary of Energy is authorized to and shall create from the apportioned allocation of contingent capacity and firm energy adjusted from the amounts authorized in this Act in 1984 to the amounts shown in Schedule A and Schedule B, as modified by the Hoover Power Allocation Act of 2011, a resource pool equal to 5 percent of the full rated capacity of 2,074,000 kilowatts, and associated firm energy, as shown in Schedule D (referred to in this section as ‘Schedule D contingent capacity and firm energy’):

“Schedule D

Long-term Schedule D resource pool of contingent capacity and associated firm energy for new allottees

State	Contingent capacity (kW)	Firm energy (thousands of kWh)		
		Summer	Winter	Total
New Entities Allocated by the Secretary of Energy	69,170	105,637	45,376	151,013
New Entities Allocated by State				
Arizona	11,510	17,580	7,533	25,113
California	11,510	17,580	7,533	25,113
Nevada	11,510	17,580	7,533	25,113
Totals	103,700	158,377	67,975	226,352

“(B) The Secretary of Energy shall offer Schedule D contingency capacity and firm energy to entities not receiving contingent capacity and firm energy under subparagraphs (A) and (B) of paragraph (1) (referred to in this section as ‘new allottees’) for delivery commencing October 1, 2017 pursuant to this subsection. In this subsection, the term ‘the marketing area for the Boulder City Area Projects’ shall have the same meaning as in appendix A of the Conformed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects published in the Federal Register on December 28, 1984 (49 Federal Register 50582 et seq.) (referred to in this section as the ‘Criteria’).

“(C)(i) Within 36 months of the date of enactment of the Hoover Power Allocation Act of 2011, the Secretary of Energy shall allocate through the Western Area Power Administration (referred to in

this section as 'Western'), for delivery commencing October 1, 2017, for use in the marketing area for the Boulder City Area Projects 66.7 percent of the Schedule D contingent capacity and firm energy to new allottees that are located within the marketing area for the Boulder City Area Projects and that are—

“(I) eligible to enter into contracts under section 5 of the Boulder Canyon Project Act (43 U.S.C. 617d); or

“(II) federally recognized Indian tribes.

“(ii) In the case of Arizona and Nevada, Schedule D contingent capacity and firm energy for new allottees other than federally recognized Indian tribes shall be offered through the Arizona Power Authority and the Colorado River Commission of Nevada, respectively. Schedule D contingent capacity and firm energy allocated to federally recognized Indian tribes shall be contracted for directly with Western.

“(D) Within 1 year of the date of enactment of the Hoover Power Allocation Act of 2011, the Secretary of Energy also shall allocate, for delivery commencing October 1, 2017, for use in the marketing area for the Boulder City Area Projects 11.1 percent of the Schedule D contingent capacity and firm energy to each of—

“(i) the Arizona Power Authority for allocation to new allottees in the State of Arizona;

“(ii) the Colorado River Commission of Nevada for allocation to new allottees in the State of Nevada; and

“(iii) Western for allocation to new allottees within the State of California, provided that Western shall have 36 months to complete such allocation.

“(E) Each contract offered pursuant to this subsection shall include a provision requiring the new allottee to pay a proportionate share of its State's respective contribution (determined in accordance with each State's applicable funding agreement) to the cost of the Lower Colorado River Multi-Species Conservation Program (as defined in section 9401 of the Omnibus Public Land Management Act of 2009 (Public Law 111–11; 123 Stat. 1327)), and to execute the Boulder Canyon Project Implementation Agreement Contract No. 95–PAO–10616 (referred to in this section as the 'Implementation Agreement').

“(F) Any of the 66.7 percent of Schedule D contingent capacity and firm energy that is to be allocated by Western that is not allocated and placed under contract by October 1, 2017, shall be returned to those contractors shown in Schedule A and Schedule B in the same proportion as those contractors' allocations of Schedule A and Schedule B contingent capacity and firm energy. Any of the 33.3 percent of Schedule D contingent capacity and firm energy that is to be distributed within the States of Arizona, Nevada, and California that is not allocated and placed under contract by October 1, 2017, shall be returned to the Schedule A and Schedule B contractors within the State in which the Schedule D contingent capacity and firm energy were to be distributed, in the same proportion as those contractors' allocations of Schedule A and Schedule B contingent capacity and firm energy.”.

(e) TOTAL OBLIGATIONS.—Paragraph (3) of section 105(a) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(a)) (as redesignated by subsection (d)(1)) is amended—

(1) in the first sentence, by striking “schedule A of section 105(a)(1)(A) and schedule B of section 105(a)(1)(B)” and inserting “paragraphs (1)(A), (1)(B), and (2)”; and

(2) in the second sentence—

(A) by striking “any” each place it appears and inserting “each”;

(B) by striking “schedule C” and inserting “Schedule C”; and

(C) by striking “schedules A and B” and inserting “Schedules A, B, and D”.

(f) POWER MARKETING CRITERIA.—Paragraph (4) of section 105(a) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(a)) (as redesignated by subsection (d)(1)) is amended to read as follows:

“(4) Subdivision C of the Criteria shall be deemed to have been modified to conform to this section, as modified by the Hoover Power Allocation Act of 2011. The Secretary of Energy shall cause to be included in the Federal Register a notice conforming the text of the regulations to such modifications.”.

(g) CONTRACT TERMS.—Paragraph (5) of section 105(a) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(a)) (as redesignated by subsection (d)(1)) is amended—

(1) by striking subparagraph (A) and inserting the following:

“(A) in accordance with section 5(a) of the Boulder Canyon Project Act (43 U.S.C. 617d(a)), expire September 30, 2067;”;

(2) in the proviso of subparagraph (B)—

(A) by striking “shall use” and inserting “shall allocate”; and

(B) by striking “and” after the semicolon at the end;

(3) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

“(D) authorize and require Western to collect from new allottees a pro rata share of Hoover Dam repayable advances paid for by contractors prior to October 1, 2017, and remit such amounts to the contractors that paid such advances in proportion to the amounts paid by such contractors as specified in section 6.4 of the Implementation Agreement;

“(E) permit transactions with an independent system operator; and

“(F) contain the same material terms included in section 5.6 of those long-term contracts for purchases from the Hoover Power Plant that were made in accordance with this Act and are in existence on the date of enactment of the Hoover Power Allocation Act of 2011.”.

(h) EXISTING RIGHTS.—Section 105(b) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(b)) is amended by striking “2017” and inserting “2067”.

(i) OFFERS.—Section 105(c) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(c)) is amended to read as follows:

“(c) OFFER OF CONTRACT TO OTHER ENTITIES.—If any existing contractor fails to accept an offered contract, the Secretary of Energy shall offer the contingent capacity and firm energy thus available first to other entities in the same State listed in Schedule A and Schedule B, second to other entities listed in Schedule A and Schedule B, third to other entities in the same State which receive contingent capacity and firm energy under subsection (a)(2) of this

section, and last to other entities which receive contingent capacity and firm energy under subsection (a)(2) of this section.”.

(j) AVAILABILITY OF WATER.—Section 105(d) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(d)) is amended to read as follows:

“(d) WATER AVAILABILITY.—Except with respect to energy purchased at the request of an allottee pursuant to subsection (a)(3), the obligation of the Secretary of Energy to deliver contingent capacity and firm energy pursuant to contracts entered into pursuant to this section shall be subject to availability of the water needed to produce such contingent capacity and firm energy. In the event that water is not available to produce the contingent capacity and firm energy set forth in Schedule A, Schedule B, and Schedule D, the Secretary of Energy shall adjust the contingent capacity and firm energy offered under those Schedules in the same proportion as those contractors’ allocations of Schedule A, Schedule B, and Schedule D contingent capacity and firm energy bears to the full rated contingent capacity and firm energy obligations.”.

(k) CONFORMING AMENDMENTS.—Section 105 of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a) is amended—

(1) by striking subsections (e) and (f); and

(2) by redesignating subsections (g), (h), and (i) as subsections (e), (f), and (g), respectively.

(l) CONTINUED CONGRESSIONAL OVERSIGHT.—Subsection (e) of section 105 of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a) (as redesignated by subsection (k)(2)) is amended—

(1) in the first sentence, by striking “the renewal of”; and

(2) in the second sentence, by striking “June 1, 1987, and ending September 30, 2017” and inserting “October 1, 2017, and ending September 30, 2067”.

(m) COURT CHALLENGES.—Subsection (f)(1) of section 105 of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a) (as redesignated by subsection (k)(2)) is amended in the first sentence by striking “this Act” and inserting “the Hoover Power Allocation Act of 2011”.

(n) REAFFIRMATION OF CONGRESSIONAL DECLARATION OF PURPOSE.—Subsection (g) of section 105 of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a) (as redesignated by subsection (k)(2)) is amended—

(1) by striking “subsections (c), (g), and (h) of this section” and inserting “this Act”; and

(2) by striking “June 1, 1987, and ending September 30, 2017” and inserting “October 1, 2017, and ending September 30, 2067”.

H. R. 470—7

SEC. 3. PAYGO.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled "Budgetary Effects of PAYGO Legislation" for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

**ELECTRIC POWER CUSTOMERS
OF THE
COLORADO RIVER COMMISSION
(2012)**

Customers which purchase hydropower through the CRC from federal hydroelectric dams on the Colorado River

Lincoln County Power District No. 1

NVEnergy

Overton Power District No. 5

Southern Nevada Water Authority

Valley Electric Association, Inc.

AMPAC (American Pacific Corporation)

Basic Water Company

LHOIST NORTH AMERCA (formerly Chemical Lime Company)

TIMET (Titanium Metals Corporation)

TRONOX (formerly Kerr-McGee Chemical Corp.)

City of Boulder City

Entities which purchase energy (other than hydropower) through the CRC

OLIN (Pioneer Americas, LLC, dba Olin Chlor Alkali Products)

Member Agencies of SNWA:

Clark County Water Reclamation District

City of Las Vegas

City of Henderson

Las Vegas Valley Water District

Tab B

Strategic Plan for Conservation of Greater Sage-grouse in Nevada (July 31, 2012)

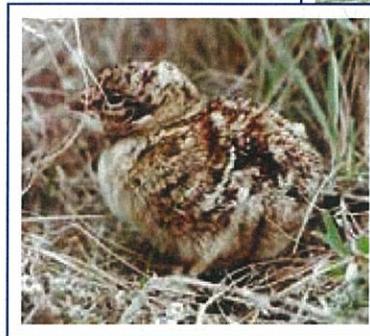


STATE OF NEVADA

Brian Sandoval
Governor

STRATEGIC PLAN FOR CONSERVATION OF GREATER SAGE-GROUSE IN NEVADA

July 31, 2012



Presented To:
Governor Brian Sandoval

Presented From:
Governor Sandoval's
Greater Sage-grouse Advisory Committee

**STRATEGIC PLAN FOR
CONSERVATION OF GREATER SAGE-GROUSE IN NEVADA**

July 31, 2012

Presented To:

Governor Brian Sandoval

Presented From:

Governor Sandoval's
Greater Sage-grouse Advisory Committee

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- ATTACHMENT B Technical Presentations to the Advisory Committee
- ATTACHMENT C Partial List of Potential Funding Opportunities
- ATTACHMENT D Inter-Tribal Council of Nevada, Inc. Resolution
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- Figure 1. Sage-grouse Management Areas in Nevada
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File Doc: Final Sage-grouse Recommendations August 3 sa-dh-jm.doc

List of Acronyms

BLM	Bureau of Land Management
DCNR	Department of Conservation and Natural Resources
DOD	Department of Defense
ESA	Endangered Species Act
IMT	Incident Management Team
LAWG	Local Area Working Group
NAC	Nevada Administrative Code
NDEP	Nevada Division of Environmental Protection
NDF	Nevada Division of Forestry
NDOW	Nevada Department of Wildlife
NEPA	National Environmental Policy Act
NGO	Non-governmental Organization
NRCS	Natural Resources Conservation Service
RAC	Resource Advisory Councils
SGI	Sage-grouse Initiative
UNR	University of Nevada, Reno
USDA – ARS	U.S. Department of Agriculture – Agricultural Research Service
USFS	US Forest Service
USFWS	US Fish and Wildlife Service
USGS	US Geological Service

1.0 INTRODUCTION

Nevada has been proactive in conservation of greater sage-grouse since 2000 when then Governor Kenny Guinn appointed a task force representing various interest groups and agencies to develop a plan that would conserve and protect Nevada's sage-grouse and their habitat. In October 2001 the *Nevada Sage-grouse Conservation Strategy* identified challenges, offered potential solutions, and laid the groundwork for the formation of local area working groups (LAWG) and Population Management Units (PMU). It provided guidance for developing conservation plans and subsequent legislative endorsements in 2004 and 2010 reinforced Nevada's commitment to conserve the species.

From 2001 to 2004 the Governor's Sage-grouse Conservation Team under leadership of the Nevada Department of Wildlife (NDOW) completed an intensive planning effort for the state in which LAWGs developed plans for their respective areas and PMUs. In June 2004, the *1st Edition of the Greater Sage-grouse Conservation Plan for Nevada and Eastern California* (2004 State Plan) was completed. Between 2004 and the present, resource management agencies have implemented conservation projects and instituted policies to support the conservation goals in the 2004 State Plan.

On December 9, 2011, in response to the U.S. Fish and Wildlife Service's (USFWS) inadequate regulatory mechanisms finding and to avoid a potential listing, the Bureau of Land Management (BLM) and the United States Forest Service (USFS) began a process to amend their land use management plans affecting sage-grouse habitat to incorporate sage-grouse conservation measures. (See 76 Fed. Reg. 77009 (Dec. 9, 2011); see also 77 Fed. Reg. 7178 (Feb. 10, 2012); 77 Fed. Reg. 12792 (Mar. 2, 2012).)

As a step in implementing a landscape level strategy to benefit the species while maintaining a robust economy in the West, Secretary Salazar invited the states impacted by a potential sage-grouse listing to develop state-specific regulatory mechanisms to conserve the species and preclude the need for listing that could be considered as an alternative in the BLM and USFS management plan revision process. See Press Release, Salazar, Mead Reaffirm Commitment toward Development of Landscape Level Greater Sage-Grouse Conservation Strategy in the West (Dec. 9, 2011).

On March 30, 2012, Governor Sandoval issued Executive Order 2012-09, which established the Governor's Greater Sage-Grouse Advisory Committee (Advisory Committee) with a directive to provide this updated strategy and recommended approach for sage-grouse conservation in Nevada.

The recommendations in this document are intended to both guide state level action as well as serve as the basis for BLM to develop an alternative in the resource management planning process for Nevada that will ensure the conservation of sage-grouse and avoid the need to list the species.

1.1 Governor's Goal and Directive

Governor Brian Sandoval's Executive Order fortified Nevada's commitment to sage-grouse conservation, bringing stakeholders and experts together to recommend a course of action that would conserve and enhance sagebrush ecosystems and their values for all Nevadans and meet the purpose of the Endangered Species Act (ESA).

The Committee consisted of a chairman and nine appointed members representing agriculture, conservation and environmental organizations, energy development, local government, mining,

ranching, sportsmen, Tribal Nations, and the general public. Members of the committee are identified in Attachment A.

1.2 Approach

BEST AVAILABLE SCIENTIFIC INFORMATION

The Committee was informed on numerous aspects of sage-grouse management and threats during presentations made by experts and professionals in the fields of livestock grazing, predation, habitat, mitigation banking, invasive species, pinyon-juniper encroachment and other relevant topics. A list of technical experts who provided scientific information to the Committee is included in Attachment 'B'. Committee members also conferred with their respective constituencies for current information and projections of future land uses that may be in conflict with sage-grouse habitat.

THREAT ASSESSMENT

The Committee identified and updated the assessment of threats to greater sage-grouse in Nevada based on the analyses of the threats identified in the US Fish and Wildlife Service 2010 Finding, the 2004 State Plan, population and habitat data from the Nevada Department of Wildlife (NDOW), public comment, and input from Local Area Working Groups (LAWG), and augmented expertise of individual committee members. The Committee noted that threats do not occur uniformly throughout each Sage-Grouse Management Area and specific threats should be assessed and addressed within the context of local conditions.

The committee addressed the following threats from the USFWS 2010 Finding:

- Wildland Fire and Invasive Species
- Pinyon-Juniper Encroachment
- Predation
- Wild Horse and Burro Management
- Improper Livestock Grazing
- Mineral Development
- Recreation and Off-Highway Vehicle Use
- Renewable and Other Energy Production, Transmission, and Distribution

MAPPING

In April 2012, NDOW biologists completed a greater sage-grouse habitat map for Nevada based upon known lek locations, bird observations, telemetry data, survey and inventory reports, vegetation cover, satellite imagery data, and soil mapping. Five habitat categories included 1) Essential and Irreplaceable, 2) Important, 3) Moderate, 4) Low Value or Transitional, and 5) Unsuitable. For purposes of the ongoing updates to BLM Land Use Plans and USFS Land and Resource Management Plans, BLM and USFS adapted the NDOW map by combining NDOW map Categories 1 and 2 into 'Preliminary Priority Habitat' and using NDOW map Category 3 as "Preliminary General Habitat."

The Committee used the BLM and NDOW maps, and added a designation representing 85 percent of the core sage-grouse breeding habitat area based on statistical analyses procedures developed by Doherty, et al. (2010). The Committee proposed coarse Sage-grouse Management Areas based on the 85 percent breeding density and on June 24, 2012 these Preliminary Sage-grouse Management Area maps were submitted to LAWGs to verify and propose revisions to boundaries based on on-the-ground habitat and land use conditions.

The Committee's recommended Sage-grouse Management Area Map is discussed in Section 4.0. Mapping used in this report was based on currently compiled information. As new or more complete information becomes available, this information will be added to support this iterative planning process.

These maps are dynamic, represent a broad-scale evaluation of habitat, and should be updated on a regular basis.

PUBLIC PARTICIPATION

Each Committee meeting was held in compliance with the Nevada Open Meeting Law, including multiple opportunities for public comment. Public participation for those unable to attend meetings in Carson City was facilitated through simultaneous videoconference conducted in Winnemucca, Elko, and Ely, Nevada. Local Area Working Groups participated in developing maps of Sage-grouse Management Areas. Public comment was also received through the Committee website (<http://sagegrouse.nv.gov/>) and via email sent to Committee staff and sagegrouse@gov.nv.gov.

2.0 DEFINITIONS

Area of Potential Development – Development areas where energy, mining and mineral development may need additional habitat focus and evaluation. Designations on this map should not be interpreted to imply that development will be limited only to these areas.

Disturbance – Actions that will either remove or render sage-grouse habitat unusable, or human activities and presence that will cause a negative response from birds.

Enhancement, Reclamation and Restoration – Actions intended to alter the vegetative features of a particular area to improve or reestablish sage-grouse habitat.

Reclamation actions return an area to a functional habitat as soon as possible after disturbance, and are generally related to industrial activity.

Restoration actions return an area to physical and functional habitat, often with a lapse between disturbance and replacement, usually after a natural event such as wildfire, or due to conifer encroachment, etc.

Sage-grouse Management Area (Figure 1) – General, broad-scale zones that have been delineated for management and conservation of greater sage-grouse. Delineation of the Sage-grouse Management Area does not imply any degree of regulatory control or impose land-use restrictions for land-use management decisions for these lands. Within Sage-grouse Management Areas there are four levels of importance to sage-grouse. These definitions recognize all current existing land uses and previously authorized activity.

- **Occupied Habitat** – Areas that are shown (preferably documented within the last five years) as being utilized by sage-grouse, and are essential for sage-grouse when considering the ecological components of soil, vegetation, and climate necessary to provide the biological needs of the birds at some time during their annual life cycle (breeding, nesting, brood-rearing, wintering).
- **Suitable Habitat** – Areas that have the ecological components of soil, vegetation, and climate necessary to provide the biological needs of the birds at some time during their annual life cycle (breeding, nesting, brood-rearing, wintering). This includes **Connectivity or Linkage Habitat** which are areas between sage-grouse habitat or populations that are necessary to allow birds to move to seasonal ranges, or to provide opportunity for genetic variability.
- **Potential Habitat** – Areas characterized by the appropriate ecological site description to provide additional sage-grouse habitat, sometimes through enhancement and restoration actions that can provide linkage to occupied sage-grouse seasonal habitat.
- **Non-Habitat** – Areas that are not occupied, suitable, or potential habitat that do not provide any seasonal habitat for sage-grouse.

It is recognized that sage-grouse and suitable habitat may exist outside of Sage-grouse Management Areas; management policies outlined in this Strategic Plan do not apply to those areas.

3.0 NEVADA CONSERVATION GOALS AND STRATEGIES

The Committee recommends a strategy for Nevada that builds upon past successful efforts, expands a multi-disciplinary approach to greater sage-grouse management under the Executive Branch to include all appropriate State Agencies, and encourages closer coordination with local working groups, BLM, USFS and USFWS, and industry and interest groups.

The Committee recommends the State of Nevada work to achieve conservation through a policy of “no net loss” for activities that can be controlled such as a planned disturbance or development. For natural disasters and acts of God such as wildland fire, the Committee recommends that the State of Nevada aggressively pursue presuppression, initial attack and restoration of affected areas but believes that the State, together with its citizens and industries, should be held harmless for such occurrences that are beyond their control.

The committee recommends that the overriding objective for all management actions in Sage-grouse Management Areas is to “avoid, minimize and mitigate” impacts to sage-grouse habitat.

This is a fundamental hierarchical decision process that seeks to:

Avoid – Where ever possible, eliminate conflicts by relocating disturbance activities in order to conserve sage-grouse and their habitat.

Minimize – Modify proposed actions and develop permit conditions to include measures that lessen adverse effects to sage-grouse and their habitat to the furthest extent practical such as reducing the activity footprint, seasonal avoidance, co-location of structures, etc.

Mitigate – Only after all appropriate and practicable avoidance and minimization measures have been taken, offset residual adverse effects in occupied and suitable sage-grouse habitat by implementing additional actions that will result in replacement of an asset (mainly habitat) that will be lost as a result of a development action.

Three general conservation policies provide the foundation and vision for a coordinated and cooperative management approach for conservation of greater sage-grouse in Nevada:

1. Conserve greater sage-grouse and their habitat in Nevada consistent with maintaining economic vitality of the State.
2. In areas of proposed disturbance, project proponents should first expend all means to avoid, then minimize and finally mitigate disturbance of occupied, suitable, or potential sage-grouse habitat.
3. Due to the broad reach of sage-grouse habitat, effective management and implementation of sage-grouse conservation actions must be conducted through a collaborative, interagency approach that engages local, private, non-governmental, state, Tribal and federal stakeholders to achieve sufficient conservation of the greater sage-grouse.

The mitigation strategy recognizes impacts and threats and creates the best possible outcome for sage grouse. This includes active efforts to use mitigation funding in areas where sage-grouse will derive the

most benefit, even if those areas are not adjacent to or in the vicinity of impacted populations. Within Sage-grouse Management Areas, confirmation of actual conditions must be completed to understand if a proposed activity or disturbance will occur in occupied, suitable, or potential sage-grouse habitat.

Sage-grouse are known to be an “umbrella species” for many sagebrush habitat-obligate and associated species. Therefore, enhancement and restoration measures that bring resiliency and restore ecological functions to sagebrush-perennial grass habitats also serve to ensure quality habitat for sage thrasher, sage sparrow, Brewer’s sparrow, sagebrush vole, pygmy rabbit, pronghorn antelope, mule deer and many other species.

3.1 Management Strategy In Occupied Habitat

1. Manage to avoid surface disturbance and habitat alteration to the greatest extent possible. If avoidance is not possible, disturbances greater than or equal to five percent of 640 acres (32 acres) within occupied habitat will trigger habitat evaluations and consultation with the Sage-grouse Technical Team (see Section 4.2). This consultation will occur within the administrative framework of overseeing this Strategic Plan. New activities at any level of disturbance should minimize impacts to sage-grouse and their habitat.
2. Limit habitat treatments in winter ranges to actions that maintain or expand current levels of sagebrush available in winter.
3. Proactively monitor habitat and manage to ensure that it retains the attributes necessary to support viable bird populations.
4. Adequately fund aggressive documentation of habitat used by sage-grouse.

3.2 Management Strategy In Potential Habitat

1. Potential habitat should be used for habitat enhancement and restoration to expand or restore sage-grouse habitat that has been adversely impacted either by acts of nature (wildfire, PJ encroachment) or by human activities.
2. Limit habitat disturbance, including habitat improvement projects, in potential sage-grouse habitat to not more than twenty percent per year, per Sage-grouse Management Area, unless habitat treatments show credible positive results (Connelly, et al. 2000). This limit does not apply to removal of invasive or encroaching vegetation where such removal actually creates habitat.
3. Potential habitat should be prioritized for enhancement, restoration, and mitigation opportunities based on data-driven models that incorporate ecological site potential where the highest priority sites have the greatest potential for successful results.

3.3 Management Strategy In Non-Habitat

1. Use areas designated as non-habitat within Sage-grouse Management Areas to site activities that are not geographically restricted to specific resources and to avoid investing habitat enhancement, restoration, or mitigation funds in areas with little or no potential for effective results.

2. No additional management provisions are proposed for non-habitat areas within Sage-grouse Management Areas.

3.4 Interim Strategy

1. Direct relevant State Agencies to adopt and implement the strategies and maps, and propose the policies as an interim policy for the BLM and USFS to adopt in place of their Interim Memorandum Guidance as well as an Alternative in their Land Use Plan updates and USFS Resource Management Plan updates
2. Allow ongoing projects or previously authorized activities to move forward without delay.
3. Allow mitigation activities to occur and be accounted for without delay.
4. Designate NDOW as the primary agency for making habitat determinations consistent with this Strategic Plan, in consultation with the BLM, USFS and USFWS.
5. Request federal land management agencies to work with NDOW and incorporate habitat determinations in land use decisions based on timely and complete reviews of existing information.
6. Adequately fund NDOW activities to ensure compliance with the policies established in this Strategic Plan.
7. Deliver a formal request to the BLM and USFS to coordinate their interim management policies in a manner consistent with the policies proposed in this Strategic Plan.
8. As soon as possible, take all steps necessary to establish a functioning Sage-grouse Advisory Council and Technical Team identified in Section 4.0 of this Strategic Plan.
9. Advocate for additional federal allocations for sage-grouse conservation and restoration activities.

4.0 IMPLEMENTATION RESPONSIBILITIES

The potential impacts of the listing of the greater sage-grouse under the ESA are well-documented. A listing decision would have significant negative impacts on the State of Nevada. Further, much action is currently underway to conserve the species – a listing decision likely could force engaged parties to cease their actions, pursue expensive litigation and stop work to conserve the greater sage-grouse.

Unless listed under the ESA, management of the greater sage-grouse is the responsibility of the State of Nevada. The Committee believes that it is in the best interests of the State to propose a management strategy that the State can enact. The Committee believes that, if implemented, the recommendations in this report sufficiently conserve the species while enabling the custom, culture and economy of the State of Nevada to continue moving forward. Leadership of the State, from the highest level, has been cited as one of the major reasons for successful conservation strategy implementation and the Committee believes that it is the State's proper role to assume leadership of this important Nevada issue.

4.1 Sage-grouse Advisory Council

OBJECTIVE: *Establish a state process to coordinate development activities in Sage-grouse Management Areas. Assure that the Council has the appropriate legislative authority to oversee and implement this Strategic Plan.*

The Council should:

1. Have membership mirroring that of the Governor's Advisory Committee established by EO 2012-09 and provide a forum for participation from federal resource agencies including BLM, USFS, and USFWS.
2. Establish the Nevada Sage-grouse Mitigation Bank program.
3. Set and clarify policies and management criteria for occupied, suitable, and potential habitat areas and establish well defined decision thresholds for threat assessments and mitigation (regulatory process).
4. Facilitate the resolution of conflicts between industry, land owners, and resource agencies when there is disagreement regarding sage-grouse management.
5. Prepare a budget, secure and consolidate funding, and direct expenditures for sage-grouse conservation.
6. Pursuant to Attachment D "Inter-Tribal Council of Nevada, Inc. Resolution & Letter of Support," integrate Tribal participation in the statewide conservation effort, and acknowledge traditional Tribal ecological knowledge when available to update Sage-grouse Management Areas.
7. Establish policies for the identification and prioritization of landscape-scale enhancement, restoration, fuel reduction, and mitigation projects based upon ecological site potential, state and transition models, and other data that will contribute to decision making informed by science to increase resiliency.

8. Receive and approve an annual report from the Technical Team that includes compiled and summarized data on development, enhancement, restoration, and mitigation activities in occupied, suitable, and potential sage-grouse habitat. The Council should submit the annual report to the Governor and the Public.
9. Develop standards and protocols to propose to the BLM and USFS in order to facilitate expedited National Environmental Policy Act review for restoration activities in sage-grouse habitat.
10. Council activities should not add additional regulatory provisions or oversight for sage-grouse management beyond the scope of the recommendations provided in this Strategic Plan.
11. Encourage and facilitate land management education and training for all user groups of sage-grouse habitat.

4.2 Sage-grouse Technical Team

OBJECTIVE: *Implement a multi-disciplinary approach for administration of this Strategic Plan that incorporates scientific expertise from Federal and State agencies, and provides certainty to industry that there is a well-defined process for permitting activity in Sage-grouse Management Areas.*

Creation of the “Technical Team” will establish a place and a process for on-the -ground decision making using the ‘Tahoe Conservation Team’ as a successful example of inter-agency team management to achieve a specific resource objective. The Technical Team should:

1. Be staffed by personnel from the Nevada Department of Agriculture, the Nevada Department of Conservation and Natural Resources: Division of Forestry, Division of State Lands, Natural Heritage Program, the Nevada Department of Wildlife, and ideally, representatives from the Nevada Association of Counties, the BLM Nevada State Office, the Humboldt-Toiyabe National Forest Supervisor’s Office, the USFWS and Natural Resource Conservation Service (NRCS)
2. In accordance with Council policy, oversee, administer or operate the Nevada Sage-grouse Mitigation Bank program identified in this Strategic Plan.
3. Identify and prioritize landscape-scale enhancement, restoration, fuel reduction, and mitigation projects based upon ecological site potential, state and transition models, and other data that will contribute to decision making informed by science to increase resiliency following wildfire.
4. Foster and maintain collaborative processes with state and federal agencies to expedite permitting. Decision-making should be extended to the Technical Team such that permitting will be expedited rather than extended by an added layer of bureaucracy.
5. Provide consultation for project proponents who want to conduct activities in occupied or potential sage-grouse habitat to incorporate the avoid, minimize, and mitigate practices into project designs.

6. Assist the BLM and USFS as appropriate to evaluate the cumulative effects of individual small projects (less than five acres) to avoid exceeding a tolerable level of disturbance in occupied and suitable sage-grouse habitat and to determine if additional mitigation is required.
7. Acquire data to refine Sage-grouse Management Areas to identify occupied, suitable, potential, and non-habitat areas.
8. Solicit grants and private contributions for sage-grouse conservation projects. A partial list of potential funding opportunities in Nevada is included in Attachment C.
9. Establish a geographic database repository to maintain the inventory of development and mitigation projects, population data, and monitoring results. The Technical Team will compile and summarize data annually and submit an annual progress report to the Council.
10. Conduct periodic adaptive management evaluations to make management and policy recommendations to the Council.
11. Project applicants should have the opportunity to conduct robust ground-truthing for the presence or absence of habitat.

4.3 Local Area Working Groups

The LAWGs provide all stakeholders with an opportunity to work together in actively managing and restoring landscapes across boundaries. Even with collaboration there is a realization that to be successful there is a need for more investment from all sources to achieve sage-grouse conservation objectives. LAWG membership includes representation from private land owners, tribes, federal land management agencies, local governments, USFWS, USGS, NDOW, NGOs, USDA-ARS, UNR, USDA-NRCS, DOD, sportsmen, mining, energy, OHV users, agricultural and environmental interests.

The State of Nevada should:

1. Formalize, support, and adequately fund operation of LAWGs under existing State Conservation Districts.
2. Assure continued engagement of proven collaborative successes by charging LAWGs with responsibilities such as a) Developing and implementing site-specific plans to accomplish enhancement and restoration projects on federal lands that are identified by the Council as areas of high importance to sage-grouse; b) Updating Sage-grouse Management Area maps; c) Monitoring; d) Identifying potential habitat enhancement and restoration projects; and e) Other tasks where local, site-specific expertise can provide added-value.

5.0 SAGE-GROUSE MANAGEMENT AREA MAP RECOMMENDATIONS

On July 12, 2012 the Committee utilized a collaborative process that incorporated the LAWG recommendations and additional habitat recommendations provided by NDOW to locate and designate **Sage-grouse Management Areas** in Nevada (Figure 1). The Sage-grouse Management Area Map defines the overall area where resources will be managed to maintain and expand sage-grouse populations. This map was further refined by the Committee on July 25 to alleviate previously unresolved conflicts.

This first edition of the Sage-grouse Management Area Map is based on the best biological information and knowledge at this time, taking into account the 85 percent breeding bird density, NDOW's Preliminary Priority and General Habitat maps, and areas of known resource conflicts. The map represents a broad-scale evaluation of habitat. Individual projects will be evaluated at the local scale. Mapping is dynamic and refinement will be a regular and ongoing process. These mapping refinements will contribute to achieving the Nevada Conservation Goals and Strategies by providing guidance to industry to consider avoidance, minimization and mitigation during the project design phase.

The State of Nevada should:

1. Continue with further mapping refinements as new data becomes available and landscape changes occur.
2. Reconcile Sage-grouse Management Area boundaries across state lines with California, Idaho, Oregon, and Utah.
3. Use areas designated as non-habitat to site activities that are not geographically restricted to specific resources and to avoid investing habitat enhancement, restoration, or mitigation funds in areas with little or no potential for effective results.
4. Use existing sage-grouse telemetry data, ecological site descriptions, and state and transition models and adequate ground-truthing to further refine the Sage-grouse Management Area Map using a scientifically-defensible/robust method to map sage-grouse distribution, identify occupied, suitable, and potential seasonal habitat, and generally identify priority areas for conservation, enhancement and restoration at the landscape level to improve resiliency in sagebrush ecosystems. Engage the LAWGs to provide additional mapping information and verify maps as informed by the best available information and emerging science. Pursue opportunities to acquire additional knowledge from Native American Tribes to refine mapping of occupied, suitable, and potential sage-grouse habitat.
5. Recognize the previously authorized activities in Sage-grouse Management Areas. Specifically, projects with an approved BLM Notice, BLM or USFS Plan of Operation, Right of Way, Drilling Plan, or Nevada Division of Environmental Protection (NDEP) permit should be exempt from additional regulation.
6. Substitute the Sage-grouse Management Area Map (Figure 1) for the map previously submitted to the USFWS.

Known areas of potential development within Sage-grouse Management Areas were submitted to the Committee by industry and the general public, and compiled as shown in Figure 2.

6.0 THREAT ASSESSMENT AND RECOMMENDED ACTIONS

Habitat-based threats were identified to be the greatest priority statewide. Loss, degradation, and fragmentation of sagebrush ecosystems from wildfire and subsequent dominance by invasive species - primarily cheatgrass and pinyon-juniper encroachment into sagebrush ecological sites - were identified as the most serious threats to greater sage-grouse habitat in Nevada. In some areas, predation was identified as a direct threat to sage-grouse recruitment.

6.1 Fire and Invasive Species

Large and severe wildland fires in sagebrush ecosystems have occurred across the state resulting in the loss of needed sagebrush habit (Figure 3). This habitat degradation and loss from fire is facilitated and exacerbated by the presence of invasive species such as cheatgrass. These deteriorating landscape conditions place sage-grouse habitat as well as human lives and communities, other wildlife, water quality, and long-term soil productivity at great risk of further decline.

OBJECTIVES: *Actively manage Sage-grouse Management Areas across all jurisdictions with the goal of restoring the appropriate role of wildfire to establish resiliency, and actively engage in prevention, suppression and restoration of the effects of fire and invasive species.*

Support the development of a statewide comprehensive wildfire management program that engages all interagency partners, (federal, state & local), to reduce the threats of catastrophic wildfire, rapidly suppress wildfires when small, and rehabilitate wildfire damaged lands after a wildfire such as the Nevada Division of Forestry's proposed "Wildland Fire Protection Program."

The following actions are recommended for State and federal agencies to improve habitat resiliency following wildfire and maintain healthy sagebrush landscapes throughout Sage-grouse Management Areas:

1. Establish and implement a framework across all land jurisdictions for pre-suppression actions to minimize ignitions and alter fuel conditions in order to avoid - to the extent possible - large damaging conflagrations.
2. Develop and implement fire suppression plans and strategies across all land jurisdictions for occupied and suitable sage-grouse habitat areas.
3. Following fires, plan and implement sagebrush enhancement and restoration treatments consistent with sage-grouse management objectives in appropriate ecological sites.
4. Where appropriate, support market-based, flexible, proactive solutions that take advantage of economies of scale.

Pre-Suppression Objective: Occupied and suitable sage-grouse habitat should be managed to establish resilient ecosystems by implementing the following strategies and actions to protect, maintain and improve sagebrush steppe habitat.

Federal, State, and Local Fire Agency Actions

1. Strengthen and improve interagency wildfire prevention activities statewide through targeted wildfire prevention messages including education on habitat loss, updating interagency agreements, conducting wildfire prevention workshops, and demonstration projects.
2. Establish an entity that can collect and consolidate funding and develop common criteria and requirements for habitat protection and monitoring such as the Sage-grouse Advisory Council or Technical Team.
3. Complete landscape level habitat assessments in, and in proximity to, priority sage-grouse habitat areas to identify those habitat areas that are at the highest risk of wildland fire.
4. Construct targeted, well designed fuel breaks and “green strips” to break up fuel continuity, reduce fire size, and create safe areas for fire suppression activities. Use the best adapted plant materials to revegetate green strips with fire resistant species. Fund and schedule regular maintenance activities of green strips as needed. Avoid locating fuel breaks in occupied and suitable sage-grouse habitat unless no other options are available that will result in the same level of habitat protection.
5. Support a business environment that incentivizes beneficial uses of biomass and excess fuels (e.g. stewardship contracting, landscape level/long term projects, etc.).
6. Identify state and county highway/road and utility right of ways for fuel breaks, replacing invasive, fire prone species with fire resistant species and other fuels reduction treatments.
7. Identify and utilize all cross-boundary authorities available to improve project coordination and implementation on the ground. Support reauthorization and expansion of “Good Neighbor” authorities to include all states.
8. Utilize NDF Conservation Camp Crews for fuels reduction project implementation and as federal grant match.

Federal Agency Actions

1. Review current processes and, if necessary, develop authorities and expedite the process to implement vegetative treatments for fuels reduction projects in strategic areas for protection of sagebrush habitat.
2. Review current processes and, if necessary, develop authorities and expedite the process to utilize a suite of active vegetative treatments (e.g. mechanical, targeted livestock grazing, prescribed fire, chemical, etc.) to reduce weed invasion and maintain resilient post-fire landscapes and control excessive fuel loading throughout the Sage-grouse Management Area and constructed fuel breaks.

Suppression Objective: *Manage wildland fires in the Sage-grouse Management Area to reduce the number of wildfires that escape initial attack and become greater than 300 acres.*

Federal, State, And Local Fire Agency Actions

1. Identify and develop suppression plans, including mapping of occupied and suitable sage-grouse habitat, to improve initial attack suppression actions.
2. Update Fire Management Plans, dispatch run cards, and relevant agreements to ensure “closest forces” concepts are being utilized at all times, particularly non-federal suppression resources (e.g. NDF helicopters, crews, and volunteer fire departments).
3. Establish and utilize Nevada Interagency Incident Management Teams for wildfires in occupied, suitable, and potential sage-grouse habitat areas.
4. Increase initial attack capability by training and equipping Nevada Volunteer Firefighters, agricultural, and industry work forces such as the Wildfire Support Group for assignment during periods of high fire activity. Trained volunteers who are remotely located should serve as first responders as necessary and appropriate.
5. Integrate suppression resource locations with occupied, suitable, and potential habitat areas and pre-position resources as conditions dictate.
6. Develop a “suitcase” interagency suppression task force for pre-positioning during high wildfire hazard periods.
7. Within occupied, suitable, and potential habitat areas, eliminate the tactic of “burning out” unless there are direct life safety threats.

Federal Agency Actions

1. Utilize the interagency Fire Planning Assessment (FPA) system¹ to optimize utilization of fire suppression resources (e.g. engines, aircraft, water tenders, hand crews, etc.).

¹ Fire Program Analysis (FPA) enables local and national planners to evaluate the effectiveness of alternative fire management strategies for the purpose of meeting fire and land management goals and objectives.. www.fpa.nifc.gov

Federal, State, And Emergency Management Agency Actions

1. Designate occupied, suitable, and potential habitat as a “high priority value” for suppression resource allocation in the Geographical Area Coordination Centers and within the FEMA-Fire Management Assistance Grant criteria.

Federal And State Agency Actions

1. Develop a specific and concise package of information on sage-grouse habitat for incoming Incident Management Teams (IMTs) to ensure an understanding of Nevada conservation priorities that will be included in all ‘Delegations of Authority’ and ‘Fire Management Plans.’
2. Assign a local, trained resource advisor with sage-grouse expertise on all fire suppression responses in occupied and suitable sage-grouse habitat areas.

Restoration Objective: Carefully review and evaluate all burned areas within Sage-grouse management areas in a timely manner to ascertain the reclamation potential for reestablishing sage-grouse habitat, enhancing ecosystem resiliency, and controlling invasive weed species.

Federal And State Agency Actions

1. Complete burn severity assessments and identify ecological site potential in, and in proximity to, occupied, suitable, and potential sage-grouse habitat areas to identify the areas with the highest potential for restoration of habitat functions following fires. Focus rehabilitation efforts on areas of highest potential success based ecological site conditions (soils, precipitation zone, and geography). Utilize revegetation seed mixtures that include native and adapted plant seed that will quickly stabilize soils, help to provide long term hazardous fuels reduction, and increase ecosystem resiliency in appropriate locations.
2. Expand and improve the NDF Seedbank & Plant Material program in conjunction with federal partners. Utilize NDF Conservation Camp Crews for native seed collection and rehabilitation activities.
3. Develop plans and acquire the necessary resources (e.g. seed collection, seeding equipment pools, trained staff, etc.) for post fire rehabilitation activities and warehouse viable seed stockpiles.

Stakeholder Actions

1. Identify funding opportunities from federal, state, local, industry and land users dedicated to implementing prioritized habitat enhancement, restoration, and conservation activities.
2. Continue to focus research and monitoring efforts through demonstration projects on improving rehabilitation and revegetation successes in harsh environments.

6.2 Pinyon-Juniper Encroachment

Pinyon-juniper encroachment is ranked as the second-highest concern in the state, and has the highest degree of reliability for habitat enhancement and restoration results in the appropriate sites identified by ecological site potential. Loss and fragmentation of sage-grouse habitat in Nevada is exacerbated by expansion of pinyon pine and juniper into sagebrush habitat types (Figure 4). Encroachment from historical times occurs in large part due to fire suppression.

Phases of woodland encroachment have been described as follows: Phase I, trees are present but shrubs and herbs are the dominant vegetation that influence ecological processes on the site; Phase II, trees are co-dominant with shrubs and herbs and all three vegetation layers influence ecological processes on the site; and Phase III, trees are the dominant vegetation and the primary plant layer influencing ecological processes on the site (Tausch, et al. 2009). Recent research in Nevada shows that sage-grouse actively avoid pinyon and juniper when patch sizes are greater than 200 meters wide (Coates 2012 Personal Communication). Shrub cover in Phase I and Phase II sites are generally thought to be recoverable with treatments to remove invasive trees. Phase III sites cannot be recovered by removal of trees alone and require extensive restoration treatment to reestablish sagebrush cover important for sage-grouse habitat.

Research has found that in Nevada, 50,000 to 60,000 acres of pinyon and juniper move into a state of non-recovery (Phase III) each year. The urgency of reversing this trend cannot be overstated (Tausch Personal Communication 2012). Large areas of pinyon-juniper-encroached sagebrush habitat and over stocked pinyon-juniper woodlands are in need of restoration. Overstocked stands are further stressed by vast areas of insect- and disease-caused tree mortality and are now experiencing uncharacteristically large and severe wildland fires.

OBJECTIVE: *Initiate landscape level treatments in potential sage-grouse habitat areas to reverse the effects of pinyon and juniper encroachment and restore healthy, resilient sagebrush ecosystems.*

Federal, State, and Local Area Working Group Actions

1. Inventory and prioritize areas for treatment of Phase I and Phase II encroachment in occupied, suitable, and potential sage-grouse habitat areas to restore habitat resiliency, reduce avian predator perches, and increase forb and grass cover.
2. Prioritize areas for treatment of Phase III pinyon-juniper encroachment in strategic areas to break up continuous, hazardous fuel beds. Treat areas that have the greatest opportunity for recovery to suitable sage-grouse habitat based on ecological site potential. Old growth trees should be protected on woodland sites.

Federal and State Agency Actions

1. Aggressively implement plans to remove Phase I and Phase II encroachment and treat Phase III encroachment to reduce the threat of severe conflagration and restore occupied and suitable sage-grouse habitat where possible.

2. Allow temporary road access to Phase I, Phase II, and Phase III treatment areas. Construct temporary access roads where access is needed with minimum design standards to avoid and minimize impacts. Remove and restore temporary roads upon completion of treatment.
3. Allocate sufficient resources to fully address habitat loss and degradation in the next ten years.
4. Share project funding between all appropriate agencies and jurisdictions by designing and completing NEPA for large-scale, watershed-based treatments over a period of years, rather than ad hoc projects.
5. Incentivize and assist in the development of bio-fuels and other commercial uses of pinyon and juniper resources.
6. Increase the incentives for private industry investment in biomass removal, land restoration, and renewable energy development by authorizing stewardship contracts for up to 20 years.
7. Establish a target goal for number of acres to be treated annually. Monitor and report progress to the Council.

6.3 Predation

While predator control may not be a long-term solution to declines in populations of sage-grouse, it has been shown to be an effective tool during the breeding season to gain increased survival through the nesting and early brood life cycle stages (Coates 2012). The common raven was identified as the most frequent predator during nesting in sage-grouse predator studies conducted by USGS in the Great Basin (Coates personal communication). Raven populations have increased 600 percent in the Great Basin over the last 20 years based upon USGS breeding bird survey results. Subsidized food sources such as land fills and road kill, elevated nest platforms provided by transmission lines, and landscape alterations can increase predator populations. Predation is often tied to habitat quality, particularly in areas where an interface exists between wildfire and remaining habitat.

OBJECTIVE: *Implement a predator control program to reduce transient raven populations for nest protection and increased chick survival throughout the interim period while habitat enhancement and restoration projects become established.*

Federal and State Agency Actions

1. Maintain a mosaic of shrub cover conditions ranging from 20 percent to 40 percent in nesting habitat to provide both habitat resiliency and preferred nesting conditions for sage-grouse in areas with high raven populations.
2. Initiate predator control programs based on biological assessments appropriate to local conditions. Conduct predator control to coincide with the life stage impacted by predation.
3. Eliminate external food sources for ravens, particularly land fills, waste transfer facilities, and road kill that subsidize raven populations. Enforce existing State laws that require daily covering of landfills.

4. Address and eliminate conflicting regulations between the Migratory Bird Treaty Act and the Endangered Species Act. Pursue additional take permits in excess of the current 2,000 bird limit from the USFWS for raven control.
5. Identify and apply appropriate habitat management practices (e.g. livestock management, vegetation treatments, control of artificial nest and roost sites) that decrease the effectiveness of predators. Monitor effects of predator control to determine causal relations with sage-grouse survivability and adapt control strategies accordingly.
6. When downward population trends and nesting success are detected in occupied sage-grouse habitat areas initiate predator surveys and identify responsible predator species to target and implement an effective predator control effort.

6.4 Wild Horse and Burro Management

Grazing by wild horses and burros and expansive herd populations can impact vegetation cover of herbaceous and shrub species, damage riparian habitat and stringer meadows, and adversely affect sage-grouse habitat if not managed within appropriate management levels (AML). Current regulatory mechanisms to manage horse herds at appropriate management levels in herd management areas are difficult to enforce due to prolonged litigation and limiting program capacity for successful placement and adoption of excess horses.

OBJECTIVE: *Manage wild horses at appropriate management levels (AML) to avoid and minimize impacts to Sage-grouse Management Areas.*

Federal Agency Actions

1. Maintain wild horses at appropriate management levels in designated herd management areas (HMA) throughout Sage-grouse Management Areas.
2. Evaluate conflicts with HMA designations in occupied, suitable, and potential sage-grouse habitat areas and modify Land Use Plans and Resource Management Plans to avoid negative impacts to sage-grouse. If necessary, resolve conflicts between the Wild and Free Roaming Horse and Burro Act and the Endangered Species Act.

6.5 Improper Livestock Grazing

Livestock grazing is the most wide-spread use on public lands and is managed under federal agency permits, which provide schedules, numbers, areas, and adjustment clauses for drought, fire, etc. Livestock permits are monitored for permit compliance and periodically reviewed and modified as needed.

Improperly managed livestock grazing is problematic to sage-grouse and can remove desired vegetation and change plant communities from desired ecological states to undesirable states where invasive and other undesirable plant species predominate. Where those relationships can be documented, corrective measures are best addressed through existing Standards and Guidelines identified by local Resource Advisory Committees (RAC), Local Area Working Groups, and Permit Terms and Conditions.

The NRCS Sage-grouse Initiative (SGI) includes Conservation Practice Standards to alleviate threats to sage-grouse while improving the sustainability of working ranches (USFWS 2010). The Committee recognizes that proper grazing practices as described in the NRCS SGI Prescribed Grazing Practice 528 (Attachment E) may be applied to improve or maintain desired species composition and vigor of plant communities, improve or maintain quantity and quality of food and cover available for wildlife, and manage fine fuel loads to achieve desired conditions.

OBJECTIVES:

Ensure that existing grazing permits maintain or enhance sage-grouse habitat in Sage-grouse Management Areas.

Utilize livestock grazing as a management tool to improve sage-grouse habitat quantity, quality, or to reduce wildfire threats.

Based on a comprehensive understanding of seasonal sage-grouse habitat requirements and in conjunction with flexibility of livestock operators, encourage land management agencies to cooperatively make timely, seasonal range management decisions to respond to vegetation management objectives, including fuels reduction.

Federal Land Management Agencies and Allotment Permittee Actions

1. Implement appropriate prescribed grazing conservation actions at scales sufficient to influence a positive population response in occupied and suitable sage-grouse habitat areas such as NRCS Conservation Practice Standard 528 for prescribed grazing.
2. Allow flexibility in management that will utilize targeted grazing management to reduce the fuel load and fire risk to enhance and protect seasonal habitats for sage-grouse.
3. Address incompatible grazing strategies when compelling and credible cause-and-effect relations have been identified cooperatively by the land management agency and the allotment permittee through rangeland management monitoring techniques appropriate in the Great Basin and consistent with sage-grouse habitat objectives.
4. To the extent possible, design water developments (springs/well overflow areas, etc.) to include water and mesic habitats for sage-grouse in Sage-grouse Management Areas.
5. Assess fences for high potential for bird strikes near lek areas and mark appropriately.

6.6 Mineral Development

Development of mineral resources in Nevada is a vital component of the State economy, and most mineral development can be managed temporally or spatially to minimize impacts to sage-grouse. The nature of mineral exploration is such that new understanding of geologic terrains, geology, geophysics, geochemistry, orogenesis, and other aspects of mineral exploration will result in areas not currently identified with exploration activity and/ or mineral potential becoming exploration targets and potentially mineral developments (i.e. mines).

The mining industry has worked successfully with NDOW to plan projects that incorporate wildlife objectives. A three-year advanced planning window, often used at this time, allows the opportunity to incorporate avoid, minimize, and mitigate concepts in project design and to identify appropriate mitigation.

OBJECTIVE: *Foster a strong conservation ethic in the mining industry through implementation of effective avoidance management, and enhancement and reclamation of disturbed lands to preserve, protect, and improve habitat in occupied, suitable, and potential habitat areas.*

Federal and State Actions

1. Implement a centralized impact assessment process overseen by the Council that provides consistent evaluation, reconciliation, and guidance for project development that avoids or minimizes conflicts with sage-grouse in occupied, suitable, and potential sage-grouse habitat.
2. Consistent with BLM 43 CFR 3809 regulations for Notice-level operations and USFS 36 CFR 228A regulations governing mining and exploration, allow exploration and other mineral-related activities that create not more than five acres of surface disturbance and that are subjected to BLM and USFS existing discretionary authority to consider other information including cumulative impacts.
3. Follow a strategy that seeks to avoid conflict with sage-grouse by locating facilities and activities in non-habitat wherever possible.
4. Recognize existing state and federal regulatory mechanisms that govern mining and exploration activities, including BLM 43 CFR 3809 surface management regulations for hard rock mining, USFS 36 CFR 228A regulations governing mining and exploration, and NAC 519A regulations for reclamation of mining and exploration projects, that are adequate to conserve sage-grouse and sagebrush habitats in the interim until future suitable conservation plans are approved by the Council.
5. Aggressively engage in reclamation efforts as projects are completed, and target reclamation where the ecological site potential exists in occupied, suitable, and potential sage-grouse habitat. Focus efforts on habitat that has the greatest potential for use by sage-grouse as guided by ecological site descriptions and other restoration priorities established by the Council.
6. Recognize that stipulations for other species (e.g. raptors) may impede the ability to effectively reclaim areas of impact and remove those barriers in order to achieve immediate and effective reclamation.
7. Prioritize areas for habitat improvement utilizing sound resource information including soil surveys, ecological site descriptions, and sage-grouse population data.
8. Design exploration projects for mineral access and the betterment of habitat. Ensure roads and other ancillary features that impact sage-grouse habitat are designed to avoid where feasible and otherwise minimize and mitigate impacts in the short and long term.

9. Differentiate between short- (exploration) and long-term (active mining) impacts and manage timing of operations and physical disturbance accordingly.

6.7 Renewable and Other Energy Production, Transmission and Distribution

The development, transmission, and distribution of renewable and other energy sources is a high priority for the State of Nevada. Energy development can be managed spatially or temporally to minimize impacts to sage-grouse.

To meet both renewable energy goals and sage-grouse conservation measures close coordination is required with various groups within the West. Transmission corridors within Nevada, such as pipelines, roads, and overhead electrical transmission/distribution lines, are generally well defined at the present time (Figure 5). There are a series of transmission corridors currently being studied to consider the longer term transmission needs required to meet the nation's renewable energy demands.

OBJECTIVE: *In occupied and suitable sage-grouse habitat areas, limit conflict through avoidance and minimization of impacts, adaptive management, and appropriate mitigation.*

1. Follow a strategy that seeks to avoid conflict with sage-grouse by locating facilities and activities in non-habitat wherever possible.
2. Site new linear features in existing corridors or, at a minimum, co-locating with existing linear features in occupied, suitable, and potential sage-grouse habitat areas.
3. Aggressively engage in reclamation/weed control efforts during pre- and post-project construction.
4. Apply measures to deter raptor perching and raven nesting on elevated structures.

6.8 Recreation & Off-Highway Vehicle Use

OBJECTIVE: *In occupied, suitable, and potential sage-grouse habitat, avoid, minimize and mitigate recreation and OHV impacts to sage-grouse habitat.*

Numerous benefits to sage-grouse conservation may be derived from the implementation of Nevada Senate Bill 394. The Act provides a mechanism and a funding source to educate users on how to responsibly use off-highway vehicles while minimizing adverse effects on public land resources including important or restricted-access to sage-grouse habitats. The Act further provides a funding source to allow the State to join with its federal partners to better plan, develop, and manage a coordinated and designated system of off-road vehicle trails in Nevada. The off-highway vehicle registration system allows state law enforcement personnel to access vehicle registration information and identify vehicle titleholders in instances where state or federal laws pertaining to off-road access or use are violated.

1. Study the impact caused by recreational and OHV use in sage-grouse habitat.
2. Work collaboratively through LAWGs, state, and federal agencies to designate OHV areas outside of Sage-grouse Management Areas.

7.0 DE MINIMIS ACTIVITIES

Existing land uses and landowner activities in greater sage-grouse occupied, suitable, and potential habitat that do not require state agency review for consistency with this Strategic Plan include the following:

1. Existing animal husbandry practices including branding, docking, herding, trailing, etc.
2. Existing farming practices excluding conversion of sagebrush/grassland to agricultural lands.
3. Existing grazing operations that utilize recognized rangeland management practices included in allotment management plans, NRCS grazing plans, prescribed grazing plans, etc.
4. Construction of agricultural reservoirs and aquatic habitat improvements of less than ten surface acres and drilling of agriculture and residential water wells including installation of tanks, water windmills and solar water pumps more than 0.6 miles from the perimeter of the lek. Within 0.6 miles from leks, no review is required if construction does not occur from March 15 to June 30 and construction does not occur on the lek. All water tanks shall have escape ramps.
5. Agricultural and residential electrical distribution lines and substations more than 0.6 miles from leks. Within 0.6 miles from leks no review is required if construction does not occur from March 15 to June 30 and construction does not occur on the lek. Raptor perching deterrents should be installed on all poles within 0.6 miles from leks.
6. Agricultural water pipelines if construction activities are more than 0.6 miles from leks. Within 0.6 miles from leks no review is required if construction does not occur March 15 to June 30 and construction is reclaimed.
7. New fencing greater than 1.25 miles from leks and maintenance of existing fencing. For new fencing within 1.25 miles of leks, fences with documented high potential for strikes should be marked.
8. Irrigation (excluding the conversion of sagebrush-grassland to new irrigated lands).
9. Spring development if the spring is protected with fencing and enough water remains at the site to provide mesic (wet) vegetation.
10. Herbicide use within existing road, pipeline and power line rights-of-way. Herbicides application using spot treatment. Grasshopper/Mormon cricket control following Reduced Agent-Area Treatments (RAATs) protocol.
11. State and county road maintenance.
12. Cultural resource pedestrian surveys.
13. Emergency response.

8.0 MITIGATION

A determination of the amount and appropriate type of mitigation should be done through a consistent, timely and well-defined process, through honest communication during the impact assessment process prior to project initiation. Mitigation should be coordinated and tracked throughout and across occupied, suitable, and potential habitat areas to ensure efforts are as effective as possible and to provide feedback to the adaptive management process.

OBJECTIVE: *In determining appropriate and practicable measures to offset unavoidable impact, such measures should be appropriate to the scope and degree of those impacts and practicable in terms of cost, existing technology, and logistics in light of overall project purposes. The determination of what level of mitigation constitutes "appropriate" mitigation is based solely on the values and functions of the habitat that will be impacted, as practicable.*

1. Establish a centralized mechanism to coordinate mitigation and pre-impact mitigation across all jurisdictions and land ownerships through a mitigation program or bank that will validate, track, and monitor the success of those efforts on sage-grouse populations. By establishing this central mitigation bank, the State of Nevada will have a robust system that provides for consistent evaluation, oversight, monitoring and reporting of progress.
2. In determining compensatory mitigation, the functional values lost by the resource to be impacted must be considered. In determining the nature and extent of habitat development of this type, careful consideration should be given to its likelihood of success.
3. Mitigation should generally involve creation of habitat, restoration of habitat, long-term preservation of existing habitat, or enhancement of habitat to compensate for the unavoidable, residual adverse impacts of habitat disturbance.
4. To ensure that mitigation efforts to create, restore or enhance habitat are not intentionally disturbed in the future, long-term conservation easements or a record of restrictive covenant should be established over the property. If public lands are used for mitigation purposes, adequate long-term maintenance or replacement of mitigation objectives must be considered while recognizing existing uses.
5. Recognize and value mitigation measures that address threats, such as funding for wildfire equipment and training, predator control, radio telemetry and GPS monitoring, etc. when on-site mitigation has marginal chance for success.
6. Mitigation may not be used as a method to avoid habitat impacts.
7. Consideration and credit for compensatory mitigation should include habitat based efforts (i.e. sagebrush habitat enhancement and restoration) along with other options such as fuels reduction, green stripping, fire suppression support and long-term habitat conservation agreements. Project proponents may receive credit for compensatory mitigation activities regardless of land ownership (i.e. federal, state or private lands).

9.0 MONITORING AND ADAPTIVE MANAGEMENT

Adaptive management as it relates to sage-grouse and their habitat is a structured, iterative process of robust decision making in the face of uncertainty, with an aim to reduce uncertainty over time through continued monitoring. Because adaptive management is based on a learning system, it improves long term management outcomes. The challenge in using the adaptive management approach lies in finding the correct balance between gaining knowledge to improve management in the future and achieving the best short-term outcome based on current knowledge (Allan and Stankey 2009).

1. Monitoring of mitigation sites must be included in all plans with detailed protocols to assess specific metrics and determine trends for habitat quantity and quality and sage-grouse populations.
2. Develop consistent monitoring protocols and methods to be used across all land jurisdictions and agencies. Compile all monitoring data into one sage-grouse database managed by the Technical Team.
3. Submit all monitoring data to the centralized geographic database and compile annual reports of habitat trends.

REFERENCES

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ATTACHMENT A

Governor Sandoval's Sage-grouse Advisory Committee Membership

Mayor Bob Crowell Carson City, Nevada	Chairman
Bevin Lister Pioche, Nevada	Agriculture Representative
Tina Nappe Reno, Nevada	Conservation/Environmental Representative
Jeff Ceccarelli Reno, Nevada	Energy Representative
Kent McAdoo Elko, Nevada	General Public Representative
Carl Erquiaga Fallon, Nevada	Local Government Representative
Allen Biaggi Minden, Nevada	Mining Representative
JJ Goicoechea Eureka, Nevada	Ranching Representative
Jack Robb Reno, Nevada	Sportsmen Representative
Beverly Harry Nixon, Nevada	Tribal Nations Representative

Technical assistance provided by:

John McLain, Sheila Anderson, and Don Henderson, Resource Concepts, Inc.

Committee Staff:

Cory Hunt, Policy Analyst, Office of the Governor



Executive Order 2012-09

Establishing a Greater Sage-grouse Advisory Committee

WHEREAS, the Greater Sage-grouse (*Centrocercus urophasianus*) is an iconic species that inhabits much of the sagebrush-steppe habitat in Nevada;

WHEREAS, the United States Fish and Wildlife Service ("USFWS") has determined that the Greater Sage-grouse species is warranted for listing as a threatened or endangered species under the Endangered Species Act (ESA), but is precluded by other higher priority species;

WHEREAS, the United States District Court for the District of Idaho ruled on February 2, 2012 that the USFWS must re-evaluate the status of the Greater Sage-grouse by September 30, 2015;

WHEREAS, the United States Secretary of the Interior has invited the eleven western states, including Nevada, impacted by the potential listing of the Greater Sage-grouse to develop state-specific regulatory mechanisms to conserve the species and preclude the need to list under the ESA;

WHEREAS, the development of a state-specific strategy in Nevada will be critical in demonstrating to the USFWS that the species does not warrant federal protection under the ESA;

WHEREAS, the Bureau of Land Management ("BLM") is currently implementing national Instruction Memoranda to guide interim management of public lands and to develop sage-grouse conservation measures for incorporation into the agency's existing Resource Management Plans (RMPs) by September 2014;

WHEREAS, the development of a state-specific strategy will enable the BLM to incorporate the State's plan as an alternative in its environmental analysis pursuant to the National Environmental Policy Act (NEPA);

WHEREAS, the State of Nevada has management authority over Greater Sage-grouse populations in Nevada;

WHEREAS, the State of Nevada under the leadership of Governor Kenny Guinn's Sage-grouse Conservation Team developed the First Edition of the Greater Sage-grouse Conservation Plan for Nevada and Eastern California in 2004;

WHEREAS, it is in the interest of this State to bring stakeholders and experts together to recommend a course of action that will provide for conservation measures sufficient to preclude the need to list the Greater Sage-grouse;

WHEREAS, the listing of the Greater Sage-grouse would have a significant adverse affect on the custom, culture, and economy of the State of Nevada; and

WHEREAS, Article 5, Section 1 of the Nevada Constitution provides that, "The Supreme Executive Power of this State shall be vested in a Chief Magistrate who shall be Governor of the State of Nevada."

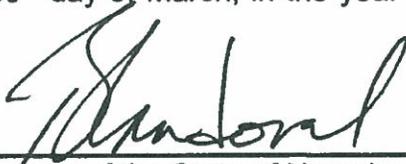
NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and laws of the State of Nevada, I hereby direct and order as follows:

1. The Governor's Greater Sage-grouse Advisory Committee ("Committee") is hereby created. The Committee shall be appointed by and serve at the pleasure of the Governor until July 31, 2012.
 - a. The Committee shall be comprised of nine (9) members, representing the various geographic areas, non-governmental organizations and industries of the State within the range of the species.
 - b. The Office of the Governor will assist in staffing this Committee. My office may rely on the services of other Governors or any member of my Cabinet in staffing this Committee.
2. The Committee members shall be appointed from the following categories:
 - a. Agriculture
 - b. Conservation and Environmental
 - c. Energy
 - d. General Public
 - e. Local Government
 - f. Mining
 - g. Sportsmen
 - h. Ranching
 - i. Tribal Nations
3. The Committee shall provide the Governor recommendations on policies and actions, using the 2004 Nevada Sage-grouse Conservation Plan, BLM Interim Memorandum Guidance, National Technical Team Report and other existing strategies and on-going activities as a basis for developing a state-wide strategy to preclude the need to list the species. The recommendations must be based on the following objectives and/or criteria:
 - a. Conserve the species and its habitat while maintaining predictable and multiple uses of private, state and public lands;
 - b. Tailor the management recommendations to the importance of the habitat and is attuned to the interests of the State;
 - c. Address the following primary threats to the species as identified by the USFWS:
 - i. Habitat fragmentation due to wildfire and invasive species;
 - ii. Conversion and encroachment of habitat caused by development;
 - iii. Lack of appropriate regulatory framework.
 - d. Address the secondary threats to the species as identified by the USFWS, as appropriate;
 - e. Identify opportunities for pro-active sage-grouse habitat enhancement projects; and
 - f. Recognize, encourage and incentivize land use practices that are actively maintaining or improving sage-grouse habitat as evidenced by improvements in habitat quality and quantity, and monitoring which indicates stable/increasing populations of the species.
 - g. Identify a long-term adaptive management structure that engages local working groups and ensures the effective implementation of these recommendations.
4. The duties of the Committee are solely advisory.
5. The Committee will provide its recommendations to the Governor no later than July 31, 2012.

6. The Committee may request consultation, information and technical expertise from Directors or their designees of state agencies regarding the biological needs of the species, activities in state, federal and private lands potentially impacted by the status of the species, and requirements of the ESA and other relevant statutory requirements, including but not limited to the members of the Nevada Legislature, the Nevada Department of Wildlife, the Nevada Department of Conservation and Natural Resources, the Nevada Department of Agriculture, the Nevada Governor's Office of Energy, and the Nevada Indian Commission.
7. The Committee may request comments, information and technical expertise from the universities of the State, federal agencies, including but not limited to the USFWS, the BLM, the U.S. Forest Service and the Natural Resources Conservation Services, and members of the public including members of existing local sage-grouse working groups
8. The Director of the Nevada Department of Wildlife shall retain an independent contractor to provide technical assistance for the task force from such funds as are available in the Wildlife Trust Fund provided in NRS 501.3585.
9. The Nevada Sage-grouse Conservation Team established in 2000 by Governor Guinn shall hereby cease to exist.
10. Local sage-grouse working groups are encouraged to continue in their efforts to conserve the Greater Sage-grouse in the State of Nevada and are advised to participate in the development of the recommendations here ordered, in consultation with the Nevada Greater Sage-grouse Advisory Committee.
11. The Committee may establish procedural bylaws to aid it in the performance of its duties.
12. The Committee may establish subcommittees comprised of members of the Committee to aid it in the performance of its duties.
13. All records documenting the Committee's activities shall be retained and transferred to the State Archives for permanent retention in accordance with the State record retention policy.
14. The Committee shall cease to exist on July 31, 2012.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Nevada to be affixed at the State Capitol in Carson City, this 30th day of March, in the year two thousand twelve.





 Governor of the State of Nevada

By the Governor:



 Secretary of State



 Deputy Secretary of State

ATTACHMENT B

Technical Presentations to the Advisory Committee

Date	Name and Title	Presentation Title
15 May 2012	Bob Budd, Executive Director Wyoming Wildlife and Natural Resource Trust	<i>Litigation and the Endangered Species Act</i> <i>The Wyoming Plan</i>
15 May 2012	Amy Lueders, Nevada State Director Bureau of Land Management	<i>BLM Land Use Plans Update</i> <i>Interim Memorandum</i>
15 May 2012	Ken Mayer, Director Nevada Department of Wildlife	<i>Bi-State Distinct Population Segment Action Plan</i> <i>Agency Roles and Responsibilities</i> <i>Western Association of Fish and Wildlife Agencies (WAFWA) and National Technical Team Reports</i>
15 June 2012	Shawn Espinosa, Upland Game Staff Specialist Nevada Department of Wildlife	<i>2004 Conservation Plan</i> <i>Local Area Working Groups</i>
15 June 2012	Leo Drozdoff, PE, Director Nevada Department of Conservation and Natural Resources	<i>Governors' Task Force</i>
11 June 2012	Quinton Barr, Range Consultant Western Range Service	<i>Sage-grouse and the Endangered Species Act</i>
11 June 2012	Ted Koch, State Supervisor U.S. Fish and Wildlife Service	<i>Sage-grouse and the Endangered Species Act</i>
18 June 2012	Jeremy Sokulsky, PE, MBA, President Environmental Incentives, LLC	<i>Mitigation Banking: Overview</i>
18 June 2012	Ted Koch, State Supervisor U.S. Fish and Wildlife Service	<i>Predation</i>
18 June 2012	Pete Anderson, State Forester Nevada Division of Forestry	<i>Wildland Fire</i>
18 June 2012	Mike Pellant, Coordinator and Rangeland Ecologist BLM Great Basin Restoration Initiative	<i>Invasive Species</i>

Date	Name and Title	Presentation Title
18 June 2012	Dr. Robin Tausch, Supervisory Range Scientist and Plant Ecologist USDA Forest Service Research Station	<i>Pinyon Juniper Woodland</i>
18 June 2012	Dr. James Young, Senior Range Scientist (Ret.) USDA Agricultural Research Service	<i>Constraints of Restoration: Habitat Quantity and Quality</i>
19 June, 2012	Dr. J. Wayne Burkhardt, Range Scientist and Professor Emeritus (Ret.) University of Nevada Reno	<i>Grazing in Sage-grouse Habitat</i>
19 June 2012	Dr. Peter Coates, Research Biologist U.S. Geological Survey	<i>Predation</i>
2 July 2012	David Spicer, President STORM-OV, Inc.	<i>Success Story: Amargosa Toad Precluded from ESA Listing</i>
12 July 2012	Dr. Peter Coates, Wildlife Biologist USGS Western Ecological Research Center	<i>Habitat Recommendations</i>
12 July 2012	Ted Toombs, Regional Director Center for Conservation Incentives Environmental Defense Fund	<i>Habitat Mitigation Crediting: Market, Metrics, and Regulatory Assurances</i>
12 July 2012	Michael Cameron The Nature Conservancy	<i>Monitoring</i>
13 July 2012	Jim Lawrence, Administrator Nevada Division of State Lands	<i>Conservation Banking in Nevada: Tahoe Land Coverage Bank</i>
25 July 2012	Eric Noack, Waste Management Bureau Chief Nevada Division of Environmental Protection	<i>Nevada Landfill Regulations</i>

ATTACHMENT C

Partial List of Potential Funding Opportunities

Source	Comment
Q-1	
SNPLMA	
NDOW Partners in Conservation Gift Account	
Nevada Sportsmen Fund (Pittman-Robertson)	
BLM / USFS End-of-year Funds	
WAFWA North America Ecosystem Conservation Act	
Ruby Pipeline Mitigation Funds	
Falcon-Gondor Transmission Line	
Nevada Legislature	
Donations	
Conservation License Plates	
NRCS	
DOD	
BLM 8100 Funds	
Industry	
U.S. Fish & Wildlife Service	\$40,000 dedicated 7/31/12
Nevada Department of Agriculture	
ON-line "One Nevada" Transmission Line	

ATTACHMENT D

Inter-Tribal Council of Nevada, Inc. Resolution



Aug. 1. 2012 2:57PM

No. 8788 P. 1

INTER-TRIBAL COUNCIL OF NEVADA, INC.

680 GREENBRAE DR., SUITE 265 • SPARKS, NV 89431
P.O. BOX 7440 • RENO, NV 89510
PHONE (775) 355-0600 • FAX (775) 355-0648

RESOLUTION NO. 12-ITCN-06

BATTLE MOUNTAIN
BAND COUNCIL
CARSON COLONY
COMMUNITY COUNCIL
DRESSERVILLE
COMMUNITY COUNCIL
DUCK VALLEY
SHOSHONE-PAIUTE
BUSINESS COUNCIL
DUCKWATER
SHOSHONE
TRIBAL COUNCIL
ELKO BAND
COUNCIL
ELY SHOSHONE
COUNCIL
FALLON BUSINESS
COUNCIL
FT. McDERMITT
PAIUTE-SHOSHONE
TRIBES
GOSHUTE BAND
COUNCIL
LAS VEGAS PAIUTE
TRIBAL COUNCIL
LOVELOCK TRIBAL
COUNCIL
MOAPA BUSINESS
COUNCIL
PYRAMID LAKE
TRIBAL COUNCIL
RENO/SPARKS
TRIBAL COUNCIL
SOUTH FORK
BAND COUNCIL
STEWART
COMMUNITY COUNCIL
SUMMIT LAKE
PAIUTE COUNCIL
TE-MOAK TRIBAL
COUNCIL
TIMBISHA SHOSHONE
TRIBE
WALKER RIVER
PAIUTE TRIBAL
COUNCIL
WASHOE TRIBAL
COUNCIL
WELLS BAND
COUNCIL
WINNEMUCCA
COLONY COUNCIL
WOODFORDS
COMMUNITY
COUNCIL
YERINGTON PAIUTE
TRIBAL COUNCIL
YOMBA TRIBAL
COUNCIL

RESOLUTION OF INTER-TRIBAL COUNCIL OF NEVADA, INC.

SAGE GROUSE MANAGEMENT AREA ON TRIBAL LANDS

- WHEREAS,** The Inter-Tribal Council of Nevada, Inc., is organized and operates in accordance with its Constitution and By-Laws, amended in November 1974; and
- WHEREAS,** the purposes of Inter-Tribal Council of Nevada, Inc. (ITCN), are stated in its Constitution, Preamble; and
- WHEREAS,** the Executive Board, a body comprised of the twenty-seven (27) representatives of the federally recognized member tribes in the State of Nevada and whose Charter is ratified by these same tribes; and
- WHEREAS,** the Inter-Tribal Council of Nevada has a continuing interest in the health, education and well-being of their Indian people; and
- WHEREAS,** the Inter-Tribal Council of Nevada respects the sovereign to sovereign relationship between the Tribes and the State of Nevada and the federal government; and
- WHEREAS,** a Memorandum of Agreement may be sought on behalf of each individual Tribe to further develop the efforts needed for the management, monitoring, and surveying for sage grouse.



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- YOMBA TRIBAL COUNCIL

WHEREAS, the sage grouse (*Centrocercus urophasianus*) is a valued native avian species with declining populations that have been severely impacted by habitat degradation, by declining big sage populations, by invasive plants, by increased predation, by mining interest, by recreational use, and by livestock grazing; and

WHEREAS, the ITCN recognizes the need for tribes to protect and conserve, to the greatest extent possible, the existing wildlife habitat of sage grouse within and/or adjacent to the boundaries of all tribal lands within Nevada; and

WHEREAS, the cooperative efforts will involve survey and monitoring activities, conservation planning, and protecting key habitat areas to assist with all sage grouse life stages which include brooding, migration and lek habitat; and

WHEREAS, the sage grouse is recognized by Nevada tribes traditional song and dance, language, and stories/legends and there is presence of Traditional Ecological Knowledge (TEK) regarding sage grouse and their habitat be protected for tribes' value and conservation efforts; and

WHEREAS, the ITCN acknowledges the valiant effort to protect existing sage grouse populations through the development of a Sage Grouse Conservation Plan for the State of Nevada; and



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- YOMBA TRIBAL COUNCIL

WHEREAS, the ITCN Executive Board endorses the attachment 1 of approved language that would be updated into the final State of Nevada Sage Grouse Conservation Plan.

NOW THEREFORE BE IT RESOLVED that the Executive Board, on behalf of their membership, hereby supports the statewide Sage Grouse Conservation Plan effort by including any applicable Nevada tribal lands within Sage Grouse Management Areas through a Memorandum of Agreement for direct involvement for the purposes of monitoring, surveying, developing recommended conservation measures, funding, and protecting the sage grouse and its sagebrush habitat.

CERTIFICATION

The foregoing resolution was adopted by poll vote of the Inter-Tribal Council of Nevada's Executive Board, completed on the 25th day of July, 2012, by a

Vote of 12 FOR, 0 AGAINST, and 0 ABSTENTIONS.

Daryl Crawford, ITCN Executive Director

for

Bryan Cassadore, Secretary
 ITCN Executive Board

ATTACHMENT E

NRCS SGI Conservation Practice Standard 528

Conservation Practice Standard: Prescribed Grazing (528) (FACILITATING MANAGEMENT PRACTICE)

Definition: Managing the harvest of vegetation with grazing and/or browsing animals.

Purpose: This practice may be applied to improve or maintain desired species composition and vigor of plant communities, improve or maintain quantity and quality of forage for grazing and browsing animals' health and productivity, improve or maintain surface and/or subsurface water quality and quantity, improve or maintain riparian and watershed function, reduce accelerated soil erosion, and maintain or improve soil condition, improve or maintain the quantity and quality of food and/or cover available for wildlife, and manage fine fuel loads to achieve desired conditions. In sage-grouse habitat, this practice is critical to ensure rangelands are managed sustainably to provide habitat requirements for all life stages of sage-grouse.

Resource concerns: Unrestricted livestock grazing can remove desired vegetation and change plant communities from desired ecological states to undesirable states where invasive and other undesirable plant species predominate. Additionally, unrestricted grazing may lead to overharvest of plant resources, decrease residual cover, decrease plant litter on the soil surface, increase bare ground, accelerate soil erosion rates, decrease water quality, and reduce the overall habitat quality for wildlife, including sage-grouse.

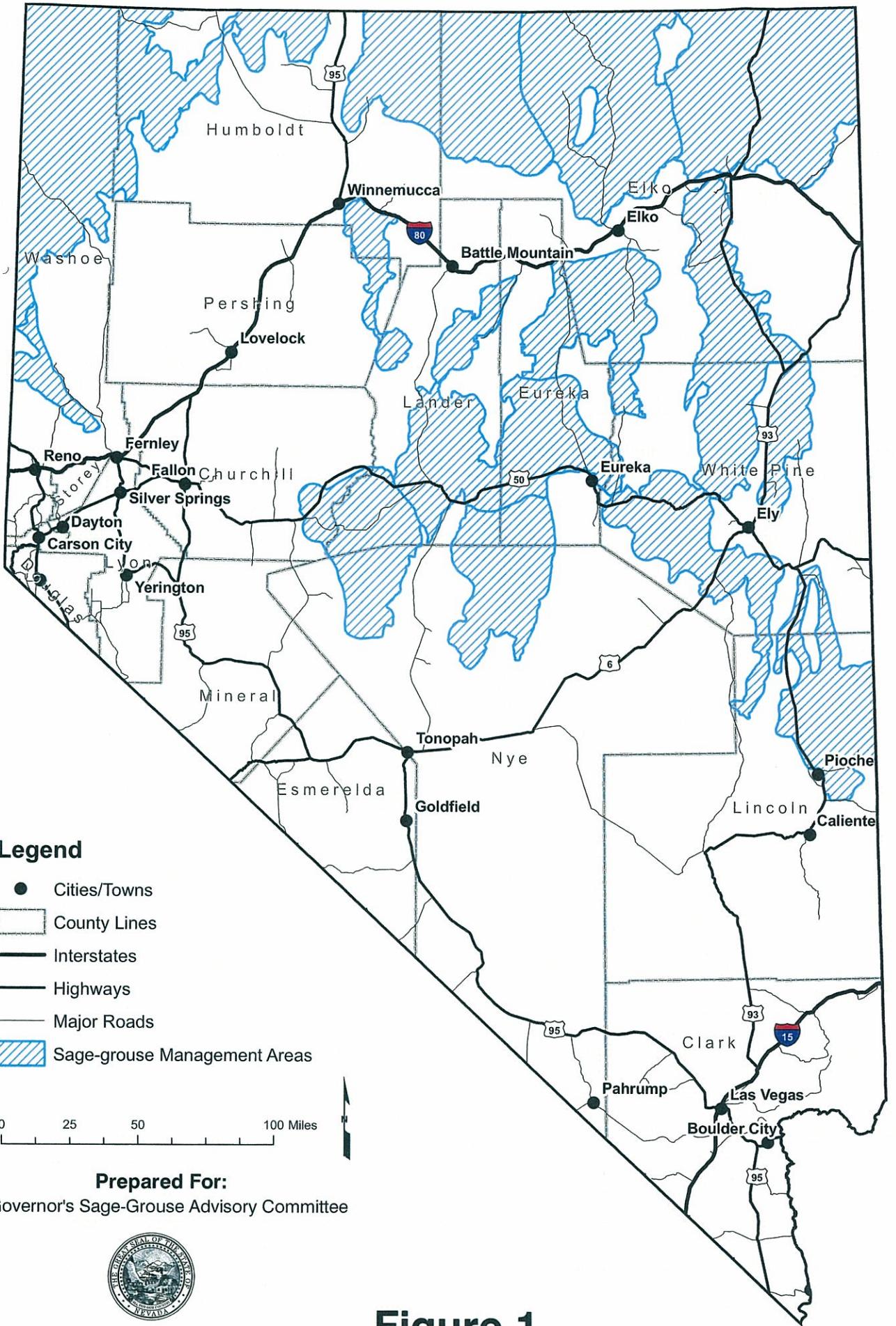
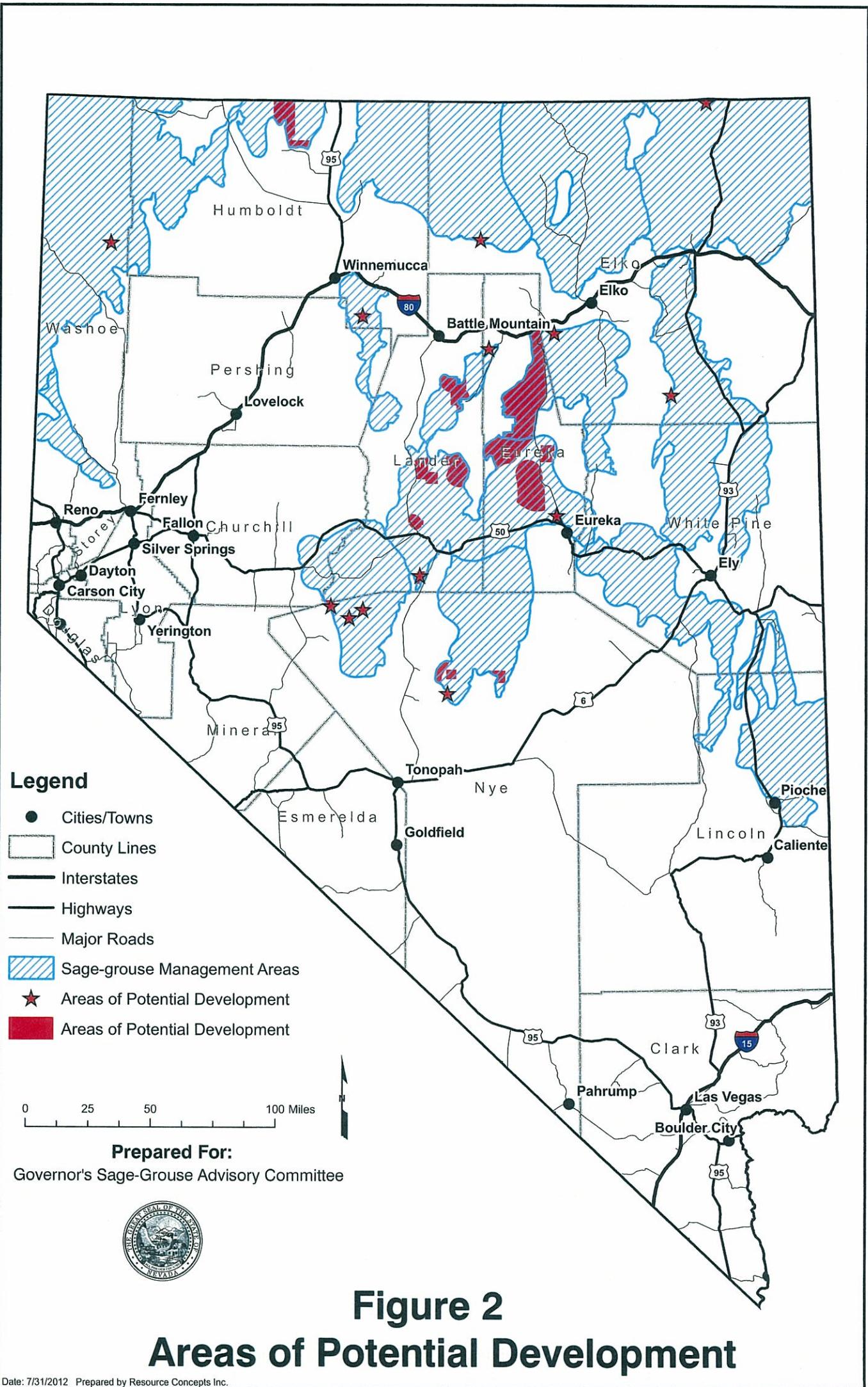
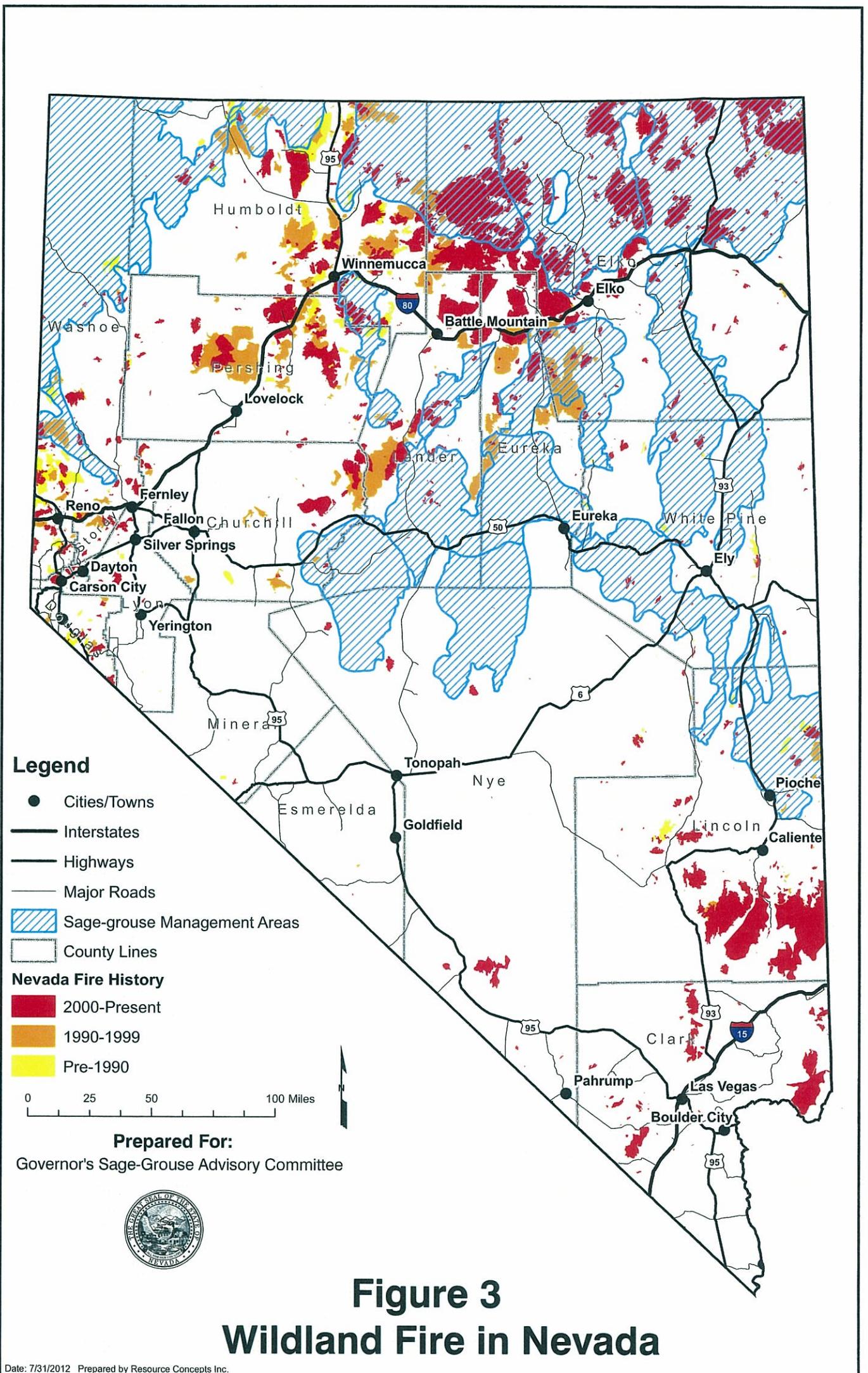


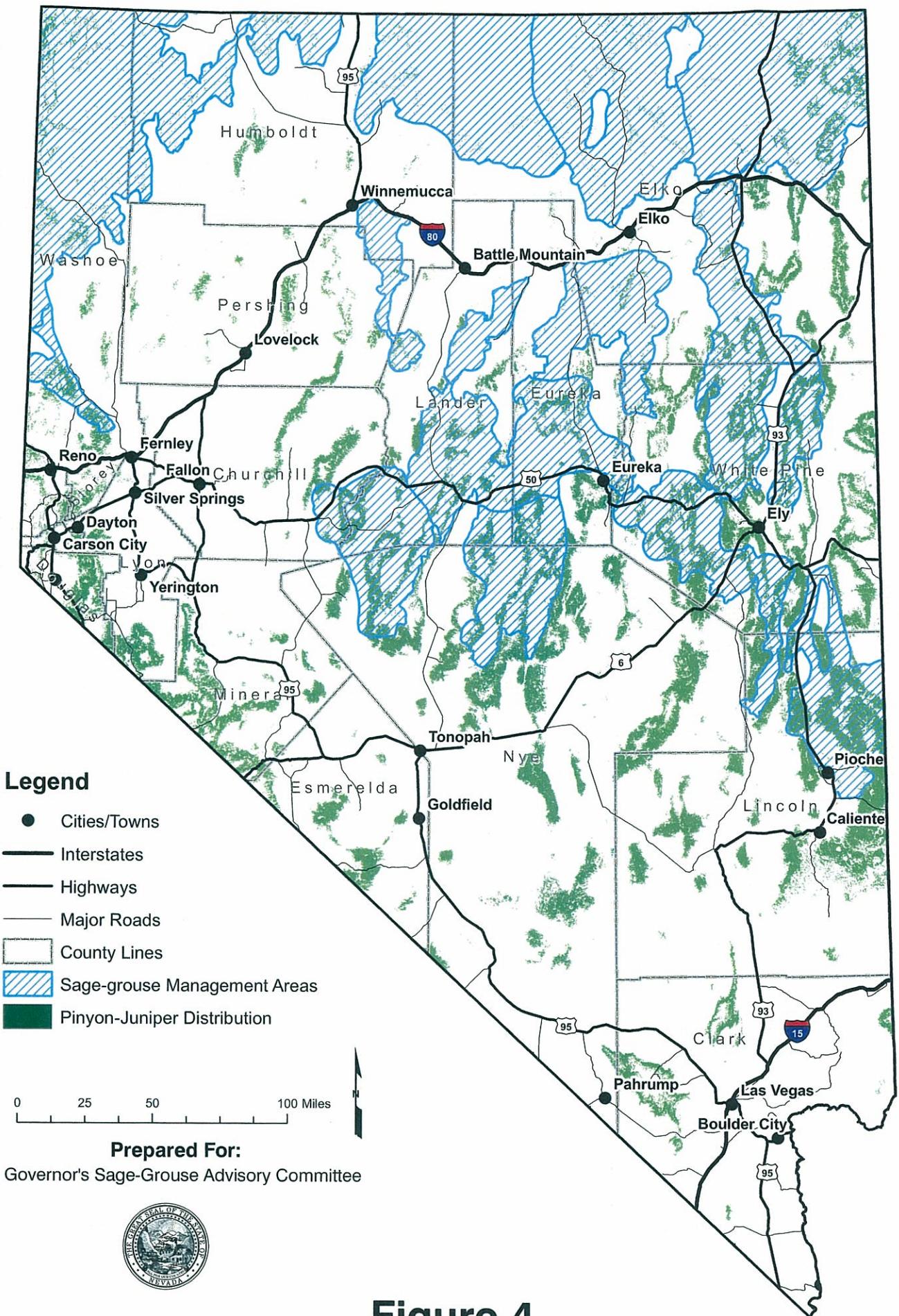
Figure 1
Nevada Sage-Grouse Management Areas

Date: 7/31/2012 Prepared by Resource Concepts Inc.

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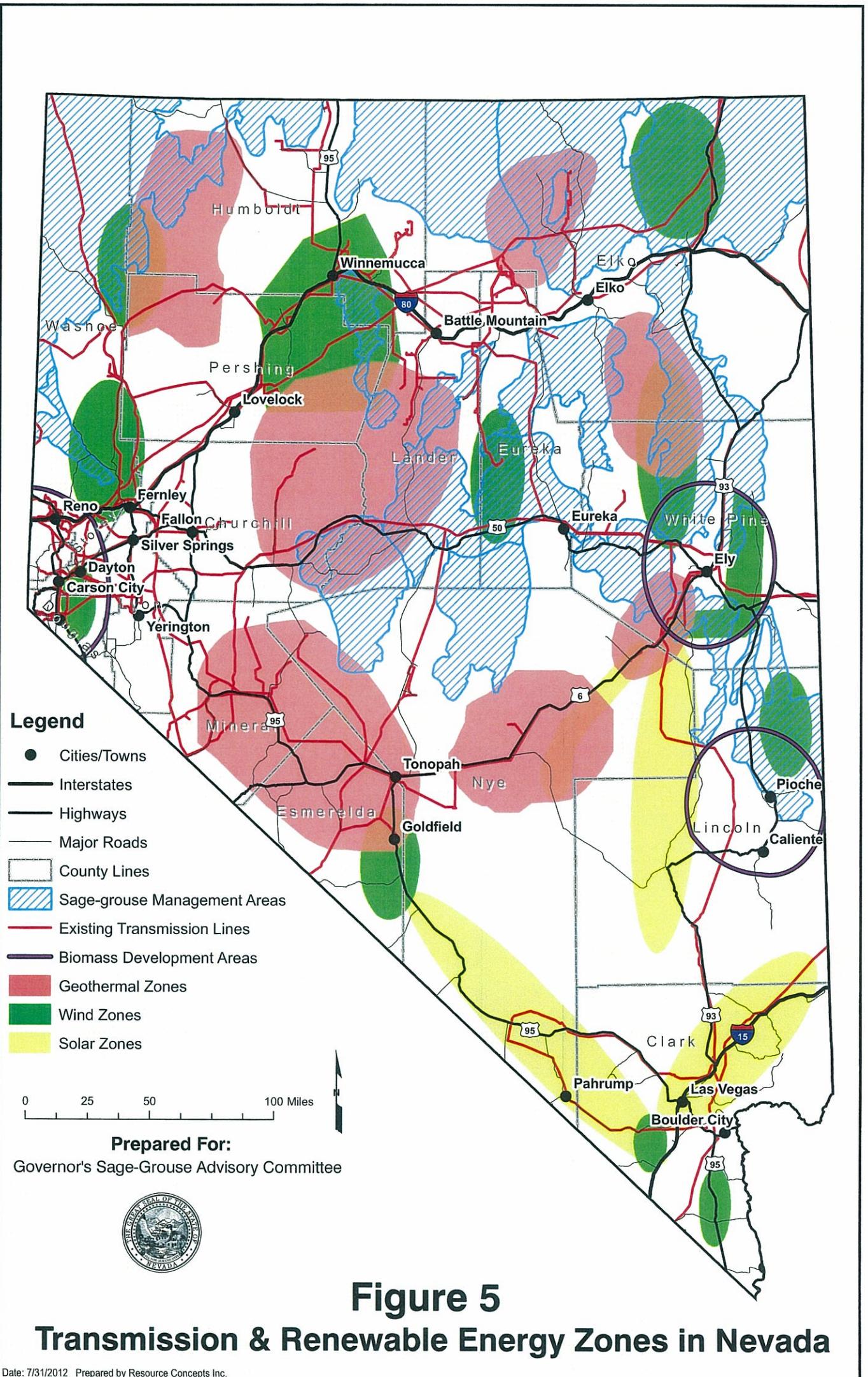






Date: 7/31/2012 Prepared by Resource Concepts Inc.

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Date: 7/31/2012 Prepared by Resource Concepts Inc.

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Tab C

Letter to the Governor's Sage-grouse Advisory Committee from
Sarah Adler and Douglas Martin, Co-Chairs, Nevada Pinyon-juniper Partnership
(June 13, 2012), with attachments



June 13, 2012

Greater Sage-grouse Advisory Committee
c/o Cory Hunt, Agency Liaison
Office of the Governor
101 North Carson Street
Carson City, Nevada 89701

Re: Nevada Pinyon-Juniper Partnership's Support of Executive Order 2012-09 and Inputs
Regarding Future Sage-grouse Habitat Conservation and Improvement

Greater Sage-grouse Advisory Committee Members:

The Nevada Pinyon-Juniper Partnership (Partnership) was formed in 2010 to address the challenges associated with pinyon-juniper (PJ) management and explore the potential to utilize pinyon-juniper biomass to help address such challenges. The Partnership's current mission is to promote sound proactive management to achieve healthy ecosystems for strong communities. The Partnership supports proactive management of PJ woodlands and sagebrush ecosystems that is supported by existing and ongoing science, monitoring and adaptive management techniques. Proper management actions have been shown to achieve healthy ecosystems that are resilient and resistant to wildfire and invasive species, and also provide critical ecological services such as healthy watersheds, increased biodiversity, and wildlife (Sage-grouse) habitat. These efforts promote strong communities by providing local jobs and the potential for additional biomass-based industries and expanded funds for restoration where biomass produced via restoration projects can be utilized in a responsible and productive manner.

The Partnership appreciates and supports Executive Order 2012-09, and the intended purpose to avoid an endangered species listing of the Sage-grouse. Such a listing would have detrimental impacts to Nevada's economy, rural lifestyle and enjoyment of its public lands. The Partnership was particularly encouraged by item 3.e "Identify opportunities for pro-active sage-grouse habitat enhancement projects" and item 3.f "Recognize, encourage and incentivize land use practices that are actively maintaining or improving sage-grouse habitat..." The Partnership would like to take this opportunity to address these two specific items as they relate to PJ management and provide some additional inputs regarding future opportunities for Sage-grouse habitat conservation and improvement specific to PJ restoration projects.

The Partnership recognizes that there are abundant opportunities for proactive sage-grouse habitat enhancement projects through proactive PJ management. To illustrate this opportunity, the Partnership has developed two maps (attached) for your reference. The first map shows the BLM's "Preliminary Priority" and "Preliminary General" Sage-grouse habitat in relation to the statewide distribution of Pinyon and Juniper. You will note that there is significant overlap and interspersed pinyon-juniper within and around key habitats, particularly in the bi-state area as well as central and eastern Nevada. The Partnership suggests that strategically located Pinyon-



Juniper treatments developed considering site specific conditions to achieve multiple objectives (i.e. fuels reduction, sagebrush restoration, etc.) could greatly enhance Sage-grouse habitat and population connectivity and provide a large-scale opportunity for mitigation. This potential is further demonstrated in the second attached map that demonstrates the Sage-grouse Population Management Units (PMUs) that have identified pinyon-juniper encroachment as a high risk to Sage-grouse habitat.

There are numerous pinyon-juniper projects already underway in Nevada and the Partnership would like to “recognize” a few on-going efforts, and “encourage” additional efforts. The Ely District of the Bureau of Land Management (BLM) and the Ely Ranger District of the Humboldt-Toiyabe National Forest (H-T) have been working collaboratively on planning landscape-level PJ treatments in encroached sagebrush and overstocked woodlands. Many smaller-scale projects have already been implemented. The Carson and Battle Mountain BLM Districts have engaged in similar large-scale planning efforts in the Desatoya Mountains near Austin, the Pinenut Mountains near Smith Valley and the 3-Bars area near Eureka. The Austin and Bridgeport Ranger Districts have also been engaged in planning and implementing smaller-scale PJ projects within their respective districts. State agencies such as the Nevada Department of Wildlife and Division of Forestry have been assisting with these efforts through the Nevada Partners for Conservation and Development program. This effort has sought non-federal funds to leverage available federal funding and provide baseline data collection, monitoring and other in-kind contributions. The Partnership applauds such collaborative efforts that pool human and financial resources to plan, implement and monitor projects at a landscape scale. However, there is a grave concern that such efforts will lack the fiscal resources required to be fully implemented and properly monitored.

To address these concerns, the Partnership encourages the following recommendations be considered by your Committee and incorporated into the final report to the Governor:

- Seek stable, long-term restoration funding that can be used to plan, implement and monitor pinyon-juniper restoration projects that benefit Sage-grouse. If funds can be generated and managed to leverage federal funding sources, all the better. Funding sources that should be explored include:
 - Project Mitigation Funding for projects located in key Sage-grouse habitat; and,
 - Access to County Lands Act funding for planning, implementing and monitoring projects.
- Encourage use of biomass from pinyon-juniper treatments to promote new industries that could expand treatment acres by providing biomass as part of the payment for services. Incentives and favorable policy identified by the Partnership include:
 - Tax incentives for biomass industries;
 - Weighted renewable energy credits for biomass energy (similar to the solar multiplier) as well as credits for heat production; and,
 - Re-authorization of federal Stewardship Contracting, and the potential to expand stewardship contracts from 10 to 20 years.



The Partnership realizes that treatment of Pinyon-Juniper is not a silver bullet to solve the issues and management challenges surrounding the Sage-grouse. However, there is clearly a lot of work that can be accomplished to improve Sage-grouse habitat, sagebrush and pinyon-juniper ecosystems, and Nevada's economy all at the same time. The Partnership is committed to finding ways to create and embrace such synergies for the betterment of our great State!

We appreciated the Committee's efforts and attention to this matter. Please don't hesitate to contact either Partnership Co-chair for further inputs.

Thank you,

Sarah Adler, Co-Chair
Nevada Pinyon-Juniper Partnership

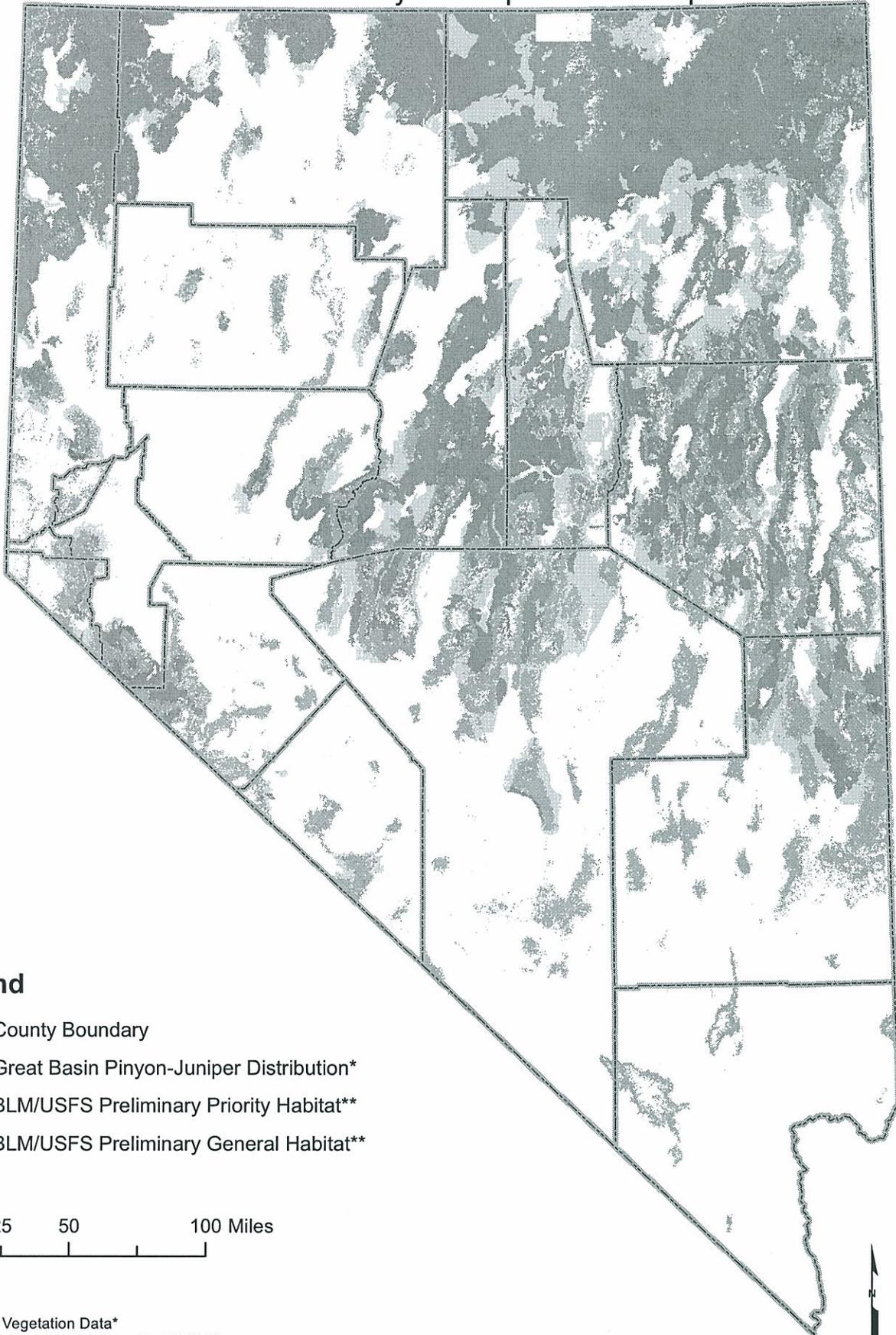
Douglas Martin, Co-Chair
Nevada Pinyon-Juniper Partnership

Attachments: Map entitled "Nevada Pinyon-Juniper Distribution & Sage-grouse Habitat"
Map entitled "Relative Risk of Pinyon-Juniper Expansion to Sage-grouse Habitat
by Population Management Unit"

Nevada Pinyon-Juniper Distribution & Sage-Grouse Habitat

Nevada Pinyon-Juniper Partnership

Color



Legend

- County Boundary
- Great Basin Pinyon-Juniper Distribution*
- BLM/USFS Preliminary Priority Habitat**
- BLM/USFS Preliminary General Habitat**

0 25 50 100 Miles

Source:
SW ReGAP Vegetation Data*
NDOW Sage-Grouse Mapping - April 2012**

This Map was Prepared by:
Resource Concepts, Inc.
Date: 5/30/2012

Tab D

White Pine County Board of County Commissioners, Resolution No. 2012-22
(July 11, 2012); Lincoln County Board of County Commissioner,
Resolution No. 2012-17 (July 16, 2012)

John Lampros, Chairman
Gary Perea, Vice Chairman
Laurie Carson, Commissioner
Richard Carney, Commissioner
Mike Lemich, Commissioner
Linda Burleigh, Ex-Officio Clerk of the Board

953 Campton Street
Ely, Nevada 89301
(775) 293-6562
Fax (775) 289-2066
wpcommission@mwpower.net

White Pine County Board of County Commissioners

RESOLUTION NO. 2012-22

A RESOLUTION OF THE BOARD OF WHITE PINE COUNTY COMMISSIONERS
ENCOURAGING THE CONGRESS OF THE UNITED STATES TO AMEND THE WHITE
PINE COUNTY CONSERVATION, RECREATION AND DEVELOPMENT ACT TO
ENABLE LAND SALE PROCEEDS TO BE EXPENDED BY THE BUREAU OF LAND
MANAGEMENT TO PLAN, PERMIT, ADMINISTER, IMPLEMENT AND MONITOR
PINYON-JUNIPER DOMINATED LANDSCAPE RESTORATION PROJECTS
CONSISTENT WITH THE ELY RESOURCE MANAGEMENT PLAN

WHEREAS, pinyon-juniper woodlands occupy extensive areas of Bureau of Land Management (BLM) administered lands within White Pine County, Nevada; and

WHEREAS, pinyon-juniper woodlands are encroaching into other non-woodland vegetative types thereby diminishing their value within White Pine County; and

WHEREAS, BLM has determined that 81 percent of pinyon-juniper woodlands within the Ely District are in an over mature state with high tree densities and high canopy closure with little or no understory; and

WHEREAS, over mature stands of pinyon-juniper impair watershed and wildlife habitat values and promote the risk of catastrophic wildfire; and

WHEREAS, the invasion of pinyon-juniper into areas of sagebrush steppe are resulting in the loss of habitat for the sage grouse which has been identified as a candidate for listing as threatened pursuant to the federal Endangered Species Act; and

WHEREAS, to improve watershed and wildlife habitat values and to reduce the risk of catastrophic wildfire BLM's Ely Resource Management Plan has identified in excess of 1 million acres of pinyon-juniper woodland in White Pine County requiring treatment over the next 20 years through thinning to promote the emergence of beneficial native grasses and forbs; and

WHEREAS, the cost for BLM to plan, administer, implement and monitor pinyon-juniper treatment projects is estimated between \$800 and \$1,000 per acre; and

WHEREAS, BLM's Ely District has historically been unable to implement pinyon-juniper treatment projects totaling more than a few thousand acres annually due to funding constraints; and

WHEREAS, the inability of BLM's Ely District to treat more than a few thousand acres of pinyon-juniper annually is resulting in a significant annual increase in the numbers of acres adversely impacted by pinyon-juniper encroachment; and

WHEREAS, in addition to limitations in annual funding, the disposition and disposal of the significant quantities of biomass which result from pinyon-juniper woodland treatment projects has been an issue for BLM; and

WHEREAS, for over 20 years, White Pine County has actively sought to identify industrial users of pinyon-juniper biomass as a means to both provide BLM with an off-site demand for said biomass and provide BLM with a supplemental source of funding to help finance pinyon-juniper woodland treatment projects; and

WHEREAS, adoption and implementation by BLM of the Ely Resource Management Plan has established the need and scientific basis for treatment in excess of 35,000 acres of pinyon-juniper woodland annually within White Pine County; and

WHEREAS, implementation by BLM of the pinyon-juniper woodland treatment element of the Ely Resource Management Plan will result in significant quantities of biomass requiring off-site disposition and use; and

WHEREAS, White Pine County, through the assistance of its Economic Diversification Council, has identified several industries potentially interested in securing long-term stable supplies of pinyon-juniper biomass for various industrial uses; and

WHEREAS, industries utilizing biomass derived within White Pine County may have the ability to contribute millions of dollars to the cost of implementing BLM's pinyon-juniper dominated landscape restoration projects over the next 20 years; and

WHEREAS, notwithstanding the financial contribution by industries utilizing pinyon-juniper biomass waste materials, BLM will still require millions of dollars in additional resources if the environmental and wildfire risk reduction benefits outlined in the Ely Resource Management Plan are to be fully realized; and

WHEREAS, the BLM is currently authorized to enter into Stewardship Contracts for up to 10 years to facilitate implementation of pinyon-juniper treatment projects according to agency specifications and providing for payment to BLM for the value of biomass materials used by industry yet industry has indicated that contracts with terms of at least 20 years are required for project financing purposes; and

WHEREAS, pursuant to land sales to be undertaken by BLM consistent with the White Pine County Conservation, Recreation and Development Act (WPCCRDA) the BLM Ely District could have in excess of \$1,500,000 available annually to undertake the following activities:

(A) the reimbursement of costs incurred by the Nevada State office and the Ely Field Office of the Bureau of Land Management for preparing for the sale of Federal land described in section 311(b), including the costs of surveys and appraisals and compliance with the National

- Environmental Policy Act of 1969 (42 U.S.C. 4321) and sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713);
- (B) 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;
- (C) the reimbursement of costs incurred by the Department of the Interior for preparing and carrying out the transfers of land to be held in trust by the United States under section 361;
- (D) conducting a study of routes for the Silver State Off-Highway Vehicle Trail as required by section 355(a);
- (E) developing and implementing the Silver State Off-Highway Vehicle Trail management plan described in section 355(c);
- (F) wilderness protection and processing wilderness designations, including the costs of appropriate fencing, signage, public education, and enforcement for the wilderness areas designated;
- (G) if the Secretary determines necessary, developing and implementing conservation plans for endangered or at risk species in the County; and
- (H) carrying out a study to assess non-motorized recreation opportunities on Federal land in the County.

WHEREAS, amendment of the WPCCRDA to enable use by BLM of anticipated WPCCRDA land sale proceeds to plan, administer, implement and monitor pinyon-juniper woodland treatment projects consistent with the Ely Resource Management Plan would significantly abate the perpetual lack of funds that BLM faces in seeking to improve watersheds, wildlife habitat and reduce the risk of catastrophic wildfire within White Pine County; and

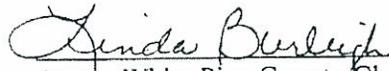
NOW THEREFORE BE IT RESOLVED, that the Board of White Pine County Commissioners does hereby encourage the Congress of the United States to amend the White Pine County Conservation, Recreation and Development Act to enable land sale proceeds to be expended by BLM to plan, permit, administer, implement and monitor pinyon-juniper dominated landscape treatment projects within White Pine County, consistent with the Ely Resource Management Plan; and

BE IT FURTHER RESOLVED, that the Board of White Pine County Commissioners does hereby encourage the Congress of the United States to permanently authorize the Bureau of Land Management to enter into Stewardship Contracts for the purpose of implementing woodland treatment projects for a term of at least 20 years.

Resolved this 11th day of July 2012 by the Board of White Pine County Commissioners.



 John Lampros, Chairman



 Attest: White Pine County Clerk

**Proposed Amendments to Sections 311 and 312 of Title III White Pine County
Conservation, Recreation and Development of Division C – Other Provisions of the Tax
Relief and Health Care Act of 2006**
(new language in italics)

SEC. 311. CONVEYANCE OF WHITE PINE COUNTY, NEVADA, LAND.

- (a) **IN GENERAL.**—Notwithstanding sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713), the Secretary, in cooperation with the County, in accordance with that Act, this subtitle, and other applicable law and subject to valid existing rights, shall, at such time as the parcels of Federal land become available for disposal, conduct sales of the parcels of Federal land described in subsection (b) to qualified bidders.
- (b) **DESCRIPTION OF LAND**—The parcels of Federal land referred to in subsection (a) consist of not more than 45,000 acres of Bureau of Land Management land in the County that—
- (1) is not segregated or withdrawn on or after the date of enactment of this Act, unless the land is withdrawn in accordance with subsection (h); and (2) is identified for disposal by the Bureau of Land Management through—
- (A) the Ely Resource Management Plan; or
 - (B) a subsequent amendment to the management plan that is undertaken with full public involvement.
- (c) **AVAILABILITY.**—The map and any legal descriptions of the Federal land conveyed under this section shall be on file and available for public inspection in—
- (1) the Office of the Director of the Bureau of Land Management;
 - (2) the Office of the Nevada State Director of the Bureau of Land Management; and
 - (3) the Ely Field Office of the Bureau of Land Management.
- (d) **JOINT SELECTION REQUIRED.**—The Secretary and the County shall jointly select which parcels of Federal land described in subsection (b) to offer for sale under subsection (a).
- (e) **COMPLIANCE WITH LOCAL PLANNING AND ZONING LAWS.**—Before a sale of Federal 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 Federal land under subsection (a) shall be—
- (1) consistent with subsections (d) and (f) of section 203 of the Federal Land Management Policy Act of 1976 (43 U.S.C. 1713);
 - (2) unless otherwise determined by the Secretary, through a competitive bidding process; and
 - (3) for not less than fair market value.
- (g) **RECREATION AND PUBLIC PURPOSES ACT CONVEYANCES.**—
- (1) **IN GENERAL.**—Not later than 30 days before land is offered for sale under subsection (a), the State or County may elect to obtain any of the land for local public purposes in accordance with the Act of June 14, 1926 (commonly known as the “Recreation and Public Purposes Act”) (43 U.S.C. 869 et seq.).
 - (2) **RETENTION.**—Pursuant to an election made under paragraph (1), the Secretary shall retain the elected land for conveyance to the State or County in accordance with the Act of

June 14, 1926 (commonly known as the "Recreation and Public Purposes Act") (43 U.S.C. 869 et seq.).

(h) WITHDRAWAL.—

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

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

(B) location and patent under the mining laws; and

(C) operation of the mineral laws, geothermal leasing laws, and mineral material laws.

(2) EXCEPTION.—Paragraph (1)(A) shall not apply to sales made consistent with this section or an election by the County or the State to obtain the land described in subsection (b) for public purposes under the Act of June 14, 1926 (commonly known as the "Recreation and Public Purposes Act") (43 U.S.C. 869 et seq.).

(i) DEADLINE FOR SALE.—

(1) IN GENERAL.—Except as provided in paragraph (2), not later than 1 year after the date of the signing of the record of decision authorizing the implementation of the Ely Resource Management Plan and annually thereafter until the Federal land described in subsection (b) is disposed of or the County requests a postponement under paragraph (2), the Secretary shall offer for sale the Federal land described in subsection (b).

(2) POSTPONEMENT; EXCLUSION FROM SALE.—

(A) REQUEST BY COUNTY FOR POSTPONEMENT OR EXCLUSION.—

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).

(B) INDEFINITE POSTPONEMENT.—Unless specifically requested by the County, a postponement under subparagraph (A) shall not be indefinite.

(j) *WAIVER OF FEES.* — *Processing of applications for right-of-way submitted by a local government or regional government to serve lands conveyed pursuant to this Act shall not require payment of cost recovery fees or payment of contributed funds.*

SEC. 312. DISPOSITION OF PROCEEDS.

Of the proceeds from the sale of Federal land described in section 311(b)—

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

(2) 10 percent shall be paid to the County for use for fire protection, law enforcement, education, public safety, housing, social services, transportation, and planning, *and infrastructure development necessary to support economic development and job generation*

(3) the remainder shall be deposited in a special account in the Treasury of the United States, to be known as the "White Pine County Special Account" (referred to in this subtitle as the "special account"), and shall be available without further appropriation to the Secretary until expended for—

(A) the reimbursement of costs incurred by the Nevada State office and the Ely Field Office of the Bureau of Land Management for preparing for the sale of Federal land described in section 311(b), including the costs of surveys and appraisals and compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321) and sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713);

(B) 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;

(C) the reimbursement of costs incurred by the Department of the Interior for preparing and carrying out the transfers of land to be held in trust by the United States under section 361;

(D) conducting a study of routes for the Silver State Off-Highway Vehicle Trail as required by section 355(a);

(E) developing and implementing the Silver State Off-Highway Vehicle Trail management plan described in section 355(c);

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

(G) if the Secretary determines necessary, developing and implementing conservation plans for endangered or at risk species in the County;

(H) carrying out a study to assess non-motorized recreation opportunities on Federal land in the County; *and*

(I) planning, permitting, administration, implementation and monitoring of pinyon-juniper dominated landscape restoration projects within White Pine County consistent with the Ely Resource Management Plan.

RESOLUTION NO. 2012-17

Resolution of the Board of Lincoln County Commissioners Encouraging the Congress of the United States to Amend the Lincoln County Land Act and the Lincoln County Conservation, Recreation and Development Act to Expand the Allowable Uses by Lincoln County and the Bureau of Land Management of Land Sale Proceeds and Other Matters Pertaining Thereto

WHEREAS, the Board of Lincoln County Commissioners has previously adopted a resolution encouraging the Congress to amend the Lincoln County Land Act to enable expenditure of land sale proceeds derived by the Bureau of Land Management pursuant to the Act to be expended for implementation of the Southeastern Lincoln County Habitat Conservation Plan and said resolution was transmitted to Nevada's congressional delegation; and

WHEREAS, the Board of Lincoln County Commissioners has previously adopted a resolution encouraging the Congress to amend the Lincoln County Land Act and the Lincoln County Conservation, Recreation and Development Act to enable expenditure of land sale proceeds derived by the Bureau of Land Management (BLM) pursuant to the Acts to be expended for planning, permitting, administration, implementation and monitoring of pinyon-juniper dominated landscape restoration projects within Lincoln County, consistent with the Ely Resource Management Plan and to permanently authorize the Bureau of Land Management to enter into Stewardship Contracts for the purpose of implementing woodland treatment projects for a term of at least 20 years and said resolution was transmitted to Nevada's congressional delegation; and

WHEREAS, approximately 97 percent of the land area of Lincoln County is administered by the federal government; and

WHEREAS, one of the significant reasons for enactment of the Lincoln County Land Act and the Lincoln County Conservation, Recreation and Development Act was to facilitate the expansion and diversification of the economy of Lincoln County through the sale of public land in the County; and

WHEREAS, one of the allowable uses of Lincoln County Land Act and Lincoln County Conservation, Recreation and Development Act land sale proceeds by the Bureau of Land Management is to pay the costs of "processing public land use authorizations and rights-of-way stemming from development of the conveyed land"; and

WHEREAS, notwithstanding the aforementioned provision of the Lincoln County Land Act and the Lincoln County Conservation, Recreation and Development Act, the Lincoln County Water District and its cooperating entity, Vidler Water Company, have paid to the Bureau of Land Management \$998,319.53 in cost recovery and contributed funds to pay for the Bureau of Land Management's costs of processing the District's application for a right-of-way to extend water and other utilities into the Lincoln County Land Act area; and

WHEREAS, the Lincoln County Water District and its cooperating entity, Vidler Water Company, have requested in writing to the Bureau of Land Management that they be reimbursed

the amount of \$998,319.53 in cost recovery and contributed funds to pay for the Bureau of Land Management's costs of processing the District's application for a right-of-way to extend water and other utilities into the Lincoln County Land Act area, believing said costs should have been paid for by the Bureau of Land Management from its share of LCLA land sale proceeds; and

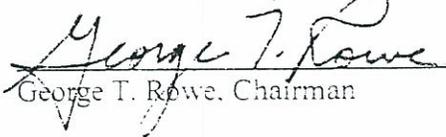
WHEREAS, the Bureau of Land Management has yet to make a final decision regarding whether to reimburse Lincoln County Water District and its cooperating entity, Vidler Water Company, the amount of \$998,319.53 in cost recovery and contributed funds to pay for the Bureau of Land Management's costs of processing the District's application for a right-of-way to extend water and other utilities into the Lincoln County Land Act area citing in part Bureau perceived ambiguity within the Lincoln County Land Act as to whether it was the intent of Congress to waive normal right-of-way processing costs authorized by the Federal Land Planning and Management Act.

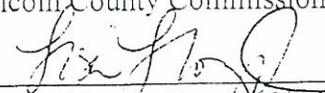
NOW THEREFORE BE IT RESOLVED, the Board of Lincoln County Commissioners does hereby reaffirm the previous resolutions it has adopted encouraging the Congress to amend the Lincoln County Land Act to enable expenditure of land sale proceeds derived by the Bureau of Land Management pursuant to the Act to be expended for implementation of the Southeastern Lincoln County Habitat Conservation Plan and encouraging the Congress to amend the Lincoln County Land Act and the Lincoln County Conservation, Recreation and Development Act to enable expenditure of land sale proceeds derived by the Bureau of Land Management (BLM) pursuant to the Acts to be expended for planning, permitting, administration, implementation and monitoring of pinyon-juniper dominated landscape restoration projects within Lincoln County, consistent with the Ely Resource Management Plan and to permanently authorize the Bureau of Land Management to enter into Stewardship Contracts for the purpose of implementing woodland treatment projects for a term of at least 20 years; and

BE IT FURTHER RESOLVED, the Board of Lincoln County Commissioners does hereby encourage the Congress of the United States to further amend the Lincoln County Land Act and the Lincoln County Conservation, Recreation and Development Act to make clear that processing of applications for right-of-way submitted by a local government or regional government to serve lands conveyed pursuant to this Act shall not require payment of cost recovery fees or payment of contributed funds; and

BE IT FURTHER RESOLVED, the Board of Lincoln County Commissioners does hereby encourage the Congress of the United States to further amend the Lincoln County Conservation, Recreation and Development Act to include economic development as one of the allowable purposes for which Lincoln County can expend its share of land sale proceeds.

Resolved this 16th day of July 2012 by the Board of Lincoln County Commissioners.


George T. Rowe, Chairman


Attest: Lincoln County Clerk

**Proposed Amendments to Lincoln County Land Act and Lincoln County Conservation,
Recreation and Development Act**
(new language in italics)

Lincoln County Land Act (PL 106-298)

Sec.5. Disposition of Proceeds

(b) AVAILABILITY OF SPECIAL ACCOUNT.—

(1) IN GENERAL.—Amounts in the special account (including amounts earned as interest under paragraph (3)) shall be available to the Secretary of the Interior, without further Act of appropriation, and shall remain available until expended, for—

(A) 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)) in the County;

(B) development *and implementation* of a multispecies habitat conservation plan in the County;

(C)(i) reimbursement of costs incurred by the Nevada State Office and the Ely Field Office of the Bureau of Land Management in preparing sales under this Act, or other authorized land sales within the County, including the costs of land boundary surveys, compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), appraisals, environmental and cultural clearances, and any public notice; and

(ii) processing public land use authorizations and rights-of-way stemming from development of the conveyed land; and

(iii) planning, permitting, administration, implementation and monitoring of pinyon-juniper dominated landscape restoration projects within Lincoln County, consistent with the Ely Resource Management Plan; and

(D) the cost of acquisition of environmentally sensitive land or interests in such land in the State of Nevada, with priority given to land outside Clark County.

(2) ACQUISITION FROM WILLING SELLERS.—An acquisition under paragraph (1)(D) shall be made only from a willing seller and after consultation with the State of Nevada and units of local government under the jurisdiction of which the environmentally sensitive land is located.

(3) WAIVER OF FEES. - Processing of applications for right-of-way submitted by a local government or regional government to serve lands conveyed pursuant to this Act shall not require payment of cost recovery fees or payment of contributed funds.

Lincoln County Conservation, Recreation and Development Act (PL 108-424)

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 102(b)(1).

(b) DISPOSITION OF PROCEEDS.—Proceeds from sales of lands described in section 102(b)(2) shall be disbursed as follows—

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

(2) 10 percent shall be paid to the County for use for fire protection, law enforcement, public safety, housing, social services, education, planning, *economic development*, and transportation; 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 reimbursement of costs incurred by the Nevada State office and the Ely Field Office of the Bureau of Land Management for preparing for the sale of land described in section 102(b) including surveys appraisals, compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321) and compliance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711, 1712);

(B) 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;

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

(D) processing of public land use authorizations and rights-of-way relating to the development of land conveyed under section 102(a) of this Act;

(E) processing the Silver State OHV trail and implementing the management plan required by section 151(c)(2) of this Act; and

(F) processing wilderness designation, including but not limited to, the costs of appropriate fencing, signage, public education, and enforcement for the wilderness areas designated; and

(G) *planning, permitting, administration, implementation and monitoring of pinyon-juniper dominated landscape restoration projects within Lincoln County, consistent with the Ely Resource Management Plan.*

(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, and may be expended according to the provisions of this section.

(d) *WAIVER OF FEES. – Processing of applications for right-of-way submitted by a local government or regional government to serve lands conveyed pursuant to this Act shall not require payment of cost recovery fees or payment of contributed funds.*

Tab E

Excerpt, Cortez Hills Expansion Project, record of Decision and Plan of Operations
Amendment Approval, Battle Mountain District Office, Bureau of Land Management,
United States Department of Interior (March 2011)



**United States Department of the Interior
Bureau of Land Management**



Battle Mountain District Office
Battle Mountain, Nevada

March 2011

Cortez Hills Expansion Project

Record of Decision and
Plan of Operations Amendment Approval

NVN-067575

DOI-BLM-NV-2010-0132-SEIS



Photo Courtesy of the Eureka Sentinel Museum

COOPERATING AGENCY:

Nevada Department of Wildlife

RECORD OF DECISION

for potential impacts on surface water resources from groundwater pumping and the potential air quality impacts of the off-site transportation and processing of refractory ore from the Cortez Hills Expansion Project. The BLM also has considered the results of air quality modeling of PM_{2.5} emissions from the Cortez Hills Expansion Project.

Full development of the Project is authorized by this Decision. As outlined in Appendix F of the Final EIS (2008a), the BLM requires that at closure CGM file the proper application with the Nevada Division of Water Resources to change a water right for evaporation from the pit lake. The BLM has determined that implementation of this Decision, with the identified monitoring and mitigation measures, will not cause unnecessary or undue degradation of the public lands and is consistent with other applicable legal requirements.

All mitigation that has been developed and adopted, as discussed in the Final EIS (BLM 2008a) and Final SEIS (BLM 2011), is consistent with regulations and policies in order to avoid or minimize environmental harm resulting from the selection of the BLM's Preferred Alternative. Site-specific mitigation measures and triggers discussed in the Final SEIS are incorporated into mitigation measures WR1a and WR1b. The mitigation measures were determined to be effective in preventing unnecessary or undue degradation if the BLM determines there is a need to implement those measures, and no new mitigation measures are required. All mitigation will be implemented and enforced. This Record of Decision for the SEIS has determined that the preferred alternative for the Cortez Hills Expansion Project continues to be the Project as approved under the November 12, 2008 ROD, along with the site-specific mitigation measures specified in Chapter 3.0 of the Final SEIS. The SEIS decision supplements the Final EIS analysis of environmental impacts of off-site refractory ore transportation and processing and dewatering mitigation efficacy. As such, the ROD for the SEIS authorizes the activities previously enjoyed by the Court's Order.

Management Considerations

The rationale for the above decision is supported by the Surface Management Regulations (43 CFR Part 3809) and the Federal Land Policy and Management Act of 1976 (FLPMA). The Plan has been analyzed under the Council on Environmental Quality implementing regulations for NEPA. Selection of the BLM's Preferred Alternative authorizes CGM to carry out a legitimate use of the public lands in an environmentally sound manner without causing unnecessary or undue degradation.

The Preferred Alternative is in conformance with the Shoshone-Eureka Resource Management Plan Record of Decision (RMP ROD) that states: "Make available and encourage development of mineral resources to meet national, regional, and local needs consistent with national objectives for an adequate supply of minerals." The RMP ROD also states: "All public lands in the planning area will be open for mining and prospecting unless withdrawn from mineral entry."

The Preferred Alternative is in conformance with the President's National Energy Policy as put forth in Executive Order 13212 and will not have an adverse impact on energy development, production, supply, and/or distribution.

CONSENT CALENDAR FOR WORK SESSION

Legislative Committee on Public Lands

Nevada Revised Statutes 218E.510

August 24, 2012

NOTE TO COMMITTEE MEMBERS: The Chair has placed the proposals listed below on a consent calendar to assist the Committee in taking action on selected items. Committee members may request removal of any item from this list for purposes of further discussion. The Committee may also approve the addition of other proposals listed in the work session document to the Consent Calendar.

ITEM NUMBER	BRIEF DESCRIPTION OF RECOMMENDATION (Please see the "Work Session Document" for full description)
1	Amend the statutes (such as NRS 704.787) to allow full implementation of the Hoover Power Allocation Act of 2011 (P.L. 112-72).
8	Include a statement in the final report supporting streamlining of both State and federal permitting of activities on public lands, provided that such streamlining preserves necessary community and natural resource protections.
9	Include a statement in the final report supporting: (a) full funding for the Payments in Lieu of Taxes (PILT) program; (b) reauthorization of the Secure Rural Schools and Community Self-Determination Act (SRS) of 2000; (c) no reduction in PILT payments based on SRS payments; and (d) a shift in emphasis for these programs to create jobs and produce receipts for revenue sharing.
13	Send letters to the Nevada System of Higher Education, the USFS, and other parties as appropriate, supporting ongoing research concerning the control of cheatgrass and other annual grasses that contribute to the cheatgrass-fire cycle in Nevada.