



MINUTES OF THE MEETING
OF THE
LEGISLATIVE COMMITTEE ON PUBLIC LANDS
(Nevada Revised Statutes 218.5363)

September 8, 1999

Reno, Nevada

The first meeting of the Nevada Legislature's Committee on Public Lands (*Nevada Revised Statutes* [NRS] 218.5363) during the 1999-2000 interim was held on Wednesday, September 8, 1999, at the Washoe County Commission Chambers, 1001 East Ninth Street, Reno, Nevada. Pages 2 and 3 contain the "Meeting Notice and Agenda" for this meeting.

COMMITTEE MEMBERS PRESENT IN RENO:

Senator Dean A. Rhoads, Chairman

Assemblyman John W. Marvel, Vice Chairman

Senator Terry Care

Assemblyman Tom Collins (alternate)

Assemblyman P. M. Roy Neighbors

Buster Dufurrena, Humboldt County Commissioner

COMMITTEE MEMBERS ABSENT:

Senator Mark A. James

Assemblyman Jerry D. Claborn

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Michael J. Stewart, Senior Research Analyst

J. Randall Stephenson, Senior Deputy Legislative Counsel

Kim Marsh Guinasso, Principal Deputy Legislative Counsel

Terrie Williams, Research Secretary

All place names mentioned in these minutes are in Nevada unless otherwise noted.

MEETING NOTICE AND AGENDA

Name of Organization: Nevada's Legislative Committee on Public Lands

(Nevada Revised Statutes 218.5363)

Date and Time of Meeting: Wednesday, September 8, 1999

10 a.m.

Place of Meeting: Washoe County Commission Chambers

1001 East Ninth Street

Reno, Nevada

A G E N D A

I. Opening Remarks and Introductions

*II. Election of Chairman and Vice Chairman

*III. Approval of Committee Stationery and Business Cards

*IV. Review of Committee Budget and Proposed Work Plan; Overview of Assembly Bill 408 and Senate Bill 560 (appropriation) of the 1999 Legislative Session; and Discussion of Committee Activities and Meetings in Nevada and Washington, D.C., during the 1999-2000 Legislative Interim

*V. Reports to the Committee

*A. Brief Overview of State Public Lands Legislation Approved during the 1999 Legislative Session and Pertinent Federal Legislation Currently Being Considered by the 106th United States Congress

Michael Stewart, Staff Director, Legislative Committee on Public Lands

*B. Update of U.S. Forest Service (USFS) Activities in Nevada

Tom Contreras, Acting Deputy Forest Supervisor, Humboldt-Toiyabe National Forest, USFS

*C. Mining Activities in Nevada and Overview of State and Federal Mining Regulations

Tom Leshendok, Deputy State Director for Minerals, Bureau of Land Management (BLM)

Russell A. Fields, President, Nevada Mining Association

Alan R. Coyner, Administrator, Nevada's Division of Minerals, Commission on Mineral Resources

*D. Summary of Natural Resource Industry Institute Report, *Economic Impacts of Proposed Changes in U.S. Mining Laws and Public Lands Regulations on Nevada*

John L. Dobra, Ph.D., Natural Resource Industry Institute

*E. Rangeland Impacts, Range Rehabilitation, and Discussion of Options for Private Land Owners Following Recent Fires in Northern Nevada

Robert V. Abbey, Nevada State Director, BLM

Wendell Newman, State Executive Director, Farm Service Agency, U.S. Department of Agriculture

Pat Murphy, Deputy State Forester, Nevada's Division of Forestry, State Department of Conservation and Natural Resources (SDCNR)

Michelle Gamble, Nevada Association of Counties

Representative, Nevada Land and Resource Company

*F. Overview and Progress of Pending Federal Legislation Providing for the Disposal of Land in Nevada (S. 719 and H.R. 1506)

Representative, Nevada Office of Senator Harry Reid

Robert Uithoven, District Director, Reno District, Office of Nevada Representative James A. Gibbons

Pamela B. Wilcox, Administrator, Nevada's Division of State Lands, SDCNR

Robert V. Abbey, Nevada State Director, BLM

VI. Public Comment

*VII. Work Session on Preceding Agenda Items

*Denotes items on which the committee may take action.

Note: We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Research Division of the Legislative Counsel Bureau, in writing, at the Legislative Building, 401 South Carson Street, Carson City, Nevada 89701-4747, or call Terrie Williams, at 775/687-6825, as soon as possible.

Notice of this meeting was posted in the following Carson City, Nevada, locations: Blasdel Building, 209 East Musser Street; Capitol Press Corps, Basement, Capitol Building; City Hall, 201 North Carson Street; Legislative Building, 401 South Carson Street; and Nevada State Library, 100 Stewart Street. **Notice of this meeting was faxed for posting to the following Las Vegas, Nevada, locations:** Grant Sawyer State Office Building, 555 East Washington Avenue; and the Clark County Office, 500 South Grand Central Parkway. **Notice of this meeting was faxed for posting at the following Reno, Nevada, location:** Washoe County Commission Chambers, 1001 East Ninth Street.

INTRODUCTION OF MEMBERS

Senator Rhoads called the meeting to order at 10:00 a.m. and introduced the committee members and staff.

ELECTION OF CHAIRMAN AND VICE CHAIRMAN

Michael Stewart, Senior Research Analyst, opened the meeting to nominations for chairman.

ASSEMBLYMAN MARVEL MOVED TO NOMINATE SENATOR RHOADS AS CHAIRMAN OF THE COMMITTEE ON PUBLIC LANDS. ASSEMBLYMAN COLLINS SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Chairman Rhoads then requested nominations for vice chairman.

ASSEMBLYMAN NEIGHBORS MOVED TO NOMINATE ASSEMBLYMAN MARVEL AS VICE CHAIRMAN OF THE COMMITTEE ON PUBLIC LANDS. ASSEMBLYMAN COLLINS SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

APPROVAL OF COMMITTEE STATIONERY AND BUSINESS CARDS

Michael Stewart reviewed the costs for business cards and letterhead for committee members. The committee directed that each returning committee member determine his need for business cards, and that cards are to be ordered for new committee members. Letterhead will also be ordered. Please see Exhibit B.

REVIEW OF COMMITTEE BUDGET AND PROPOSED WORK PLAN

Michael Stewart introduced Exhibit C, the approved Budget and Work Plan for the 1999-2000 Interim, which includes the budget, schedule of meetings and highlights of committee activities. The budget includes a slight increase in appropriations by the Legislative Commission which will allow the committee to hold eight meetings across Nevada during the interim, as well as two meetings in Washington, D.C.

OVERVIEW OF ASSEMBLY BILL 408 AND SENATE BILL 560 **OF THE 1999 LEGISLATIVE SESSION**

Assembly Bill 408

Senator Rhoads noted that Assembly Bill 408 addresses the domestic water well situation in Clark County. Water table levels in Clark County have been drastically lowered, and the county is attempting to offer incentives for users to hook into municipal and county pipelines. Senator Rhoads added that several other areas in the state have lowering water tables, including Elko and Fernley. Assembly Bill 408 establishes a subcommittee to study possible solutions and incentives. Senator Maggie Carlton, Senator Jon C. Porter, Assemblyman Douglas A. Bache, and Assemblywoman Kathleen (Kathy) A. Von Tobel were appointed by the Legislative Commission to serve on this subcommittee. Senator Rhoads will chair the subcommittee. The legislature also appropriated a budget for the subcommittee to enable the members to travel throughout the state in an attempt to find solutions and offer recommendations.

Senate Bill 560

Senate Bill 560 appropriated \$250,000 to the committee for the following three purposes:

- First, to maximize opportunities for the transfer and acquisition of public lands within Nevada. Senator Rhoads noted that he had attended meetings in Washington, D.C. on two occasions, once to schedule a hearing on the bill, and the second to appear before a panel regarding the Act. The Bureau of Land Management (BLM) testified in opposition of the Act, so the bill is still pending. Their primary concern was the Act would send the majority of the money to the county where the land is located for the purposes of county government. Senator Deminichi has a bill similar to the Nevada Lands Bill which affects all 12 western states. The BLM is in support of that bill. Senator Rhoads anticipates further activity on both bills and the committee will be monitoring the progress;
- The second purpose is to study water management practices within the Humboldt River Basin; and
- The third allows the committee to utilize the funds for any other purpose which maximizes the utilization and enjoyment of public lands by Nevadans.

Senator Rhoads noted that an appropriate use of the funds authorized in Senate Bill 560 include the promotion of opportunities for the transfer of public lands in Nevada into private ownership or to state and local government. He explained that he had attended meetings in Washington, D.C. on two occasions during the summer of 1999 to monitor and testify in support of S. 719, sponsored by Nevada Senator Harry Reid. This legislation, the "Nevada Public Lands Management Act of 1999," authorizes the sale or transfer of public land to benefit local governments and for the acquisition of environmentally sensitive lands in Nevada. The Bureau of Land Management (BLM) testified in opposition to the Act, expressing concern that too much money from the sales of the land would be sent to the counties where the land sales take place. He noted that the measure is still pending.

Senator Pete V. Domenici (R-New Mexico) introduced a similar bill (S. 1129), which impacts 12 western states, including Nevada. The BLM is in support of this measure. Senator Rhoads noted that he anticipates further activity on both bills and explained that the Public Lands Committee will be monitoring this activity.

Senator Rhoads has appointed a subcommittee which will review requests for S.B. 560 funds in the coming months. Committee members are Assemblyman Marvel (chairman), Senator James, and Assemblyman Neighbors.

**DISCUSSION OF COMMITTEE ACTIVITIES AND MEETINGS IN NEVADA
AND WASHINGTON, D.C., DURING THE 1999-2000 LEGISLATIVE INTERIM**

Page three of the work plan includes a listing of tentative meeting dates for the interim. Meetings will be placed on the legislative calendar as listed with the exception of the October meeting in Washington, D.C. which was moved from October 26 and 27 to October 27 and 28. The December 15, 1999, meeting in Lovelock was confirmed, and the remaining meetings will be placed on the master calendar as listed. Senator Rhoads noted that the committee has been invited to tour Nellis Air Force Base during the January meeting in Las Vegas.

HUMBOLDT RIVER BASIN WATER AUTHORITY

John H. Milton, III, Humboldt County Commissioner, Vice Chairman, Humboldt River Basin Water Authority (HRBWA), made a presentation to the committee concerning a future request by the HRBWA (See Exhibit D). Mr. Milton stated that the HRBWA is comprised of 15 members, three each from five Nevada counties: Elko, Eureka, Humboldt, Lander, and Pershing. He presented a copy of an overview of the authority's proposals and reasons for the appropriation request, including the needs of the area and an explanation of current opportunities. He also presented a preliminary draft of a request for proposals.

Mr. Milton stated that the total water withdrawal from the basin accounts for 51.6 percent of water used in the state, and that the majority of that water is surface water from the Humboldt River system. He also stated that 62.7 percent of all the irrigated agricultural land in Nevada is located in these five counties. He stressed the importance of water and water management and noted that there have been many studies concerning projects on the Humboldt River. The authority proposes a two-step procedure:

- The first phase includes the selection of an engineering company to review all available information on the Humboldt River, including the studies that have been performed, and then submit proposals regarding the alternatives and recommendations.
- The second phase includes the implementation of these alternatives and recommendations, the identification of problems and challenges facing the Humboldt River system, and securing appropriate funding to continue with a related study.

Assemblyman Marvel asked Mr. Milton if the Authority had revisited a proposal submitted in the 1960s regarding upstream storage, which included the South Fork, the Devil's Gate, and the Mary's River projects. Mr. Milton said that those would be incorporated into the information reviewed by the engineering consultant during phase one of the project. Assemblyman Marvel then stated that the projects still have merit if funds can be obtained.

Senator Terry Care asked Mr. Milton to clarify the completion date. Mr Milton noted that the HRBWA has been awarded a grant for \$25,000, and another \$5,000 has been provided by the authority. This will enable the Authority to proceed with Phase One, the project selection, which is not expected to be completed before the December 15, 1999, meeting in Lovelock. If the committee does not allot funds from the \$250,000 appropriation, the project will be halted at that point. Senator Rhoads noted that the data on the proposal indicates that the committee has already allotted \$150,000 to the project, and he wanted to clarify that was not the case; the committee has not approved an appropriation. Mr. Milton stated that the exhibit is a draft proposal for the members, and is in no way official.

Assemblyman Marvel asked if any problems have been identified. Mr. Milton stated that Phase One will have to be completed in order to identify the nature and scope of the project.

REPORTS TO THE COMMITTEE

- **Brief Overview of State Public Lands Legislation Approved during the 1999 Legislative Session and Pertinent Federal Legislation Currently Being Considered by the 106th United States Congress**

Senator Rhoads stated that at the last meeting of the Legislative Commission, the chairwoman, Senator Ann O'Connell, asked for a staff review of recommendations from interim and standing committees of the Legislature. Approximately 27 percent of those recommendations were ultimately passed by the Legislature. Michael J. Stewart, Senior Research Analyst, presented a document he prepared entitled "1999 Nevada Legislation Regarding Public Lands and Natural Resources Issues" (see Exhibit E). During the last interim, the committee recommended six Bill Draft Requests (BDRs). Of those, all six were passed, although not necessarily in their original form. The BDRs covered the following topics:

- •The interbasin transfer of water;
- •The authorization and funding of a noxious weed and invasive weed specialist;
- •Regional haze regulations proposed by the United States Environmental Protection Agency (EPA);
- •Introduction by the United States Congress of legislation modeled after the Southern Nevada Land Act of 1998, that would apply to the remainder of the state;

- Land in lieu of the Federal Payment in Lieu of Taxes (PILT) program; and
- The mapping of public right-of-ways through an amendment to the Federal Land Policy Management Act of 1976 (FLPMA).

Mr. Stewart also noted that Exhibit E is a listing of all legislation that was passed during the 1999 Legislative Session regarding public lands and natural resource issues, as well as a listing of major federal legislation now under consideration by the 106th Congress.

Senator Rhoads asked Assemblyman Neighbors if he was aware of the bill introduced by United States Senator Harry Reid which would allow Lincoln County to purchase land from the federal government at fair market value within the county. Assemblyman Neighbors stated that he was aware of the bill and had spoken to Senator Reid, but was unsure of the details.

- **Update of United States Forest Service (USFS) Activities in Nevada**

Gloria Flora

Gloria Flora, Forest Supervisor, Humboldt-Toiyabe National Forest, United States Forest Service (USFS), reviewed the following items:

Jarbidge Cemetery

The Jarbidge Cemetery, located in Elko County, has been under permit to the county since about 1915. Several years ago, a permanent "permit in perpetuity" was issued to the county. However, some citizens in Elko and in Jarbidge wanted to own the cemetery. The Forest Service agrees, and constructed a road solely to access the cemetery for the convenience of the citizenry. The Forest Service lacks the authority to make a transfer of the land without obtaining fair market value, and Congress has retained that authority. The USFS is unable to give the property to the county without special legislation that specifies that Congress will be responsible for the transfer, or will allow the Secretary of Agriculture to facilitate the transfer. The USFS is anxious for the situation to go forward, and is working closely with the people of Jarbidge and Elko County.

South Canyon Road Near Jarbidge

The legal issues with the South Canyon Road in Jarbidge have escalated. The U.S. Attorney has sent a letter to the Elko County Commissioners. She provided Exhibit F, a briefing paper which explains the situation in detail. From the USFS standpoint, they have done investigation, the rehabilitation, and have turned the information over to the U.S. Attorney. She noted that it is now up to the U.S. Attorney to decide whether sufficient cause exists to move forward with a suit, should Elko County determine not to reimburse the federal government.

Senator Rhoads asked Ms. Flora to discuss the conflict of opinion between the Nevada Department of Wildlife, which claims that the Bull Trout is not endangered, and the U.S. Fish and Wildlife Service (USFWS), which claims that it is threatened.

Ms. Flora stated that the situation is not directly related to the fish. The USFS is more concerned with the environmental damage to the stream channel, violations of the Clean Water Act, and trespassing on National Forest System lands without the appropriate permits and authorizations.

The classification of the Bull Trout as an endangered species is a contentious issue and she is not aware of the status of the classification. The Forest Service, she concluded, is responsible for habitat, not the wildlife.

Senator Rhoads stated that he had received a letter from the Chief Civil Deputy District Attorney of Elko County asking for an extension of the lawsuit from the U.S. Attorney General. Assemblyman Marvel said that it is his understanding that the extension was acquired by Congressman Jim Gibbons. Nolan Lloyd, Elko County Commissioner, informed the committee that the extension had been granted.

Recent Wildfires in Northern Nevada

Ms. Flora continued by discussing the recent wildfires in northern Nevada. She stated that:

- Although Nevada has suffered from a severe fire season, very few of those fires occurred on USFS land. The USFS has been heavily involved in suppression efforts throughout the state.
- A total of 183 fires occurred on national forest system lands in Nevada, which accounts for about 14,500 burned acres.
- Approximately half of the fires were human-caused and the other half were lightening-caused.

- About 3,000 acres consisted of sage and grass habitat land and the rest have been in mixed conifer and pinion/juniper acreage.
- The rangelands on the USFS land have not been severely affected this fire season.
- The USFS is analyzing the vacant grazing allotments on USFS holdings and making determinations regarding the reasons for the vacancies, the current ecological status, and if temporary grazing could be allowed on those vacant allotments. She stated that perhaps current BLM or Forest Service permittees could move their cattle under a temporary grazing permit or term grazing permit onto those vacant allotments so there would be foraging for two growing seasons, which is the standard for reestablishment of vegetation on burned areas. Senator Rhoads asked Ms. Flora to furnish the committee with a copy of the list when it is completed. Ms. Flora expects the evaluation to be complete by the end of September.

Senator Rhoads stated that the committee would like to see what the trends are apparent concerning livestock grazing on USFS land. Ms. Flora said that she would provide that information to the committee and also noted that:

- In the Austin and Tonapah districts in Central Nevada, late snow caused a late turn-on date;
- No ranchers have been forced to leave the grazing lands early for resource reasons; and
- Grazing should be permitted in expected numbers for the entire season. Northeastern Nevada has felt some impact due to the recent wildfires, but the USFS has already made arrangements to accommodate the forage that was lost by some permittees, by shifting some of their cattle to adjacent allotments.

Senator Rhoads asked if, during the last five years, the USFS had offered any temporary, non-renewable leases. Ms. Flora stated that she would find the answer and report to the committee.

In response to a question from Senator Care regarding USFS policy in regard to fire suppression, Ms. Flora explained that it is USFS policy to suppress fires, while at the same time recognizing the importance of fire in the ecosystem. Aggressive suppression of fires, especially over the last 50 years, has resulted in fuel accumulation that has exacerbated the wildfire problem. The USFS establishes a fire plan where the area has been evaluated and an acceptable perimeter established. Extreme caution is used in the decision-making process in regard to uncontrolled fire. In the case of a fire that is allowed to burn with no suppression effort, the USFS watches the developments closely to make sure it does not exceed a certain pre-determined acreage, that its course does not shift, and that the fire does not become erratic. In addition, weather conditions are also carefully monitored. Typically, these fires are small fires in wilderness or unroaded areas, away from structures and private land.

Assemblyman Marvel asked Ms. Flora to comment on the controlled burns in the Tahoe area. Ms. Flora reported that they were working well. She said that, although not a primary objective, the timber harvest following the fires is a

positive benefit.

Answering a question by Assemblyman Collins, Ms. Flora explained that it is her understanding that the USFS is not involved in hay drops to wildlife during severe winters, but that other agency programs provide that type of assistance.

Senator Rhoads stated that, in the wake of the fires, it will be of great help for the USFS to offer vacant allotments to BLM permittees as well as USFS permittees.

Interim Policy Regarding U.S. Forest Service Roads

Ms. Flora explained that in February, an interim policy was announced and made official specifying that for 18 months the USFS would not build roads in currently unroaded areas. She noted that:

- Some limited exceptions are permitted.
- The USFS has determined that many of the existing roads are substandard, and money is not available to maintain those roads.
- In many cases, the roads are causing environmental damage.
- Most of these roads have been built in the last 50 years.
- A fifty billion dollar backlog exists in the maintenance of these roads.
- Currently, sixty percent of USFS roads are not maintained for public safety or to environmental standards.
- The USFS would like to select serviceable roads that should remain open, and repair them. In some cases, several roads go to the same place and are used interchangeably when road conditions permit. Some roads may be decommissioned, either permanently or temporarily.
- The USFS would also like to evaluate which roads are environmentally poor, possibly relocate those roads, and

bring them up to a standard that is maintainable and provides a safe driving experience. A committee of scientists is currently working on this issue, and collecting research on the relationship of roads to the environment and evaluating engineering techniques for the best road construction practices in a variety of soil types and geological conditions.

- The USFS is looking at creating a policy which would dictate the future analysis of road construction.

Assemblyman Marvel asked how closely the USFS had worked with county officials on the inventory of roads. Ms. Flora explained that there are some disagreements about certain roads and who owns or has jurisdiction over them. She reported that the USFS, in conjunction with Nye County, is working on an innovative approach to road inventory. Under a Tri-party Agreement with the BLM, Nye County, and the USFS, a process has been developed which will facilitate working agreements on certain issues common to all, including roads and road jurisdiction. Nye County has proposed a pilot program which would look at the entire county and determine which roads have an "RS 2477" right-of-way and which roads do not. The USFS in Nevada has been working with the USFS Washington, D.C. office, the Department of Justice, and the Office of Special Counsel, to take a small piece of Nye County and develop a protocol and a process by which the ownership of certain roads can be ascertained. It is more complex than simply determining the year of construction and whether that falls before USFS acquisition of the land. Frequently, Ms. Flora noted, the needed information does not exist. In addition, she explained that:

- Counties are also concerned about becoming the owners of several hundred miles of roads when money is not available to repair and maintain those roads. If the county owns the road, technically the USFS cannot fund maintenance.
- The USFS and some counties do have working agreements by which they share the costs for maintenance on roads, but the USFS would not be able to enter into agreements that dictate the USFS is responsible for the maintenance of county roads.
- The USFS is attempting to proceed with a pilot program that would establish a protocol regarding the cost responsibility in road maintenance, evaluation, and research.

Assemblyman Marvel asked Ms. Flora to comment on USFS policy regarding inholdings, and access to inholdings through USFS land. Ms. Flora stated that the USFS has a legal responsibility to provide reasonable access to all inholdings, which is specified in federal law.

Ms. Flora stated that the UFSF has a process following the National Environmental Policy Act (NEPA), which provides full involvement for the public and local government. Reasons for proposed road closure, possible alternatives, effects of the closure, and the public input and opinion weighs heavily in the decision-making process. Currently, in Nye County, a situation exists whereby roads may have a few hundred feet that cross into a wilderness area. Those roads are required to be closed under the Wilderness Act. In a case like this, the county and public would be advised of the road closure, but it would not be a debatable issue.

Senator Rhoads noted that early in his career, he was chairman of an access committee that was attempting to open access across private land to get to BLM, USFS, and other federal land. The committee discovered that many of the private property owners did not want to allow public access due to liability issues. Ms. Flora stated that the USFS had been sued by persons who had been injured on USFS roads. She further commented that the USFS tries diligently to advise people of the condition of roads. Senator Rhoads expressed concern that, should the counties take possession of thousands of miles of roads, the funding would not be available for proper maintenance, and therefore a liability problem for the counties would be created.

Forest Plan Revision and Amendment

Ms. Flora addressed the issue of forest plan revision and amendment. She explained that:

- Forest plans are directed under the National Forest Management Act. Under this act, plans are in effect for 10-15 years. Every 15 years, those plans should be revised.
- The Humboldt and Toiyabe National Forest plans (they were separate forests at the time of the last plan), were completed in 1986. Therefore, in 2001 a new, revised forest plan should be formulated.
- During the past eight years, there has been an effort to revise the specific implementation regulations for the planning portion of the National Forest Management Act. Those regulations will be made public in the near future, and there is hope that those regulations will be accepted. There have been several attempts to approve these regulations.
- Congress has not funded forest plan revisions for the past two years.
- Funding was expected by the Humboldt-Toiyabe Forest to begin their forest plan revision.
- The funding that is available to the region to which the Humboldt-Toiyabe belongs, a compendium of 16 national forests, is very limited. The funding portion available to the Humboldt-Toiyabe is small, and an adequate or quality job, performed in a timely manner, is not feasible.
- The Humboldt-Toiyabe has done preliminary work, including meetings with local governments and an analysis of the management situation.
- The Humboldt-Toiyabe has opted to take a different approach to forest plan revision, focusing on the amendment process. The Humboldt-Toiyabe will look at specific mountain ranges, or clusters of mountain ranges, that have similar biological, physical, and social characteristics and evaluate those in a more in-depth manner than would be performed at the revision level. Plan amendments are then made to the individual mountain ranges.

- The assessment of the Spring Mountains National Recreation Area has been completed, and two are currently in progress, the Northern Sierra (surrounding Lake Tahoe in the eastern Sierra Nevada Range) and the Monitor and Hot Creek ranges.
- These amendments are a better forum for the public to become actively involved in the planning process.
- An additional six forest plan amendments must be completed.
- Should a legal question arise concerning the inability of the Humboldt-Toiyabe to meet the 15 year limit, Ms. Flora is certain that the withholding of funding will mitigate the issue.
- Ideally, the plan amendments will be finished by 2005. Then the larger issues of wilderness, wilderness designation, resolution of wilderness study areas (WSAs), and wild and scenic river issues can be addressed.

Assemblyman Marvel asked if the Forest Service had any WSAs remaining under their management. Ms. Flora stated that in the lands that were transferred to the USFS by BLM under the Enhancement Act in the Monitor and Hot Creek ranges, some WSAs do exist. Assemblyman Marvel stated that these areas should be released to multiple-use purposes if they are not to be designated as official wilderness areas. Ms. Flora stated that the most effective way to accomplish the release of lands is to handle it on a statewide, rather than a jurisdictional, basis. Cooperation is essential between all involved entities: local, state, and congressional. The final determination on wilderness designation is made by Congress. The BLM and USFS are in the process of making recommendations. Assemblyman Marvel asked Ms. Flora to supply to the committee a list of all WSAs under USFS control and the acreage involved.

Senator Rhoads asked Ms. Flora to explain the difference between a "wilderness area" and a "research natural area" (RNA). Flora explained that a "research natural area" is one that is set aside because it has a unique and typically undisturbed collection of vegetation and animal species that make it an area suitable for studying the interrelationships of climate, plants, animals, and people. Further:

- Stringent criteria must be followed in order to designate an RNA. When looking for undisturbed vegetation, previously designated areas are first searched and evaluated.
- Ms. Flora stated that livestock grazing, mining, and recreation are typically prohibited, but under certain conditions, can be allowed in RNAs. These areas vary in size from a few hundred to a few thousand acres.
- Senator Rhoads asked Ms. Flora to provide the committee of a listing of all RNAs in the state.

Mining on Forest Service Land in Nevada

Regarding mining in Nevada, Ms. Flora stated that the USFS is now in a low cycle. Currently, there are five gold mines on National Forest System lands in Nevada, and three of those are in bankruptcy. One has turned the bond over to the USFS, and is now contracting with the Forest Service for stabilization of a leaching facility, and a second contract will be issued in the Spring of 2000 for reclamation of the roads, pits, and the waste draft dumps at the mine. In addition, Nevada Gold's Rio Del Monte or Aurora Mine has also filed for bankruptcy as well as Alta Gold's Griffin project. The USFS is awaiting the outcome of the bankruptcy process.

Senator Rhoads asked about the existence of a state reclamation fund. Ms. Flora stated that she was unaware of such a fund, but that the USFS required a bond which will cover some of the costs of reclamation. The bond normally does not cover the entire cost of reclamation because of the following reasons:

- The USFS is careful to avoid asking the mine to put up too much money; and
- The analysis for the bond is a complicated and complex process.

In addition, the USFS is in need of a hazardous materials expert to work with the reclamation projects. This underscores the need to carefully bond to cover reclamation costs. Especially in the case of older mines, the USFS is spending tens of millions of dollars on rehabilitation and reclamation.

Miscellaneous Forest Service Issues

Assemblyman Marvel asked Ms. Flora if the USFS had many "checkerboard" lands. Ms. Flora responded that the USFS did own some checkerboard lands, although not in the classic sense. Due to the patented mining claims in Elko County, some unusual ownership patterns exist. In the Santa Rosa Range, some railroad checkerboards exist. He asked specifically about checkerboards in the Ruby Mountains. Ms. Flora stated that with the exception of the small section in the Santa Rosa Range in eastern Humboldt County, she was not aware of any checkerboard ownership of Forest Service land in Nevada.

Nolan Lloyd, Elko County Commissioner, clarified that some checkerboard lands do exist on the Ruby Valley side of the range. Assemblyman Marvel asked if the USFS had a policy to combine these checkerboard lands and let private landowners do the same. Ms. Flora stated that it was advantageous, from a management standpoint, to do so. She further noted that it was a criteria the USFS considered when evaluating land to dispose of or acquire. But the policy is only followed when a willing buyer or seller exists.

Regarding infrastructure, Ms. Flora made the following comments:

- The USFS has been asked to physically inventory every improvement, piece of real property, or equipment that is on USFS land and in USFS offices. All property valued at more than \$500 must be inventoried and reported.
- This verifies the accuracy and completeness of USFS records. Congress has questioned and challenged the existing data.
- The inventory also evaluates the conditions of improvements on USFS lands. Many improvements are falling into disrepair and the USFS needs to have an accurate view of work that needs to be done, how much it will cost, and what kind of priorities will be established to invest money into the infrastructure.
- Ms. Flora expects the process to take up to four years to complete.
- This year, the USFS is inventorying 1,500 miles of road and 340 miles of trail, about 100 buildings, 78 bridges, and various other property.
- The financial needs of this road inventory will be categorized by:
 - Health and safety needs;
 - Mission need; and
 - Resource protection.
- It is uncertain if the funding will be granted in all three categories, or if Congress will choose one category or select portions of categories.

Concerning the Southern Nevada Public Land Management Act of 1998, Ms. Flora stated that:

- An auction is planned for the beginning of November. This is a series of competitive sales. Nothing will be sold below fair market value.

- While the BLM is the lead agency, the USFS has been working with BLM, the U.S. Department of Fish and Wildlife, and the National Park Service on the implementation of the Act.
- BLM lands are being disposed of, but lands that are acquired under the Act may fall into the ownership of the U.S. Department of Fish and Wildlife, the USFS, and the National Park Service, as well as BLM.
- At this time, the USFS does not have a list of proposed private land acquisitions. The four agencies have been working on a list of criteria for selection and evaluation.
- Each agency will be presenting two or three priorities for land acquisition, and then they will be compared to the criteria.
- Eighty-five percent of the funds would be available for federal land, but not the USFS specifically.
- The USFS has a list within its Land Adjustment Plan which specifies which lands should be in private ownership. It also has a list of criteria for the kinds of land the USFS would like to acquire.
- While the list of desired land acquisitions is not public record, Ms. Flora stated that she would furnish a copy of the list that specifies which land holdings are to be disposed.

In answer to a question from Senator Rhoads regarding the USFS position on the Northern Nevada Public Management Act, Ms. Flora stated that although there is no official position, it is generally viewed positively.

Senator Care asked Ms. Flora how the USFS determined "fair market value" on land to be auctioned. Ms. Flora stated that USFS appraisers and contract appraisers go through a process to determine value. She acknowledged that these appraisals do occasionally differ significantly from the expected appraised value. The appraisals are based on fair market value, and not on the value of maintaining and holding that land for a significant period of time in an undeveloped state.

In response to a question by Assemblyman Collins, regarding the Forest Service's willingness to work in conjunction with the counties when planning maintenance and repair work, Ms. Flora stated that the USFS would prefer to have county cooperation and approval, and has a good working relationship with most counties.

MINING ACTIVITIES IN NEVADA AND OVERVIEW OF

STATE AND FEDERAL MINING REGULATIONS

Alan R. Coyner

Alan R. Coyner, Administrator, Nevada's Division of Minerals, Commission on Mineral Resources, read from his prepared testimony (see Exhibit G). He commented about the status of various Division programs, including:

- •Departmental restructuring;
- •Teacher workshops in Las Vegas and Winnemucca;
- •Environmental regulation in relation to the mining industry; and
- •Mineral exploration.

For further details on Mr. Coyner's testimony, please see exhibit G.

In response to a question from Senator Rhoads, Mr. Coyner explained why mining exploration dollars are not coming into Nevada. Mr. Coyner stated that the report by Dr. John Dobra will present evidence that the regulatory environment is the chief cause of the shift in the viability of Nevada's mining industry. He further noted that legislation passed in 1989 (the same year that comprehensive reclamation laws were passed) created the state bond pool. The pool was to act as a supplement to private bonding agencies for the small-to-moderate miners that could not access bonding any other way.

Tom Leshendok, Deputy State Director for Minerals, BLM, Reno, stated that currently, BLM, collectively and jointly with the state, holds about 450 million dollars in reclamation bonds insuring operations throughout the state on public and private land. The BLM is currently working with ten bankruptcies, and thus far, the bonds have held for all ten.

Allen Biaggi

Allen Biaggi, Administrator, Nevada Division of Environmental Protection (NDEP), informed the committee that Leo Drozdoff, Chief of Mining Regulation and Reclamation, has taken another position within the Bureau of Water Pollution Control. David Gaskin has been named the new Bureau Chief.

He reminded the committee that NDEP is the regulatory agency responsible to ensure public protection and the maintenance of environmental quality within the state of Nevada. The Division has a bureau dedicated solely to the oversight and operation of mining activities within the state. This bureau has 18 equivalent full-time staff members, and is supported entirely by the mining industry. No general fund money or federal grant support is used. He further stated that:

- The fee structure that is currently used is a graduated structure that is intended to increase over time.
- Due to financial prudence on the part of the bureau and the fee structure agreed upon by the mining industry, fees will not increase this year. This recognizes the difficulties experienced by some in the mining industry.
- The division is divided into two parts: 1) a mining regulation branch; and 2) a mining reclamation branch. Mr. Biaggi highlighted the activities of both branches and noted that:
 - The regulation branch is intended to protect water resources, both ground and surface water, from mining activities. Permits are issued to mining facilities to ensure the control of water and waste water from heap leaches, mine tailings, and waste rock dumps. Approximately 180 permits are currently issued. In 1998, due in part to these permits, very few enforcement actions were necessary -- one in 1998 and five in 1999.
 - The purpose of the mining reclamation branch is to ensure there is a strong reclamation program in the state of Nevada and that lands can be returned to a productive use after mining has ceased. This branch is responsible for approximately \$540 million in bonding capacity. The reclamation branch had only eight enforcement actions during 1998 out of 180 permittees, and four in 1999.
- The federal Environmental Protection Agency (EPA), through region nine, which is comprised of Arizona, California, Hawaii, and Nevada, has established a hard rock mining strategy which impacts the NDEP. Nevada has its own hard rock mining regulation program and the Division is concerned about federal intervention in state programs.
- The Division has also been active in the BLM's revisions to 43 *Codes of Federal Regulations* (CFR) 3809 hardrock regulations, and the EPA's Toxics Release Inventory (TRI).
- Possibly the biggest issue currently concerning the Division is the number of bankruptcies in the state of Nevada. Currently, 35 facilities are in bankruptcy. These are primarily small facilities, involved in various chapters of bankruptcy, and are almost entirely mining facilities with reclamation bonds on file with the Division. These

bankruptcies take an enormous amount of staff resources, time, and Division time with the Attorney General's Office. The Division will be looking for additional legal and staff resources in the future.

Assemblyman Neighbors asked Mr. Biaggi to comment further on the TRI program. Mr. Biaggi explained that:

- The TRI program is a federal program, but the state does have a role to play. The Division receives reports submitted to the federal government by the mining industries.
- The federal government does not report to the state when state land is disturbed by federal activity within the state.

Senator Care noted that bankruptcies occur for a variety of reasons, including poor management, low market prices, or the cost of exploration. He asked if there was a prevalent cause for the financial difficulties of the mines currently in bankruptcy. Mr. Biaggi stated that it is primarily a result of depressed gold prices.

Russ Fields

Russ Fields, President, Nevada Mining Association, Reno, noted that he had distributed a document containing his written comments (See Exhibit H). He further stated that:

- 1998 and 1999 have been challenging years for the mining industry primarily due to the drop in the price of gold.
- Seventy-nine percent of the mineral resource revenue produced in Nevada is attributable to gold.
- The current price of gold is approximately \$255 per ounce, which is a 20-year low in inflation-adjusted terms. This compares to the 1996 price, which averaged \$388 per ounce.
- The industry has taken measures to adjust operations to remain profitable. An average reduction in costs of operation of \$37 from 1997 to 1998 has been achieved. The mines have cut costs by:
 - Mining higher grade material, which reduces the life of the ore deposits and the mine;

- Deferring capital and exploration expenses; and
- Cutting labor expenses and, between 1997 and 1998, reducing average employment by 1,400 jobs. These are direct jobs in the mines, which has had great community impact.

Mr. Fields noted that, despite the economic problems facing Nevada's mining industry, the industry has performed well overall compared with mining in the remainder of the United States and many areas of the world.

Mr. Fields then introduced Exhibit I, "Economic Overview of the Nevada Mining Industry for 1998." This document contains details concerning statistics and significant facts about the industry, and explains that:

- Nevada's gold production accounted for seventy-six percent of the total United States gold production.
- If Nevada was a stand-alone nation, it would rank third in the world, behind South Africa and Australia, in gold production.
- Nevada's reserves represent approximately two-thirds of the known reserves in the United States.
- Direct employment in the mining industry in Nevada during 1998 was 13,240 direct jobs. The average salary for those jobs was \$52,800 per year, while the state average is just over \$30,000.
- The mining industry contributed \$1.82 billion to Nevadan's personal incomes.
- State and local taxes paid by the mining industry in 1998 were up from the previous year by over ten million dollars to \$135.9 million, which was distributed among state and local governments.

Mr. Fields noted that some of the challenges facing the mining industry from a regulatory standpoint are:

- The Toxics Release Inventory (TRI). The mining industry must now report substances that are contained in the rocks handled, mined, moved, or managed at the site, under permits from the state and the federal government. Because the industry handles such large volumes of these materials, the reports indicate very large numbers. No new risk to nearby communities, the public, or to mining employees exists due to these reports.

- The revisions to the "3809" regulations are of importance to the mining industry because Nevada has developed a strong regulatory program, which should not be precluded by a federal program that duplicates regulatory efforts, or supercedes state regulation.
- The proposed regulation concerning mill sites is an interpretation of the mining law by the solicitor of the Department of Interior that would limit a mining company operating on public land to five acres of mill site land for every twenty acres of load claim land (the mine itself). It is difficult to organize an operation so that those ratios can be met and there are many existing operations on public lands that have received their permits, with the assumption that they could use what mill site land is required for operation. Many of Nevada's mines can not meet this new criteria.
- The Nevada mining industry supports full and adequate bonding for reclamation. The industry is currently in discussions with the NDEP to review all Nevada bonding regulations, with an emphasis on issues such as closure, a readiness fund for Nevada, and the state's ability to regularly review the process of bonding, or the final cleanup or closure of a mine.

Assemblyman Neighbors asked Mr. Fields to elaborate and comment on the Bank of England's decision to sell large amounts of gold reserves.

Mr. Fields responded that the Bank of England's decision to auction three hundred tons of gold, and the discussion by Central European countries to do the same, has had a significant impact on the price of gold and may be contributing to the falling gold prices.

In response to a question from Senator Care regarding hedging-- the practice of selling gold and minerals ahead of time at an agreed upon price-- Mr. Fields said that some mines had done so, and consequently have done better than most during this downturn. Many others have entered into forward sales agreements since the price of gold has declined. This has helped the Nevada gold industry significantly. Operations in Australia or South Africa are hedged to a greater degree than are those in Nevada. One of the issues currently being discussed is what effect those forward sales have on the price of gold. It does put a cap on how high the price might rise. While hedging does protect operations that participate, it may have a dampening effect on the price of minerals.

Tom Leshendok

Tom Leshendok, Deputy State Director for Minerals, BLM, presented information on basic statistics for public lands (see Exhibit I). This information noted that:

- •New mining claims recorded have increased in fiscal year 1999 over fiscal year 1998.
- •The number of new exploration and mining notices and plans are down by approximately fifteen percent.
- •Issues of concern to BLM include bankruptcies and closures.
- •BLM mining regulations, including the 43 CFR 3809 surface management regulations are also of concern to the BLM. Mr. Leshendok explained that:.
- The draft regulations were published on February 9, 1999.
- Public hearings were held in Reno and Elko.
- The comment period closed on May 10, 1999. BLM received approximately three thousand formal comments.
- BLM is prevented from publishing final regulations until the National Academy of Science (NAS) study is prepared. That report is expected to be completed in mid-September.
- BLM is pending any change in regulations until a review by the Secretary of the Interior. Comments on the "3809" regulations will be reopened for an additional 120 days after the NAS report is received and is made available to the public.
- During the NAS report preparation, BLM testified that a national baseline of regulations is needed. In Nevada, the BLM is more concerned with issues such as bonding, enforcement, and notice-level activities.
- One proposed change is to require bonding of mining operations of less than five acres.

Mr. Leshendok further stated that while national regulations are needed, due to the good working relationship between Nevada and BLM, activities such as bonding will be the primary focus.

Assemblyman Marvel asked if these regulations will be invariable. Mr Leshendok stated that an attempt to draft the regulations with flexible performance standards has been made, although he admitted that a question exists as to the success of that attempt.

Assemblyman Neighbors questioned BLM's desire to exclude wilderness areas from the NAS report. Mr. Leshendok

noted that BLM has made its presentation to Congress. Of the 5.2 million acres of WSA in Nevada, BLM is recommending that approximately 1.9 million acres of that is suitable for wilderness.

On August 27, 1997, BLM published a draft regulation regarding mill-site acreage. The BLM expects this to be a significant issue.

SUMMARY OF NATURAL RESOURCE INDUSTRY REPORT

John Dobra, Ph.D.

John Dobra, Ph.D., Director, Natural Resource Industry Institute, Reno, presented a summary of the Natural Resource Industry Institute Report, *Economic Impacts of Proposed Changes in U.S. Mining Laws and Public Lands Regulations on Nevada* (Exhibit J). The study was designed to look into the impacts of the "3809" regulations on Nevada's mining industry. He presented charts summarizing the following:

- Nevada in particular, and the Western states in general, have experienced a decline in mineral exploration and development expenditures.
- These declines are costing the Western states approximately \$250 million dollars per year.
- An estimated loss over a 10-year period, from the beginning of the downturn in 1994 to 2004, is anticipated to be approximately \$1.5 billion.
- Mining, direct and indirect, accounts for approximately nine percent of Nevada's gross product.
- Elko, Eureka, and Lander counties produced 5.6 million ounces of gold in 1998, which is about 68% of Nevada's total, and approximately fifty percent of the production in the United States.
- The industry generates approximately one-third of the total employment and over half the personal income in these counties.
- In Humboldt and Pershing counties, 1.5 million ounces of gold were produced, which is approximately 19% of

state production.

- Mining and mine development accounted for approximately one-third of total employment and over half the personal income.
- These counties depend on local mining industry for tax revenues, including net proceeds, sales and use taxes, and the property taxes paid on equipment, mines, and structures. These revenues accounted for 39 percent of all county revenues in that three-county region. In Humboldt and Pershing counties, the total is over 50 percent. These are direct revenues; there are also indirect revenues affected by the economic well-being of the industry.
- The mining industry has, for some time, been under assault by the presidential administration. Mr. Dobra noted that the mining industry is concerned with: 1) threats of production royalties, which is not part of the "3809" regulations; 2) a moratorium imposed on patents on mining lands; 3) the imposition of a \$100 per year mining claim holding fee; 4) threats of elimination of the percentage depletion allowance; 5) increasing delays in approval of permits for mining development; 6) increased delays in approval for exploration; and 7) an estimated 38 percent increase in exploration costs if the revised "3809" regulations are approved.
- The issue of mill site claims would allow the government to deny access to companies, except during rare cases.

The industry has been sending an increasing amount of money overseas. Some would argue that this is because of low gold prices. Any commodity price has an effect on the producer. It simply shrinks the amount of money available for exploration all over the world. A more important indicator is the assessment of Nevada's and the United States' share of the money being spent world wide.

Dr. Dobra then presented a series of charts found in the report illustrating the decline in Nevada's share of exploration dollars.

Assemblyman Marvel asked Mr. Dobra if there was an indication concerning the outcome of the NAS report. Mr. Dobra stated that although there are rumors, none are substantial enough to warrant repeating.

Senator Care asked Mr. Dobra to elaborate on the reasons for the exodus of exploration dollars from Nevada and the United States. He specifically wanted to know about possible differences in wages, which Mr. Dobra discounted. Using Mexico as an example, he stated that although wages may be lower in some foreign countries, taxes are generally higher. Overall, the costs for a given operation are generally the same. In other countries, such as Chile, the wage differentials are not great.

Senator Rhoads asked Mr. Dobra to comment further on any regulations or laws that went into effect during 1996, or interpretations of existing regulations and laws, which would have caused the downswing in exploration expenditures. Mr. Dobra stated that it is primarily due to interpretation of existing laws as well as an aggressive administration in

Washington, D.C. This [1996] was about the time the patent moratorium went into effect.

Senator Rhoads then requested Russ Fields to put together a list detailing the laws that have gone into effect since 1994 that need to be changed or modified. Mr. Fields noted that from 1993 to 1996, a few changes, such as the \$100 holding fee for mining claims, had a substantial impact on the number of players in the exploration arena. Many small-to-medium companies chose not to spend money on holding fees, and moved to foreign countries where the money could be spent on actual operations. During that time period, there was also uncertainty over reform of the 1872 mining law, particularly with royalties and environmental requirements that could have been codified in a reform of the law. These factors discouraged investment. Revisions to the "3809" regulations are also adding a lot of uncertainty. Senator Rhoads asked if the mining industry was able to become proactive in Washington, rather than reactive. Mr. Fields explained that perhaps the industry should become proactive and added that he will provide the committee with a list of mining laws since 1994.

Assemblyman Marvel asked what types of taxes foreign countries levy on mining companies. Mr. Dobra stated that many poor countries have little or no capability to collect taxes. In those cases, the country takes a percentage of the profit, becoming in effect a stockholder of the company. The taxes these countries are most likely to collect are those on direct sales and imports.

Assemblyman Marvel asked if the Montana referendum concerning open-pit cyanide leaching was upheld or overturned. Dr. Dobra stated that the ballot question was approved and ruled constitutional. He further noted that, as of a few months ago, the Montana legislature was working on legislation that would allow some mining to proceed. The legislature will be able to define some items and allow certain uses of cyanide. Wisconsin also recently had an anti-mining/cyanide initiative. The margin of victory for the Montana ballot question was narrow and some believe that the approval of the question was related to campaign finance laws that limited the mining industry's ability to lobby against the question.

RANGELAND IMPACTS, RANGE REHABILITATION, AND DISCUSSION OF OPTIONS FOR PRIVATE LAND OWNERS FOLLOWING RECENT FIRES IN NORTHERN NEVADA

Robert V. Abbey

Robert V. Abbey, Nevada State Director, BLM, introduced Exhibit K, which includes information concerning the number of acres burned, and rehabilitation efforts. Mr. Abbey explained that:

- More than 1.5 million acres have been burned in Northern Nevada in 1999, which is approximately a one thousand percent increase over a typical fire season. Given the dry conditions and the advent of hunting season, Mr. Abbey stated that it is likely more fires will occur.
- The result of the destruction of so much acreage has been devastating to the livestock industry, the wild horse population, and wildlife in general. The damage is severe and the economic impact is likely to be extensive.
- Mr. Abbey commended the firefighting forces. He also complimented the many volunteers who fought fires on private and public land.
- Every effort was made to suppress the fires, but unfortunately between August 4 and August 11 more than 170 fires began, which exceeded the BLM's suppression capabilities. Four thousand firefighters were in the state fighting fires during that time period. Two hundred fire engines, sixty aircraft, and various other equipment was dedicated to the suppression effort. Bulldozers created about 600 miles of fire lines. At one point, over half the nation's federal firefighting workforce was in Nevada fighting these fires.
- The BLM will be holding a fire suppression review meeting in October, hearing testimony from participating incident commanders. Some tactics will probably be changed as a result of the lessons learned during these suppression efforts. Typical initial suppression tactics did not work this year. In many cases, by the time the first attack forces arrived at the sites of some of the smaller wildfires, the fires were beyond the capabilities of those initial forces. BLM was then forced to call in reinforcements and additional equipment, which took time, and resulted in additional acreage lost.
- The goal now is to rehabilitate the rangelands, providing a diverse habitat for wild horses and wildlife, forage for livestock, and restoration and improvement of watersheds. Mr. Abbey commented further on the range rehabilitation process and noted that:
- The restoration of the rangelands is critical in order to prevent proliferation of cheat grass and weeds which contribute to larger and more devastating wild land fires. Mr. Abbey, along with BLM line managers, is committed to working with every permitted rancher effected by the fires to develop alternative grazing systems that will take pressure off the burned areas.
- Critics have claimed that BLM automatically has a two-year moratorium period for grazing following a fire. Mr. Abbey stated that, although that may have been a policy in the past, but BLM is currently looking to assess the allotments on a case-by-case basis to accommodate the need for grazing on the public land, while rehabilitation occurs. Most rehabilitation plans are completed for the lands burned through August. Currently, the remainder of the plans are nearing completion.
- BLM is ordering four million tons of seed to help rehabilitate the public lands affected by the fires. Drilling equipment has also been ordered.
- With regard to priorities for reseeding, a group has already been assembled to develop and rank criteria in range

rehabilitation efforts. The group includes representatives of the University of Nevada, Reno, Extension Education Service, the United States Department of Agriculture (USDA) Agricultural Research Service, Nevada Department of Agriculture, the Nevada Natural Heritage program, Nevada Division of Forestry, and BLM specialists.

- BLM is aware and concerned about public safety issues, such as flooding and dust hazards on major highways. The fires occurred in areas that supported wild horses and wildlife. Emergency gathers are planned for as many as 1,500 wild horses. Adoptions for some of these horses will be held in Nevada and out of state.

In addition to these short-term objectives, the BLM is also concerned about long term planning. He noted the following concerns:

- Decreasing the severity of wildfires on public and private lands;
- Noxious weeds and a proliferation of cheat grass, which could set up another fire cycle; and
- Timely rehabilitation of the burned areas to prevent erosion and the invasion of weeds and cheat grass.

Mr. Abbey continued by highlighting activities and programs that the BLM will undertake in response to the recent wildfires. He explained that:

- The BLM will actively seek resources to restore vegetation to the burned rangelands, but there is likelihood that the amount of seed needed will exceed the amount ordered.
- Rehabilitation of 1.5 million acres is a major undertaking.
- A Great Basin Ecosystem Rehabilitation initiative will be introduced in the U.S. Congress which will help achieve the goals of abatement of cheat grass and some of the other invasive species that encourage the spread of wildfires.
- The BLM is working in conjunction with state, local, and other fellow agencies, as well as users of the public lands to come up with rehabilitation plans that use a common sense approach to addressing immediate needs such as safety concerns along the Interstate 80 corridor.
- The BLM is also focusing attention on longer-term goals such as overturning years of neglect in the invasive and noxious weed battle.

- Long term goals will effect positive change in improving the health and conditions of the public lands.

Senator Rhoads stated that he had read that the suppression effort cost \$153 per acre, and asked Mr. Abbey if that figure is correct. Mr. Abbey stated that figure was based on past suppression efforts, and that the current cost has not been tabulated. He said that he believed the current cost would be comparable, but the rehabilitation costs will be extensive.

In answer to a question from Senator Rhoads, Mr. Abbey stated that it is not BLM policy to cease fighting fires at night, although when out-of-state firefighters are used, it is sometimes prudent to cease operations at night for safety reasons. Senator Rhoads then asked if BLM has approved any temporary non-renewable Animal Unit Months (AUM) for livestock grazing over the past four years, and Mr. Abbey stated that they had.

Senator Rhoads then referenced a document from a rancher in Battle Mountain who requested a temporary non-renewable use for two hundred head of cattle in January 1999 due to his concern over the fire hazard. The Battle Mountain BLM District Office turned down that request. This denial, the rancher contended, resulted in the increased growth of cheat grass and other forage, and contributed to the wildfires in the allotment area in question (see Exhibit L).

Senator Rhoads then entered into the record a resolution from the Nevada State Grazing Board, District N-6, which includes suggestions and proposals regarding grazing practices and fire suppression efforts on BLM lands. (see Exhibit M).

Senator Rhoads expressed his hope that during certain years, BLM would allow areas to be used as grazing land to lessen the chances of wildfire by diminishing the amount of vegetation growth. He stated further that it is important for BLM to be flexible and look at requests on a case-by-case basis and not use the two-year grazing moratorium exclusively.

Assemblyman Collins commented that he has heard complaints concerning BLM's refusal of grazing rights. Mr. Abbey stated that BLM is following the standards for rangeland health. He further noted that often the BLM does not have the staff necessary to assess and defend a decision to increase grazing for a particular allotment.

Commissioner Dufurrena asked about repair of fencing in burned rangeland. Mr. Abbey agreed that it is an important issue, and stated the BLM currently has crews assessing the damage to rangeland fencing, and some temporary figures are available, regarding amount of fencing damaged and the type of material needed for repairs. An interagency incident command team will have responsibility for implementation of rehabilitation plans and programs, including getting fencing materials to contractors and permittees. Commissioner Dufurrena noted that part of the fencing and seeding within those boundaries was paid for by permittees, and then asked if some of that new fencing and reseeding would be

paid for by BLM since they managed the land. Mr. Abbey stated that cooperative agreements and other tools are available to address range needs and payment options for rangeland repair activities.

Commissioner Duferrena then asked about the availability of water. Mr. Abbey stated that he would soon be meeting with Mike Turnispeed, State Engineer, to analyze temporary solutions to water needs for rehabilitation in certain areas. These solutions may include allowing water developments on public lands without letting the question of ownership stand in the way of the need. Papers are scheduled to be filed with the Nevada Supreme Court regarding wildlife water rights in the state of Nevada.

Wendall Newman

Wendall Newman, State Executive Director, Farm Service Agency (FSA), USDA, and Chairman, USDA State Emergency Board, was unable to attend the meeting. Senator Rhoads entered Mr. Newman's written testimony into the record (see Exhibit N). As read by Michael Stewart, Committee Staff Director, his testimony concerned FSA emergency/disaster relief and explained that:

- Through a network of FSA offices throughout the state, field staff notify Mr. Newman of potential natural disaster problems. The national FSA office is then notified and informs the Secretary of Agriculture.
- The County Emergency Boards then begin a disaster assessment process which results in filing information reports with the State Emergency Board (SEB). The chairman may call a meeting of the SEB, whose membership includes all state USDA agency heads as well as representatives of certain state government agencies.
- The SEB met on August 11 and 19, 1999, to review reports regarding the wildfires. The SEB voted unanimously to urge Governor Kenny C. Guinn to request a natural disaster declaration by Dan Glickman, Secretary of Agriculture.
- Five northern Nevada counties were declared natural disaster counties on September 3, 1999, along with four contiguous counties, making them eligible for federal disaster assistance, including emergency loans, the Emergency Conservation Program (ECP), the Livestock Indemnity Program (LIP), and the Livestock Assistance Program (LAP).
- The FSA's immediate concern is to provide assistance on a priority basis. These priorities would include feed, fences, water for livestock, etc.
- The FSA is in partnership with other federal agencies, such as the BLM, the Forest Service, the Natural Resources and Conservation Service, the Small Business Administration, as well as state agencies including the Nevada Department of Agriculture and Nevada's Division of Forestry (NDF).

Pat Murphy

Pat Murphy, Deputy State Forester, NDF, State Department of Conservation and Natural Resources, entered into the record "An Assessment of Wildlife Losses Resulting from the 1999 Firestorm" (see Exhibit O). This document details the involvement of NDF in fire suppression efforts. He commented on the heavy involvement of the Division in those efforts. Within the 1.5 million acres lost to wildfire this year, between 300,000 and 500,000 acres are private land.

Michelle Gamble

Michelle Gamble, Nevada Association of Counties (NACO), presented a document entitled "Natural Resource Report, Wildfire Management, Executive Summary" (see Exhibit P). This report was commissioned by the Nevada Legislature in 1987. A report looking at suppression and rehabilitation efforts within the state was completed by NACO in December 1988, and presented to the 1989 Legislature. Of the twenty-nine recommendations contained in the report, only one was implemented.

The association participated in a wildfire summit in June of 1999, the purpose of which was to explore the wildfire danger and options for prevention and suppression. During the summit, the 1988 wildfire study was resurrected. The following recommendations were made by the summit:

- The development of a fire safety council. One of the tasks given the council was to review the Executive Summary of the 1988 report and review the current validity of the recommendations contained therein.
- Some of the recommendations in the Executive Summary are important, given the current wildfire situation, including:
 - Improve availability of needed plant materials and seeding techniques.
 - Develop minimum wildfire suppression training standards and programs.
 - Development of a specific fuels management plan.

The association is working in conjunction with the Governor's office to plan another wildfire summit later this year.

Ms. Gamble stated that all the cooperating agencies would be governed by a single entity, in order to facilitate the recommendations. She continued, noting that one of the recommendations from the Executive Summary is to redefine NDF's responsibility as a lead agency in the state for the planning, prevention, and rehabilitation efforts. It is critical to have one lead agency and NDF is actively involved in all aspects; and NACO believes they should be the lead agency.

Pat Murphy indicated that Governor Guinn has made that decision and that the Division of Emergency Management within the Department of Motor Vehicles and Public Safety will be that lead agency.

Ms. Gamble continued, stating that NACO, earlier this year, compiled a report and presented it to the Legislature concerning reviving Nevada's rural economy. She stated that some of the rural counties are suffering a worst case scenario due to the downturn in mining and the impact on rural agriculture due to land management practices and regulations. Many counties are at their property tax caps due to these factors, and of the five counties declared disaster areas due to this year's wildfires, three are within a few cents of being at the statutorily set property tax cap. The effort to rehabilitate public and private lands decimated by fire, Ms. Gamble concluded, is critical to these counties.

Assemblyman Marvel asked about the greenstripping method of rehabilitation. Mr. Murphy stated that the Burn Area Assessment Report recommends greenstripping as part of the overall program. So much public land has been lost, Mr. Murphy noted, that the amount of seed that is ordered will be close to four million pounds. The NDF is concerned about the availability of seed for private land. The seed for private land will cost approximately two to three million dollars, and the NDF has a budget of \$100,000. There is a shortage of funding for the needed purchase. The FSA has low cost loans available, but some of the land owners are unwilling to assume more indebtedness. There are cost-share programs available as well as also emergency watershed protection dollars available for private lands. Mr. Murphy further noted that:

- Included in his exhibit is a report from the state forester addressing the concerns over private lands. One of those concerns is the ability to use conservation crews to help clean up and rehabilitate private land. The cost for a conservation crew is \$250 per day, and Mr. Murphy expressed his concern about charging landowners for this service.
- Governor Guinn has ordered additional aid for fire victims. This allows the NDF to assist landowners in their efforts.

Commissioner Dufurennia noted that private landowners are already in debt, and have no desire to take on more debt for the rehabilitation effort. Mr. Murphy stated that crews would be available at no charge to help in the clean up and rehab effort, but noted that the question on responsibility for damaged or destroyed fencing on private land was still

undecided.

Senator Rhoads asked about a report that NDF is asking the Interim Finance Committee for six million dollars to cover costs. Mr. Murphy stated that those funds are to cover the costs of the suppression efforts. Part of these costs will be billed to the BLM.

Steve Hartman

Steve Hartman, Nevada Land and Resource Company, noted that:

- Nevada Land and Resource Company is the largest private landowner in Nevada, with about 1.4 million acres.
- Approximately 300,000 privately owned acres were lost to the fires.
- They are attempting to work with the BLM to "block up" some of the lands.
- Cooperation between federal, state, and local governments, as well as private landowners, is crucial.

OVERVIEW OF PROGRESS OF PENDING FEDERAL LEGISLATION PROVIDING FOR THE DISPOSAL OF LAND IN NEVADA (S. 719 AND H.R. 1506)

Senator Rhoads read a statement (see Exhibit Q) from Senator Harry Reid concerning Senate Bill (S.) 719, commonly known as the Nevada Public Lands Management Act of 1999 (see Exhibit R). As part of its formal recommendations at the end of the 1997-1998 Legislative Interim, the Committee on Public Lands requested that Senator Reid and Congressman Gibbons introduce the bill. It was then referred to the Senate Energy and Natural Resources Committee's Subcommittee on Forest and Public Land Management. This subcommittee held a hearing on July 27, 1999. Senator Rhoads stated that he had testified before the subcommittee as a member of a panel. Testimony from Larry Finfer, BLM, expressed opposition to the Act. At this time, no further hearings are scheduled. A companion bill, House Resolution (H.R.) 1506, has been introduced by Congressman Jim Gibbons. This measure requires the approval of county commissioners prior to the sale of public land. Additionally, S. 1129 was introduced by Senator Pete Dominici

(R-New Mexico), the intent of which is to facilitate the acquisition of inholdings of federal land, such as wilderness areas, national parks, wildlife refuges, and the disposal of surplus public lands in 12 western states.

Robert Uithoven

Robert Uithoven, District Director, Reno District, Office of Nevada Representative James A. Gibbons, reported that Congressman Gibbons looks forward to working on this bill with Senator Reid. Congressman Gibbons has not been contacted by Senator Domenici's office regarding S. 1129. The Congressman maintains the position that fifty percent of the proceeds generated from the sale and auction of public lands under H.R. 1506 should be returned to state and local governments. (See Exhibits S and T)

Senator Rhoads noted the inconsistency in BLM's support of the Southern Nevada Land Management Act of 1998, and its opposition to the Northern Nevada Land Management Act, as well as its support of the twelve-state version of S. 1129. Senator Rhoads stated that each state has different needs and problems, and should be treated individually.

Pamela B. Wilcox

Pamela B. Wilcox, Administrator, Nevada's Division of State Lands, stated that the Southern Nevada Land Management Act has been successful. The cooperation between the state, federal, and local governments is high. The foundation of both Acts is the ability of the federal government to approve disposal plans that are part of BLM's land disposal plans. Both Senator Reid and Congressman Gibbons are working within federal guidelines and using federal precedents to form these bills. The primary difference is the manner in which the proceeds of the land sales can be used. She stated further that:

- It would be helpful to have the state as a facilitator and coordinator in the process.
- The question about the revenue split should be negotiable. It was ten percent to the local government and five percent to the state in the Southern Act, and forty five percent to local governments and five percent to the state in the Northern Act.
- Ms. Wilcox noted that there is potential for the Domenici bill and the Reid/Gibbons bills to be combined. The Domenici bill would need to have adjustment of the percentages, as well as the list of purposes for which the money could be spent.

- In rural Nevada, the biggest issue is whether to allow the federal government to gain control over any more land, even if that land is considered environmentally sensitive. In both the Reid and Gibbons bills, there is a procedure for giving local governments some control over land sales.

Commissioner Dufurrena expressed his belief that the county commissioners should have input regarding land sale decisions. He asked Ms. Wilcox if any safeguards existed which would prevent a large corporation or wealthy individual from buying large amounts of land, and in turn putting numerous permittees out of business. Ms. Wilcox stated that the safeguard against that scenario in the Reid/Gibbons bill and the Southern Nevada Land Management Act is that the county and BLM should be working together during the land use appraising process when the BLM identifies the lands considered excess and that can be offered for sale. The counties need to be sure the lands the BLM says they are willing to sell are lands the county feels should be sold. Those questions should be examined for impact on local permittees. Additionally, the Act specifies that the BLM will sell all the identified land, but on a time table that is developed in coordination with the counties.

Assemblyman Collins asked about a specific situation where North Las Vegas has been attempting for several years to buy a 7,500-acre parcel of land, and is only allowed to do so in small parcels. Mr. Abbey stated that the Secretary of the Interior made the decision to dispose of that parcel in that manner, which is consistent with the North Las Vegas master plan, and provides equity to competitors. He stated further:

- The joint selection process is working well in Clark County.
- The first land sales are scheduled for November 1999.
- Based upon the estimated fair market value of those tracts of land, fifteen to twenty million dollars is expected to be generated.
- Those funds will be available to be used in Clark County, by several federal agencies.
- The administration is interested in a western-wide effort to dispose of suitable public lands, and then using the funds from the sale of those lands to acquire environmentally sensitive lands within those states.
- The BLM has identified over one million acres of public land that could be available for disposal.
- Many of these acres are adjacent to towns and cities that are in need of expansion and economic opportunity.
- The BLM pursues opportunities to dispose of those lands, primarily through exchanges.

Assemblyman Collins then asked if the Act has any provision to prevent the forced sale of land by unwilling owners. Mr. Abbey stated that, in Nevada, BLM policy is to only acquire land from willing sellers.

Senator Rhoads asked if the Winnemucca District Resource Management Plan (RMP) had been finalized. Mr. Abbey stated that the RMP is one of BLM's oldest plans in effect, and has been identified as one that needs to be updated. The Winnemucca RMP is generic concerning which lands are available for disposal.

PUBLIC COMMENT

Pete Goicoechea, Eureka County Commissioner, wished to make the following points:

- •With regard to vacant allotments held by the USFS, some do have suspended permits, but most are adjudicated allotments and some consideration should be given to the permittee that holds that block.
- •*Nevada Revised Statutes* clearly allows for minimum maintenance for county roads as long as they are posted and the county is not liable.
- •The Western Coalition of Counties, a group of counties from western states, will be attempting to bring pressure upon Congress to consider and take action on the wilderness study areas.
- •He welcomes the BLM's flexibility and willingness to work with each permittee regarding the rehabilitation efforts.
- •The fire summit mentioned by Michele Gamble is a needed event.
- •There is concern about land bills, such as the Southern Nevada Land Management Act, which could provide the means for a massive buyout of Northern Nevada land labeled environmentally sensitive.

Frank Lewis, Nevada Prospectors and Mining Association, made the following comments:

- He commended the Dobra report and requested that the report have wider distribution, and furnished the committee with a list of recommended recipients.
- In Nevada, roads are classified as major and minor (requiring no maintenance, and no liability is assumed by the state).
- There is no cooperation between the federal government, the Forest Service, and individuals, on the road issue. The government doesn't recognize the individual's rights to those minor roads.
- A federal law was in effect until 1985 that gave any person who built a road a grant of right-of-way. The USFS doesn't recognize that law. Individuals are now required to obtain a special use permit for road construction, at which time the individual is considered to have admitted his lack of a right-of-way grant.
- The USFS can fine the permittee if roads are not maintained to USFS standards.
- The USFS can terminate the special use permit at any time.
- He wanted to do some exploratory work on mining claims in White Pine County. The USFS deemed the road to the claims too steep, wouldn't allow tree removal, and instructed Mr. Lewis to obtain a permit and build a new road, at a cost of roughly \$150,000. He would then have to return the new road bed to its natural condition after the completion of his exploration.

Karl Wickstrom, President, Twayco Corporation, Reno, expressed concern regarding the following issues:

- Access to mining claims via roads on federal lands;
- The need for expansion of a consumer/market base for minerals other than gold;
- His concerns regarding the treatment of miners and mining operations by various federal agencies; and
- The recent listing of the Bull Trout (in northeastern Nevada) as a threatened species.

Warren Russell, Chairman, Elko Public Utilities Commission, made the following comments:

- While the Northern Nevada Land Management Act has some good qualities, one of the major concerns of Elko County is that a sale of land in Washoe County may translate into a BLM acquisition of even more land in Elko County.
- Property and inheritance taxes can be so large that heirs have no choice but to sell the land to pay these taxes. Private property is then converted to public lands at a rate which would mean a decrease in the amount of private property in the state of Nevada.

Assemblyman Marvel noted that several years ago, during the debate over the Olympic Land Exchange (Mary's River Area), which would have devastated Elko County, the committee stopped the exchange until equity was achieved. The Legislature and counties will be very careful about the exchanges.

Nolan Lloyd, Elko County Commissioner, stated that, in defense of Elko County in the matter of the Jarbidge Road, the allegations contained in the letter presented to the committee (see Exhibit F) are false.

Todd Process, American Assay Labs, People for the U.S.A., expressed concern regarding the rise in archeological surveys and studies required before exploration can be carried out. Some of these items that trigger a survey are not valid artifacts, and yet delays exploration and hurts the mining industry. If BLM is requested to do the survey, it can be a time-consuming project, and mining exploration can be delayed.

He also noted that the Toxic Release Inventory will classify Nevada as the number one toxic release state in the country when the report is issued in January.

Robert Abbey, BLM, stated that an artifact is classified as such if the item is 50 years of age or older. The surveys are very time consuming, but BLM is trying to cope with the overload by using contractors. The BLM in Nevada also uses previously gathered information in their efforts to make decisions. Assemblyman Neighbors asked who was responsible for the cost of such surveys. Mr. Abbey stated that the proponent of the action is responsible for the cost.

Shelly Wadsworth, Lincoln County Planning Coordinator, expressed concern that BLM land exchanges would result in loss of private land that is classified as environmentally sensitive. In Lincoln County, the BLM's "wish list" includes some of the best land in the county. She continued, stating that:

•The lack of grazing has contributed to the fire load build-ups in Lincoln County. One of the proposals before the commissioners in Lincoln County to decrease the fire danger on Mt. Wilson is to create a mosaic. Ms. Wadsworth questioned the wisdom of killing trees, which may cause a greater fire hazard. She suggested opening the area to firewood harvest, which would clear the trees, rather than leaving the dead trees standing.

- The Lincoln County Land Act will be supported by the Lincoln County Commissioners with the understanding that growth in the city of Mesquite (in northeastern Clark County) will not impact on various land exchanges in Lincoln County. Dennis Ryder, a proponent of the plan, will pay for expenses so that land exchanges are not affected.
- She reported that Pioche has a severe fire danger due to rye and cheat grass on the surrounding hills.
- She thanked the committee for the "land in lieu of PILT" (Payments in Lieu of Taxes) resolution (S.J.R. 1 of the 1999 Legislative Session). Lincoln County is supposed to receive approximately \$800,000 per year in PILT payments from the Federal Government.
- Miners and ranchers are being regulated out of existence.
- The Endangered Species Act is beginning to once again have effects in Lincoln County. She suggested that a definition for "viable" be agreed upon by all parties. Lincoln County's Land Act has a section which defines some of the terms used in the Endangered Species Act which occasionally cause confusion.
- The Army Corps of Engineers permits are being reinstated. The state of Nevada is opposed to some of the changes, and significant impact is expected in private land usage.

WORK SESSION

Senator Rhoads announced that the Department of Agriculture has requested one member of the committee to sit on the Nevada Invasive Species Council. Assemblyman Marvel was appointed.

NEXT MEETING DATE AND ADJOURNMENT

The committee will attend an informational tour in Washington, D.C. on October 27 and 28, 1999.

The committee's next meeting will be held in Lovelock, on December 15, 1999.

Exhibit A is the "Attendance Record" for this meeting.

There being no further business before the committee, the meeting was adjourned at 4:10 p.m.

Respectfully submitted,

Terrie Williams

Research Secretary

Michael J. Stewart

Senior Research Analyst

APPROVED BY:

Date: _____

LIST OF EXHIBITS

Exhibit A is the "Attendance Record" for this meeting.

Exhibit B is a document entitled "State Printing Price Quotes for Business Cards and Letterhead."

Exhibit C is the "Approved Budget and Proposed Work Plan," presented by Michael J. Stewart.

Exhibit D consists of two documents from the Humboldt River Basin Water Authority, entitled "Request to the Legislature's Public Lands Committee for a Grant to Evaluate Water Management Alternatives in the Humboldt River Basin" and "Request for Proposal No. 99-01 for Humboldt River Basin Regional Water Management System," presented by John H. Milton, III, Humboldt County Commissioner

Exhibit E is an overview of 1999 legislation presented by Michael Stewart, entitled "1999 Nevada Legislation Regarding Public Lands and Natural Resource Issues."

Exhibit F is the "South Jarbidge Canyon Briefing Paper" presented by Gloria Flora.

Exhibit G is the written statement of Alan R. Coyner, Administrator, Nevada Division of Minerals.

Exhibit H is a written copy of the statement of Russ Fields, President, Nevada Mining Association.

Exhibit I is the "Economic Overview of the Nevada Mining Industry - 1998" by John L. Dobra, Ph.D., prepared for the Nevada Mining Association and presented by Russ Fields.

Exhibit J is the "Economic Impacts of Proposed Changes in U.S. Mining Laws and Public Lands Regulations on Nevada" presented by John L. Dobra, Ph.D.

Exhibit K is a folder entitled "BLM Nevada" presented by Robert Abbey, BLM.

Exhibit L is a group of letters from the Filippini Ranching Company of Battle Mountain and presented by Senator Rhoads

Exhibit M is a copy of the Fire Resolutions of the Nevada State Grazing Board, District N-6.

Exhibit N is the written testimony of Wendell Newman, State Executive Director, Farm Service Agency, USDA.

Exhibit O is a document entitled "Wildfire: An Assessment of Wildlife Losses Resulting from the 1999 Firestorm" presented by Pat Murphy, Deputy State Forester, Nevada's Division of Forestry.

Exhibit P is a document entitled "Wildfire Management - Executive Summary" prepared by the Nevada Association of Counties and presented by Michelle Gamble (NAC).

Exhibit Q is a position paper by Senator Harry Reid concerning S. 719.

Exhibit R is a copy of S. 719.

Exhibit S is a position paper by Congressman Jim Gibbons concerning H.R. 1506.

Exhibit T is a copy of H.R. 1506