

**MINUTES OF THE MEETING
OF THE
LEGISLATIVE COMMITTEE ON PUBLIC LANDS**

(Nevada Revised Statutes 218.5363)

October 23, 1998

Reno, Nevada

The ninth meeting of the Nevada Legislature's Committee on Public Lands (*Nevada Revised Statutes* [NRS] 218.5363) during the 1997-1998 interim was held on Friday, October 23, 1998, 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 Lawrence E. Jacobsen

Assemblyman John C. Carpenter (alternate)

Assemblyman P. M. Roy Neighbors

Assemblywoman Genie Ohrenschall

COMMITTEE MEMBERS ABSENT:

Senator Dina Titus

R. Llee Chapman, Elko County Commissioner

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Michael J. Stewart, Senior Research Analyst

J. Randall Stephenson, Senior Deputy Legislative Counsel

Ann Iverson, Deputy Legislative Counsel

Linda Chandler Law, Senior 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: Friday, October 23, 1998

8 a.m.

Place of Meeting: Washoe County Commission Chambers

1001 East Ninth Street

Reno, Nevada

A G E N D A

W O R K S E S S I O N

I. Opening Remarks and Introductions by Chairman

Senator Dean A. Rhoads

***II. Approval of the Minutes of Meeting Held on September 11, 1998, in Tonopah, Nevada**

***III. Reports to the Committee**

***A. Overview of the "Draft Nevada Wild Horse Management Plan for Federal Lands"**

Catherine Barcomb, Administrator, Commission for the Preservation of Wild Horses, State Department of Conservation and Natural Resources (DCNR)

***B. Review of Elk Management Issues in Nevada**

Rey Flake, Vice Chairman, Lincoln County Board of Commissioners

Terry Crawforth, Administrator, Division of Wildlife, DCNR

***C. Update on Military Issues in Nevada and the United States Department of the Interior, Bureau of Land Management (BLM), Final Communication Sites Plan Amendment**

Captain D. A. Rogers, Commanding Officer, U.S. Navy, Naval Air Station

Fallon

Representative, BLM

Lt. Colonel William Garner, Director, Nellis Air Force Range Renewal,

U.S. Air Force, Nellis Air Force Base

Heather Elliott, Grants and Projects Analyst, Nevada's State Clearinghouse

Alan R. Coyner, Administrator, Division of Minerals, Nevada's Department of Business and Industry

***D. United States Forest Service (USFS) Activities in Nevada and Introduction of New Forest Supervisor for the Humboldt-Toiyabe National Forest**

Gloria Flora, Forest Supervisor, Humboldt-Toiyabe National Forest, USFS

*E. Overview of Nevada's Seedbank Program

Patrick M. Murphy, Deputy State Forester, Division of Forestry, DCNR

*F. Summary of Road and Access Issues in Nye County and Central Nevada

Richard L. Carver, Chairman, Nye County Board of Commissioners

IV. Public Comment

WORK SESSION

*V. Committee Discussion and Final Recommendations

Note: During this portion of the meeting, the committee members will discuss and take final action on recommendations proposed at meetings held this interim. These proposals are outlined in a document from which the members will be working when determining final recommendations. Any person desiring to review the document that includes previously proposed recommendations may obtain a copy from Michael J. Stewart, Committee Staff Director, Research Division, Legislative Counsel Bureau, Carson City; telephone: 684-6825 (toll-free from Las Vegas: 486-2626; toll-free from other areas of Nevada: 1-800-992-0973).

*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 Linda Chandler Law, at 702/684-6825, 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; Carson City Courthouse, 198 North Carson Street; Legislative Building, Room 1214, 401 South Carson Street; 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.

OPENING REMARKS AND INTRODUCTIONS BY CHAIRMAN

Chairman Rhoads:

- Called the ninth meeting of the committee to order at 8:22 a.m.;
- Noted Senator Dina Titus and Elko County Commissioner R. Llee Chapman were absent and alternate member Assemblyman John C. Carpenter was present;
- Asked the members and staff present to introduce themselves;
- Explained that, during this interim the committee visited rural and urban communities throughout the state to receive updated information on more than 50 public lands issues facing residents and to encourage cooperation among the federal and state land agencies and those who use the public lands for business and recreation;
- Said that some agenda items would be taken out of order to accommodate witnesses' schedules, and during the work session certain items listed on the "Work Session Document" (WSD — see Exhibit A), which required no further discussion, would be considered in a single "consent" motion by the members; and
- Referred to a memorandum to the committee dated October 23, 1998, titled "Enclosed Materials," from Staff Director Michael J. Stewart, which was included in members' packets to provide additional information about topics that may be discussed during this meeting. See Exhibit B.

APPROVAL OF THE MINUTES OF MEETING HELD ON

SEPTEMBER 11, 1998, IN TONOPAH, NEVADA

Chairman Rhoads called for action on the minutes of the previous meeting.

ASSEMBLYMAN MARVEL MOVED TO APPROVE THE MINUTES OF THE EIGHTH MEETING OF THE COMMITTEE, HELD ON SEPTEMBER 11, 1998, IN TONOPAH, NEVADA.

SENATOR JACOBSEN SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY WITH ALL MEMBERS VOTING IN FAVOR EXCEPT ASSEMBLYWOMAN OHRENSCHALL WHO WAS ABSENT FROM THE ROOM.

REPORTS TO THE COMMITTEE

OVERVIEW OF THE "DRAFT NEVADA WILD HORSE MANAGEMENT PLAN FOR FEDERAL LANDS"

Catherine Barcomb

Catherine Barcomb, Administrator, Commission for the Preservation of Wild Horses, State Department of Conservation and Natural Resources (DCNR), referring to the "Draft Nevada Wild Horse Management Plan for Federal Lands" (see Exhibit C), testified that:

- Eight meetings were held throughout the state prior to the compilation and publication of the draft plan in August 1998, which was forwarded to the State Clearinghouse, Budget Division, Nevada's Department of Administration, and other agencies affected by wild horse issues;
- On November 6, 1998, the full commission will meet in a work session to discuss and vote on the content of the final plan;
- Presentation of the final report will be made to the director of the DCNR for approval in December 1998, and then it will be submitted to the Legislature before the 1999 Session;
- At those meetings, various and extreme views were presented; however, the common theme that emerged was that management strategies should be used to attain appropriate management levels; and
- Although sale authority was discussed at the statewide meetings, it is too early to surmise what provisions might be included in the final plan; however, the commission policy has been against sale authority in the past.

Assemblyman Carpenter noted that sales authority:

- Was a "main point" recommended by "a great majority" of the participants at those meetings;
- Received only minor mention in the draft, rather than being made a prime option; and
- Was supported by state and county agencies that submitted letters in favor of that option, who now question why that alternative received little recognition in the draft.

Senator Rhoads noted that, since the Nevada Legislature has no control over wild horses or 87 percent of the land on which they roam, if the final report does not include sale authority:

- There is nothing the Legislature can do to amend the plan.
- Even if resolutions are submitted to the Bureau of Land Management (BLM) to restrict the numbers of horses on the range, without sale authority and other management techniques being applied this year, herds will grow

substantially before additional gathers can take place in July 1999.

- Ranchers in the Rock Creek area, for instance, who are supposed to have no more than 250 head of horses on their land now have 600 to 800 and may have 1,100 by July 1999.
- The current adoption program alone is simply not adequate to address population concerns.

He questioned whether the final report and plan will include serious steps toward curtailing and reducing populations.

Ms. Barcomb responded that:

- The number of animals in the adoption program corrals has been reduced;
- Appropriate management levels (AMLs) are being established for various areas through the land use planning process; and
- Once those regional AMLs are identified, the means of achieving them will be determined.

Chairman Rhoads said it has been recognized at federal and state meetings that the problem is "getting rid" of the animals, not in agreeing that there are too many. The adoption program tends to select out the young, better conditioned horses and return to or leave on the range those that are crippled, old, or otherwise undesirable. If a rancher managed his herd in such a manner, he would be "out of business in less than three years."

Ms. Barcomb noted that age structure is addressed in the draft plan. The state will make recommendations to the BLM, from which it will glean what it wants to apply.

Continuing, Senator Rhoads noted that he testified at a federal hearing in Reno on this issue. In 1971 or 1972, the wild horse and burro adoption program cost \$3 million and by 1997, its budget had surpassed \$39 million; yet, more horses and burros are on Nevada's public lands today than were present at the beginning of the program.

Senator Jacobsen asked Ms. Barcomb to provide a current inventory of animals by county and, if possible, an update of that information by February 1999. In addition, Assemblyman Carpenter requested that those figures be provided by each BLM district. A brief discussion followed, and members agreed it is important that the final plan accurately reflect the concerns of the committee and the state's residents over the increasing number of wild horses and burros in Nevada.

REVIEW OF ELK MANAGEMENT ISSUES IN NEVADA

Rey Flake

Rey Flake, rancher and Vice Chairman, Lincoln County Board of Commissioners, explained:

- The crowding effect that elk and wild horses and other animals have had on the range and how that has impacted domestic herds in the state;
- It is becoming more difficult for ranchers to maintain a traditional lifestyle for their families and, at the same time, protect the environment; and
- When a rancher manages his appurtenant range responsibly, the wildlife is naturally attracted to the land; then, the rancher must try to manage both herds and attempt to preserve the grazing resource while staying economically viable.

He thanked the members of the committee for the time committed to public lands issues and meetings throughout the state. He also stated that:

- Because of unusually high moisture levels, 1998 has been a good feed year and, therefore, stresses that the elk usually put on the land have been relieved somewhat;

- There is a need to assess overall range problems to prevent depredation in future dry years;
- Residents of Lincoln County are concerned about a lack of commitment exhibited on the part of Nevada's Division of Wildlife (NDOW), DCNR, personnel;
- Ranchers of long standing in the county were told by NDOW in the 1970s that if they would not oppose the planting of elk in the area, herds would be limited to about 50 head; the total population in the county has increased continually and now stands at about 5,000 head;
- Though ranchers' animal unit months (AUMs), which measure the appropriate numbers of cows or sheep to graze on public lands, have been reduced or suspended during that time, the introduction and resultant increased level of elk grazing has supplanted any vegetative resource savings;
- Even though hunting tags are being issued, the number allotted does not offset additions to the herd nor does it consider hunter success or the need to reduce the total number of wild animals overall;
- In fairness to everyone, in his view, previously suspended AUMs should be returned to ranchers before elk are allowed to freely graze on those areas;
- As demonstrated on the Lytle Ranch in Spring Valley northeast of Pioche, it has become impossible for ranchers to rotate and rest pasture land effectively due to the feeding patterns of elk herds, and such ranchers have been long-concerned over NDOW's unwillingness to control the numbers of elk;
- As mentioned in previous meetings, at the Geyser Ranch (located on the border between Lincoln and White Pine Counties), elk are seen in its meadows during eight months of each year. This area experiences the highest levels of elk depredation on private and adjacent public lands in the state;
- The manager of the private ground on the Geyser Ranch (Merlin Flake) is prepared to have 35 head of elk on that site; however, the land cannot sustain the 150 to 175 that are there now, at least 50 of which were born recently on private meadows;
- When NDOW proposed to build 17 miles of elk fencing around the Geyser Ranch, Merlin Flake contended that doing so would only move the depredation problem onto adjacent public lands and riparian areas, and he further suggested that the size of the herd should be reduced; and
- Employees of NDOW, responding to Merlin Flake, asserted that: (1) the agency could not "address or prevent a problem until it was documented," (2) it is a private landowner's duty to provide feed and habitat for the elk herd, and (3) NDOW is not concerned with the resource because it only manages the animals. In his view, those responses demonstrate an "irresponsible" management approach that could not be viable for a private businessman who must consider the welfare of the resource.

Following a brief discussion, Mr. Flake added:

- A more cooperative relationship needs to be established between NDOW and ranchers since: (1) the ranchers hold the water rights; (2) elk drink large quantities of water, often from facilities supplied by the rancher; and (3) wildlife eats feed and forage originally authorized or raised for domestic herds.
- Through the Coordinated Resource Management Steering Committee, an Elk Technical Review Team (TRT) has been operating to make recommendations to the steering committee.
- Bevin Lister is the chairman of that TRT and has encouraged all members to be proactive on this issue and ready to change perspectives to reach practical solutions; however, representatives of NDOW have, in Mr. Lister's view, been less than committed to reducing and controlling the numbers of elk on the land.

In Mr. Flake's own experience:

- NDOW has presented no criteria for establishing population goals for elk.

- NDOW has indicated that: (1) it intends to run as many elk on the land in Lincoln County as it can "get away with," (2) elk will become prevalent everywhere, even in those areas where elk were traditionally absent, (3) elk herds must be planned for, regardless of whether they adversely affect ranching and hunting of other species, and (4) although elk will not be "planted" in some areas, they will be allowed to pioneer into new areas.
- Ranchers certainly cannot use such animal management techniques and, if domestic herds were allowed to stray onto neighboring or unauthorized allotments and lands, ranchers would be held responsible for remedying the situation and subject to sanctions.
- The public perceives NDOW as a state agency subject to the Legislature, and the Legislature should demand that NDOW act in a responsible manner in its management of elk herds.

Responding to questions from the members, Mr. Flake said that in Lincoln County:

- Approximately 30 percent of AUMs have been lost since 1980, and most of the grazing represented by those AUMs has been taken over by elk. If there is not enough resource for cattle, then the resource should not be relegated to the wild herds.
- There has been little response from the BLM on this issue; however, when the bureau does comment, it asserts that game animals are managed by NDOW.
- No direct answer has been given to explain why AUMs continue to be suspended when elk are allowed to move into affected areas and graze freely.
- The cumulative economic impact of the loss of AUMs in the county has been approximately \$3 million per year, including the negative impacts on land values.
- Such losses are substantial in a county that is struggling to provide basic services and in which 98.2 percent of all the land is controlled by Federal Government agencies.

In conclusion, Mr. Flake said it is necessary for residents of the county, including ranching and other businesses, to have access to public lands if they are to survive and keep the local economy sound.

Terry Crawford

Terry Crawford, Administrator, NDOW, DCNR, presented an outline titled "Review of Elk Management Issues in Nevada" (see Exhibit D); and "Proposed Regulation of the Board of Wildlife Commissioners, Commission General Regulation 265" with copies of brochures titled "Special Incentive Elk Tags," "Elk Damage Compensation Program," and Nevada's Deer and Antelope Damage Compensation Tag Program" (see Exhibit E). Responding to questions from the committee, he:

- Concurred that a better working relationship should be developed to resolve these concerns, and NDOW has worked to do that in recent months;
- Ensured the committee that much has been accomplished but more needs to be done in Lincoln and White Pine Counties;
- Commented that it is not the responsibility of private property owners to provide habitat for elk;
- Indicated that population goals will be developed and set forth as part of local elk plans; and
- Concluded that no legislative recommendations are anticipated for the 1999 Legislative Session.

Mr. Crawford, referring to Exhibit D, described:

- Progress on the Elk Species Management Plan, which is a comprehensive history of management goals and strategies and contains all applicable laws, policies, and regulations regarding elk in Nevada.

- The statewide elk population, which was 4,800 animals in April 1998.
- The status of the Elk Damage Mitigation Fund.
- Activities initiated by or participated in by NDOW, including planning efforts in Elko, Lincoln, and White Pine Counties and elsewhere in the Ely BLM District
- Involvement in wild fire suppression, noxious weed abatement, water resource development for wildlife, the construction of depredation fencing (using some honor camp labor), emergency depredation hunts on the Geyser Ranch, and the purchase of the 3C Ranch located south of Ely.
- NDOW's objective, which is to restore rangelands to benefit livestock and wildlife, and his directive to division employees to aggressively pursue the resolution of problems involving elk damage to private lands, agricultural crops, and improvements.

Related to NDOW's pending purchase of the 3C Ranch from the El Tejon Cattle Company, for which the Rocky Mountain Elk Foundation is acting as broker, Mr. Crawforth also:

- Explained that the purchase price for the 6,400 acres near Cave Lake south of Ely is anticipated to be approximately \$4 million, including about 10,000 acre-feet of water rights;
- Noted that the appraisal is due about November 15, 1998;
- Said that property, known as the Tamberland grazing allotment, will be opened to elk;
- Indicated that the money for that purchase will come from various sources, including "Question 5 park and recreation bond funds";
- Commented that White Pine County has been supportive of the purchase;
- Clarified that NDOW will make "Payment in Lieu of Taxes" (PILT) payments to the county if the transfer is completed; and
- Noted that subsequent exchange activities related to private in-holdings in the area are possible.

Senator Rhoads expressed his concern about the conversion of private ranch lands to elk grazing and various public purposes, through the efforts of Clark County, mining interests, NDOW, and others. He noted that, to his knowledge, part or all of 19 ranch properties have been "lost."

Mr. Crawforth further noted that:

- His personal philosophy is that agricultural activities are needed on the land;
- The Geyser Ranch will not be fenced, as originally planned;
- The public has been requested to report when elk are sited in areas where they are not supposed to be;
- The number of elk tags issued is based on harvest suggestions made by county wildlife commissions and wildlife advisory boards, and 300 more licenses were issued for the 1998 season than for the previous season; and
- The numbers of elk do need to be controlled by NDOW, based on resources available and on private property requirements.

Chairman Rhoads asked why AUMs for cattle and sheep have been suspended or reduced significantly while the presence of elk on the same land has increased.

Responding, Mr. Crawford said that NDOW:

- Does not expect wild animals to damage either private or public range land;
- Will move aggressively to work with permittees, landowners, and management agencies to ensure that damage does not occur (see Exhibit D) through, among other methods, depredation hunts;
- Does not plan to import more elk into Nevada and plans to do a "better job" managing existing herds; and
- Will work with interested parties to complete local wildlife and management plans.

Assemblyman Carpenter suggested that in the event any of the 3C lands purchased by NDOW are not needed in the future, those lands should be sold to private individuals rather than being exchanged for lands in other parts of the state.

Mr. Crawford explained that the BLM has no need for additional lands near the 3C, and it is not the intent of NDOW to dispose of the related meadow lands to federal management agencies. He underscored that White Pine County had initiated NDOW's interest in the 3C property acquisition.

Senator Jacobsen said that it is important for all parties to understand how much land is owned and controlled by management agencies and that carrying capacities for cattle and elk, as well as other animals, should be established. Perhaps a formula, based on a cow-to-elk ratio, should be developed for that purpose. In addition, maps and other statistical data should be collected and compiled to graphically demonstrate the magnitude of the situation in each county. In his view, although these issues are discussed each year, Nevada is no closer to a determination of carrying capacities or a solution to many range related problems than it was 20 years ago.

In conclusion, Rey Flake agreed and commented that there is a need to "hold the line" on elk populations until carrying capacities can be firmly established; otherwise, the problem will continue to worsen drastically.

Mr. Crawford noted that the key to solving these issues is cooperation between interested parties, and he is confident that solutions can be achieved. Although some parties are calling for "a lot more elk in Nevada," there is a need to take "better care" of the animals already on the land. It is also important to ensure that herds stay healthy, especially if elk ranching is pursued in the state.

UPDATE ON MILITARY ISSUES IN NEVADA AND THE UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT (BLM), FINAL COMMUNICATION SITES PLAN AMENDMENT

Captain David A. Rogers

Captain Rogers, Commanding Officer, U.S. Navy, Naval Air Station (NAS) Fallon, who took over base command on August 20, 1998, provided a series of slides and a map to illustrate his presentation (see Exhibit F), and explained:

- The assets, functions, and mission of the NAS Fallon Naval Strike and Air Warfare Center (NSAWC), which originated in 1942, was expanded to include air wing training in 1984, and further enhanced with the addition of "Strike U, Top Gun, and Top Dome" in 1996 to become the primary authority for naval, graduate-level aviation strike warfare training for individuals and carrier air wings;
- The assets, capabilities, and training statistics for the Fallon Range Training Complex (FRTC);
- The FRTC Development Plan's improvements, realignments, and upgrades for equipment, infrastructure, and training facilities (some of which are affected by the National Environmental Protection Act [NEPA] process and some of which are not);
- Recent meetings with BLM Director, Pat Shea, and Assistant Secretary of the Navy staff regarding the environmental impact statement (EIS) scoping meetings for the FRTC plan and the need to inform the public about what the Navy is trying to accomplish;

- How NAS Fallon differs in function, mission, and physical form from Nellis Air Force Base (AFB) in Clark County;
- How electronic training systems allow for the tracking of training missions and how they are expected to evolve and improve over the next decade. By 2001, new methods will lead to an expanded training capability coupled with a reduction in the number of tracking instrumentation sites (TIS) on the range; and
- The change in the BLM's Central Nevada Communication Sites Modified Final Plan Amendment, which allows the Navy to apply, on an individual EIS basis, for the location of four new electronic warfare (EW) sites.

Captain Rogers expanded on the need to: (1) realign the training area known as Bravo 16 for noise abatement purposes; and (2) withdraw an additional 127,000 acres of BLM land that is adjacent to or part of ranges Bravo 16, 17, and 19, which has already been "disturbed with off-range ordnance," to create a safety buffer. He also extended an open invitation to members and staff of the committee to tour the Fallon facilities.

In response to questions from the committee, Captain Rogers indicated:

- On any given day, on average, there are approximately 100 to 150 flights or "sorties" from NAS Fallon.
- Over the past few years, due to reductions in the military budgets, the Navy has adopted a plan of "tiered readiness."
- Because of the cyclical nature of naval operations, the Navy's ability to support forward deployed naval forces and those troops who are approaching deployment is still "very good"; however, the Navy's ability to support personnel who have just come off deployment has suffered significantly.
- As a result, it is argued that there has been a negative effect on overall military readiness, e.g., the ability to respond to a threat such as Desert Storm in the Persian Gulf.
- This situation is reflected in the training statistics at Fallon, which indicate lower preparedness levels, and that makes the training capabilities of NAS Fallon more critical.
- Fallon is involved in the training of troops for foreign governments during three joint annual exercises, i.e., one that includes representative from Germany and two that include Canadians.
- The search and rescue detachment, which consists of three H-1 helicopters at Fallon, has a collateral mission to provide emergency services in Nevada (more than 40 such missions were flown during this last year).
- The defense spending bill does not include any new military construction at NAS Fallon for the next two years; however, to complete a \$40 million construction effort at the base, some construction is ongoing.

Captain Rogers elaborated on the similarities and difference in the training carried on at NAS Fallon and Nellis AFB and outlined the attendant training costs.

In conclusion, Captain Rogers stated that he would provide information, maps, and statistics (from the EIS) on the effect on grazing and mining in the identified area of the 127,000-acre withdrawal. He noted that the congressional document that will authorize the withdrawal must set forth details adjudicating payment for AUMs and mining claims on that land. Proposed Category A lands, those that will be closed to public activities, will include 13 mining claims. Proposed Category B lands, the largest part of the withdrawal, will allow for the continuance of grazing and mining activities.

Colonel Wilhelm F. Percival

Colonel Wilhelm F. Percival, Range Management Office, U.S. Air Force, Nellis AFB, explained that he is Commander of the Nellis Air Force Range (NAFR) and gave a general overview of that military facility. He said Nellis AFB and range is a national asset from several perspectives, and it is an area:

- Where new weaponry can be tested freely;

- Where tactics for those new weapons can be developed to provide combat readiness;
- Where personnel can be trained in the use of those tactics and weapons prior to entering combat. Since statistically the first ten missions are the most dangerous, the training scenarios created and practiced at Nellis are essential safeguards for airmen;
- Of irreplaceable air space and training ranges that benefit national security; and
- That contains a large cache of cultural and natural resources.

The Air Force is committed to:

- Minimizing the impact of its operations on the affected environment. It has contracted with a private company that has collected, scrapped, and recycled over 1 million pounds of ordnance and other range residue from the target areas;
- Recognizing that the American public has loaned this land to the military to fulfill its mission; and
- Encouraging public discourse and ensuring dialogue relative to its current range renewal program, including the draft legislative environmental impact statement (LEIS). Public hearings on that LEIS will be held throughout the state between November 9 and 17, 1998.

Responding to questions from the committee, Colonel Percival said:

- The term "Ops Tempo" or operations tempo indicates to what extent people are working, gone from home, and so forth.
- During the last few years, overseas deployment has had a "huge impact" on personnel; and, although pilots and crews may amass a large number of hours flying to and over places such as Bosnia, those hours do not represent effective or "good" training time.
- Assessment of troops participating in "Red Flag" combat training exercises held at Nellis has shown that trainees are not as "sharp" as they were previously, and that erosion is apparently the result of reduced military budgets coupled with the effects of "peacekeeping" deployments.
- Supply and spare parts shortages also have been experienced for older weapons systems.

He discussed the Air Force's reorganization, which has grouped resources from various bases into ten expeditionary wings that periodically practice as a unit. That training and utilization concept is similar to the Navy's and has impacted the way the range is used. The Nellis range is the only area in the nation where Air Force personnel can execute that type of group training.

Following a question from Mr. Neighbors, Colonel Percival explained that *Public Law* 99-606, passed in 1986, gave the Air Force, under the auspices of the U.S. Department of Defense, the opportunity to use BLM and U.S. Fish and Wildlife Service (USFWS) land for national security purposes for a period of 15 years. The renewal process for that use has begun. The Tolicha Mining District, located in Esmeralda and Nye Counties, was the subject of Senate Joint Resolution No. 25 (File No. 122, *Statutes of Nevada*), passed by the Nevada Legislature in 1995. That measure, which requested the release of lands in that district that are highly mineralized, was supported by the affected counties and is being considered in the NAFR renewal process.

Assemblyman Neighbors said that during discussions with military officials in Washington, D.C., it was indicated that approximately 35,000 acres near the Tolicha Mining District just north of Beatty might not be renewed. Colonel Percival said that issue is considered in the LEIS and would be addressed by Lieutenant Colonel Garner. However, he noted, the Air Force is concerned that adequate "security buffers" be maintained around training areas that utilize classified tactics and weapons to ensure public safety and security. In his view, however, the renewal process is committed to "making sure" that lines are not drawn to include land that unnecessarily excludes dual or multiple use.

Lt. Colonel William Garner

Lt. Colonel William Garner, Director, Nellis Air Force Range Renewal, Nellis AFB, presented a series of slides (see Exhibit G) and a copy of the *Keystone Dialogue on Nellis Air Force Range Stewardship* (see Exhibit H) for further information on the potential impact to that mining district and other areas adjacent to the range. He then:

- Updated the committee on the NAFR renewal process;
- Discussed the impact of renewal on mineral resources; and
- Described the Keystone Dialogue process and report.

Referencing the renewal of P.L. 99-606, Lt. Colonel Garner explained that:

- The withdrawal currently affects a total of approximately 7.1 million acres of land in Alaska, Arizona, Nevada, and New Mexico.
- The NAFR renewal applies the original land withdrawal as well as parcels added in 1988 at Groom Mountain and in 1995 as a safety and security buffer, for a total of about 3 million acres in this state.
- The Nellis range is crucial since it provides a realistic testing a training environment of a size that ensures national security while protecting public safety.
- The renewal process includes the: (1) filing of a notice of need and a withdrawal application three years prior to the termination of the original term of P.L. 99-606; (2) publishing of a draft LEIS prior to November 6, 1998; (3) holding of hearings on the draft LEIS; and (3) granting of the extension or renewal through an act or joint resolution of the U.S. Congress.
- Many meetings were held since May 1996 and will continue through November 17, 1998.

The two options that will affect the mineral resource utilization on the 30,000 to 35,000 acres along the western border of the range, include: (1) nonrenewal for an indefinite period of time; or (2) nonrenewal for a period of 25 years. In the event those acres are not renewed, a decontamination process will be undertaken by the Air Force. Once that land has been cleared and is accepted by the Department of the Interior, it could be released for public use dependent on whatever restrictions the controlling management agency may establish. However, those time frame options will continue to impact the remaining NAFR lands, including the Tolicha Mining District.

He continued by describing the activities that have occurred in conjunction with the Keystone Dialogue (see Exhibit H for full report), which:

- Began in February 1997;
- Included representative participants; and
- Had as its purpose: (1) using input from a diverse interest group to assist in the development of appropriate management and protection strategies for the natural heritage of the range while enabling the Air Force to accomplish its mission; and (2) forming partnerships with neighboring government land managers, natural resource agencies, and the public.

The final report was published in June 1998 and included recommendations regarding land use, management, stewardship, inventory, monitoring, and research. Those recommendations will be used to form: (1) an integrated natural resource management plan; (2) an integrated cultural resource management plan; and (3) legislative proposals.

In conclusion, Lt. Colonel Garner noted that the Air Force's goal is twofold, i.e., to balance readiness requirements with its responsibilities to the public, tribes, and the environment, and to provide responsible stewardship for priceless cultural and natural resources.

Chairman Rhoads questioned where the state was included in that process. Colonel Percival explained the state is

critical to the process and to the success of the Nellis range. He indicated that he, or representatives from Nellis, would be available to provide members of the 1999 Legislature with further updates on the renewal process early in the session.

John Singlaub

John Singlaub, Manager of the Carson City field office, BLM, commented briefly on the military activity in the state that had been discussed previously. Referencing the presentation made by Captain Rogers, he said:

- He concurs with the Captain that it is critical to recognize that decisions have yet to be made about the placement of communications sites, i.e., EW locations, to the east of existing installations in Dixie Valley;
- The basic difference between the military facilities in Nevada is that NAS Fallon has approximately 87,000 acres that represent "five islands in a sea of BLM land," whereas the 3 million acres that comprise NAFR is used at the sole discretion of the Air Force and the public can be excluded without discussion or recourse.
- The Navy probably "regrets not having requested that latitude" when it first obtained its land over 50 years ago. At this point, however, the burden of permitting sites for expanded communications, e.g., EW and telemetry sites, becomes more difficult and complex and rests primarily with the land manager, the BLM.

Assemblyman Marvel said members of this committee and the public have been confused about whether new communications sites would be permitted and where they might be located. Mr. Singlaub replied that:

- This issue has "sufficiently confused everyone on the planet."
- In 1994 the Navy contacted the BLM to add 11 new installations, including 4 new threat emitter or EW sites, to its existing inventory of about 70 telemetry and EW locations.
- At that time, no impact analysis had been done on the proliferation of such facilities; therefore, a land use plan amendment was undertaken.
- In 1996, the BLM issued a report in which a distinction was made between threat emitter and other sites. The report supported the addition of TIS and tactical aircrew combat training system (TACTS) sites that are: (1) essentially benign; and (2) support pilot safety and interpretation of training sorties. It precluded an increase in threat emitter sites, which are generally manned, influence flight patterns of aircraft, and have a greater environmental impact. Therefore, EW sites were initially confined to the Dixie Valley area.
- Following the Navy's protest of that BLM decision, an amended decision was issued by BLM that provided for each proposed EW site to be assessed in the same manner as TIS and TACTS sites, on an individual basis. That ruling, in effect, returned the application process for additional sites back to the same condition that existed prior to 1994.
- Subsequently, the BLM requested the Navy to submit a short- and long-term range plan to identify and forecast all the activities and needs it has for the public lands in the area. Based on that plan, the BLM will conduct a review and consider alternatives, prepare necessary EIS reports (including public scoping and hearings), and cooperate with the Navy to ensure that everyone interested in this issue knows what is planned and a resolution may be reached.
- Although the number of acres directly affected by adding communications sites may be relatively small, federal law precludes the BLM from allowing military activities on the public lands; therefore, uses and cumulative effects must be analyzed thoroughly in each instance.

Mr. Singlaub agreed to provide additional information regarding existing and preferred locations of and for Navy communication sites so that such data might be coordinated into or with the state's civilian communication network to provide a comprehensive overview of all sites.

Heather Elliott

Heather Elliott, Grants and Projects Analyst, Nevada's State Clearinghouse, discussed the current role of that agency (see Exhibit I for her speaking notes). She noted that the office:

- Serves as a conduit of information among and between state agencies and federal government entities; and
- Acts in a generalist fashion, coordinating the department and division specialists.

She complimented the Navy on its recent activities and efforts, noting it has done a "good job" in listening to the public and doing what it can to address areas of conflict. At a recent meeting, the Clearinghouse encouraged the Navy to ask questions about the function and scope of services offered by the state.

Ongoing and upcoming Clearinghouse activities include:

- The development of a statewide revegetation policy that can be used by mining and other interests as a tool for mitigation work to be performed on the land; and
- Discussions of the BLM's plan to withdraw the Black Rock Desert in northern Nevada.

In addition, the Clearinghouse:

- Will provide briefs on state activities to various agencies, including the Navy, at a January 1999 meeting.
- Has included the Nevada Association of Counties (NACO) and the Nevada League of Cities on its distribution list so all affected parties can "stay on the same page" and communicate effectively. She noted that although individual legislators are not on that mailing list, the Legislative Counsel Bureau (LCB) is.
- May receive only one copy of some information, and a primary challenge lies in obtaining or making a sufficient number of duplicates for distribution. It can, understandably, become an expensive and time-consuming process and is restricted by budgetary constraints.
- Distributed approximately 180 documents to various state agencies for comment during the last fiscal year, and sent out some 320 "information only" documents.
- Maintains its library as part of the Administrative Division.
- Provides a centralized state contact and tracking point for federal grants and projects that affect various state departments. It is anticipated that this work will be expanded to include grant and project searches to bring federal and private money into the state.

Alan R. Coyner

Alan R. Coyner, Administrator, Division of Minerals, Nevada's Department of Business and Industry, provided members with a map, titled "Major Mines, Oil Fields, and Geothermal Plants, 1997," and a "Stay Out and Stay Alive" bumper sticker (see Exhibit J) to supplement his testimony. The state continues to have problems with individuals accessing abandoned mine lands and he encouraged members to distribute the bumper stickers to draw attention to that danger. The map indicates the producers of industrial and precious metals and minerals as well as geothermal and petroleum products.

Mr. Coyner explained the draft LEIS for the Nellis range renewal is a "substantial document," and combined and considered with the "Mineral Energy Resource Assessment of the Nellis Air Force Range," recently completed by Nevada's Bureau of Mines and Geology, University and Community College System of Nevada (UCCSN), the reading is "rather weighty."

In regard to the NAFR renewal he noted:

- The Air Force has made a good effort to include input from various agencies and interests.
- The division plans to further participate in hearings during the comment period on the draft LEIS and to submit

a comment letter to the Air Force prior to the December 31, 1998, deadline.

- A primary concern is to ensure that the members recognize that two of the alternate renewal plans call for 25-year time frames. He cautioned the committee that, prior to any of those proposals being adopted, consideration should be given to whether the lengths of time are less than adequate, adequate, or more than adequate. In addition, two other options call for indefinite renewals and, therefore, should receive thorough consideration. In contrast, *Public Law* 99-606 provides for a 15-year renewal process.
- The impediments to the state calling for the opening of a renewal process on those lands prior to the expiration of the proposed 25-year term, or during the indefinite time frame, are unclear or unknown.
- Although the nation's military readiness demands the use of that space, and, in his view, the military renewal should be supported, the opportunity cost associated with that withdrawal must be considered.
- Most or part of 25 major mining districts and 13 prospect areas are located on that range, which represents a "wealth of natural resources."
- The division's major disappointment with the Keystone Dialogue process is that it developed into a monologue, from which an ecosystem-driven document emerged. Much attention was centered on animal and plant resources, while less importance was given to mineral resources.

Mr. Coyner displayed a rock, a piece of high-grade gold/silver ore, taken from a recently discovered mining site in the Midas District. That discovery, of the Kent Snider Mine near Elko, portends to contain in excess of 2 million ounces of gold and 25 million ounces of silver in a less than 20-acre area. The net value of that find is anticipated to be about \$700 million. In his view, there are other "Kent Snider" mines on the Nellis range. Nevada might consider the economic potential of the land being used by the Air Force. Perhaps some "trade off" to compensate the citizens and taxpayers of Nevada should be proposed.

Specifically, in the renewal document:

- The Tolicha District is included in the withdrawal and would not be opened to mining activities, primarily due to its proximity to the interior of the range.
- There is a section on mining, which recaps the assessed value of Nevada mining properties by county through time. It shows overall assessments in the state quadrupling, increasing from \$264 million in 1987 to over \$1 billion. Comparatively, during that same time, the increase in Nye County less than doubled and will "fall back" even farther when the Bull Frog Mine is exhausted over the next few years. In his view, that shows that Nye County is being hampered economically by the withdrawal.
- Although areas along the western edge of the range may be released to the BLM for multiple use, there are areas rich in sand and gravel resources along the southern edge of the range that could supply an important resource to Clark County to accommodate growth. Discussions about the release of those lands have been a part of the Las Vegas Resource Management Plan and should have been included in the renewal document.

Responding to questions from the committee, Mr. Coyner:

- Explained that cumulative effects of the withdrawal should be recognized.
- Agreed that mining activities no longer negatively affect the land as they did historically.
- Said the military's unwillingness to release the area around the Tolicha District is more involved with access and security than with potential needs for mitigation or reclamation.
- Noted that to understand mining in Nevada, three publications should be read and understood, i.e., "The Major Mines of Nevada," "The Economic Overview of the Nevada Mining Industry," and "The Nevada Mineral Industry, 1997," which are respectively published by the division, the Nevada Mining Association (NMA), and Nevada's Bureau of Mines and Geology.

- Explained Walt Lombardo, Chief of the division's Southern Nevada Operations, who has established an ongoing dialogue with the Air Force relative to the renewal and other issues, is the division's "point man" in Las Vegas.

Mr. Neighbors commented that assessed values in Nye County have dropped, from approximately \$200 million to about \$40 million, due to reduced mining activities. Mr. Coyner noted that Russell Fields, Executive Director of the NMA, testified recently concerning the impact of reduced production on the net proceeds of minerals in the state. At that same meeting, Mr. Fields indicated that the two most important mining issues facing Nevada are: (1) improving access; and (2) reducing the time required for permitting new mines.

In Mr. Coyner's view, this state, which is the third largest producer of gold in the world, has a "tremendous geologic endowment." The mining industry has worked hard to develop those resources. Although Nevada is still an "excellent place to look" for precious minerals, last year a 60 percent reduction in mining claims staked occurred. The division is funded by fees on industry, primarily claim fees, he noted.

UNITED STATES FOREST SERVICE (USFS) ACTIVITIES IN NEVADA AND INTRODUCTION OF NEW FOREST SUPERVISOR FOR THE HUMBOLDT-TOIYABE NATIONAL FOREST

Gloria Flora, Forest Supervisor, Humboldt-Toiyabe National Forest, USFS, was unable to attend this meeting and, therefore, this item was excluded. Chairman Rhoads, however, directed the members' attention to information related to this topic provided by the USFS contained in Exhibit B.

OVERVIEW OF NEVADA'S SEEDBANK PROGRAM

Patrick M. Murphy

Patrick M. Murphy, Deputy State Forester, Division of Forestry, DCNR, updated the committee on Nevada's seedbank program. See Exhibit K for a copy of "Nevada's Seedbank Report," Mr. Murphy's written remarks. He described:

- How the program was established and funded by the 1995 Legislature;
- The Nevada Division of Forestry's role in managing the program and leading the Nevada State Seedbank Committee, which is based on a memorandum of understanding (MOU) among federal, state, and private enterprise agencies and entities interested and involved in the reclamation/rehabilitation of the state's lands damaged by wildfire or other causes;
- The interagency seeding equipment pool;
- The difficulty experienced in storing sufficient seed to provide for reseeding in high-fire years without losing valuable resources in years that escape wildfire activity;
- The construction of a metal storage building near Washoe Lake to house the program, which improved storage capabilities and was paid for through the award of an additional \$99,000 from a "319 Clean Water Act" grant; and
- The sale of over 68,000 pounds of seed to reseed 8,581 acres in northern Nevada, from which the program realized \$125,243 in 1996.

Mr. Murphy also said:

- Not all land damaged by fire is reseeded.
- Seed was made available for emergency watershed protection projects associated with flood damage in 1997, a low-fire year, and its sale generated \$29,950.
- Since the use of the seedbank is low during low fire occurrence years and seed loses its viability when stored for long periods of time, other opportunities for use are being explored, i.e., habitat enhancement, mine spoils

rehabilitation, and weed abatement.

- It is important for all agencies involved in land resource management to join together to utilize the seedbank program.
- Seed that is purchased by the program is resold at that price plus a nominal handling cost, to either other agencies or the public.
- Much of the native sagebrush and other seed is collected by the division's conservation camp crews.
- The seedbank stockpiles about 20 different varieties of annual, native, and perennial grasses, crested wheat, and shrubs.
- Application equipment also is available to rent "at cost."
- The proceeds from seed sales and equipment rental are retained by the seedbank program.

Responding to questions from the chairman regarding fire damaged lands (e.g., the Boulder and Palisades fires) in northeastern Nevada, Mr. Murphy said reseeding activities in those areas will be undertaken by several parties. The division will use fire suppression dollars to rehabilitate all the lands that were physically damaged by firefighting efforts. The landowner, public or private, will be responsible for other reseeding activities. The federal agencies, to his knowledge, are planning to reseed those areas with seed that will be obtained from the national seedbank in Boise, Idaho. Whenever possible, the division will encourage private and state landowners to seek assistance for reseeding through the emergency watershed protection program and its cost-share funding from the Natural Resource Conservation Service.

Senator Jacobsen added that advantages of this seedbank program include:

- Tying the federal, state, and local governments together to benefit the land;
- Ensuring availability of native seed stocks;
- Reducing the price to rehabilitate damaged lands;
- Using onsite inmate fire crews, along with other personnel and equipment, to assist with reseeding and other reclamation work;
- Learning about test plots from the mining industry's experience; and
- Giving land managers and owners the ability to plant seeds that are more fire retardant in some instances.

In his view, wildlife and land users will gain long-term benefits from this program. Although the scale of the program began smaller than may have been desired, it is one of the "better" programs that has been initiated.

SUMMARY OF ROAD AND ACCESS ISSUES IN NYE COUNTY AND CENTRAL NEVADA

Richard L. Carver, Chairman, Nye County Board of Commissioners, was unable to attend this meeting and, therefore, this item was excluded.

PUBLIC COMMENT

Earl Crockett

Earl Crockett, a resident of Santa Cruz, California, expressed his opposition to the revisions made in the BLM's Central Nevada Communication Sites Modified Final Plan Amendment. He and his wife, while visiting the Smith Creek Valley in central Nevada several years ago, recognized the pristine condition of the area and, based on that

observation and his subsequent involvement in the scoping meetings and hearings that led to the draft communications plan, in his opinion:

- The military should not be allowed to expand its operations or facilities further into Nevada's central valleys.
- Recent developments in the modified final plan amendment play "fast and heavy" with NEPA rules to avoid the public process that was previously undertaken.
- It is unreasonable for the military or others who are in favor of an increase in military threat emitter sites to label all who oppose such action as "radicals."
- The Navy has "lied" to participants in the plan and the public about its intentions.
- This committee should not have allowed, as reported in a recent newspaper article, a Navy admiral to come before it to testify about this issue and sway its judgment without placing the topic on the agenda.
- Representatives from the Federal Government and the Navy have not chosen to deal equitably with land owners who may be affected by the expansion of training areas.

Chairman Rhoads noted that the only other testimony regarding this issue was an update submitted by a retired member of the military, as a private citizen, during public testimony. No action was taken on that information.

Joe Dahl

Joe Dahl, resident of and rancher in Smith Creek Valley, explained that he has been "very close" to this issue since 1991, and for those who participated in and worked on the development of the plan, there is concern over:

- Why changes were made in "the modified plan" that effectively returns the threat emitter or EW site application process to its pre-1994 status.
- Why the public was "left out" of the 1998 modified decision, which does not provide for "public input" or a right to appeal, when those opportunities were written into the 1996 draft plan.

Wayne Hendrix

Wayne Hendrix, part owner of the Smith Creek Ranch, also spoke in opposition to the 1998 modified decision. He said that:

- The area is a "very pristine" part of central Nevada.
- The Navy seems to be able to "get away with things" and successfully avoid processes that the public cannot.
- The people who live in the region are concerned over quality-of-life issues and should not be labeled as "traitors or radicals" for opposing the change, but they should be recognized as law-abiding taxpayers who are trying to make a living and protect their families.
- As citizens of the area, those people should be involved in each stage of the process.

Chairman Rhoads explained that issue was incorporated into the agenda for this meeting to improve the lines of communication between the state and the military and other parties.

In summary, Mr. Crockett remarked that he was "disappointed" when after a final, approved document was issued, which included a "great amount" of public input and approval from the BLM officials at the local and national level, it was modified. In his view, an operable explanation for that happening was that the Navy, in conjunction with other officials in Washington, D.C., "worked some kind of a deal behind closed doors." Then, he said, "That isn't unusual for you," and, "in the blink of an eye, four years' work disappeared." In his view, the change was not legal and unprecedented.

Chairman Rhoads questioned whether Mr. Crockett had documentation or other proof to support his position. Mr. Crockett responded that, although Nevada's Clearinghouse has done an "excellent job" of being involved in and tracking military activities, in his view, there is no question that the Navy plans to "take over" central Nevada, from NAS Fallon to Nellis AFB. Chairman Rhoads requested that Mr. Crockett supply supporting documents to staff.

Senator Jacobsen, directing his remarks to Mr. Crockett, noted that:

- The freedom enjoyed by all Americans is "very important." It has been, and still is being paid for by military personnel.
- He personally did not volunteer for the Navy so that he could be present during the bombing of Pearl Harbor, or to serve in the war that followed; however, sacrifices have to be made for this nation.
- This country's citizens enjoy the ability to do whatever and go wherever desired within the law.
- It is important to show concern for individuals' rights and needs, but sometimes sacrifices are necessary to protect national security.
- The government can be oppressive and may do things the average citizen does not like.
- Perspectives change when a "kill or be killed" situation presents itself.
- In his view, it is not selfish for the Navy to want to protect its personnel and make its training the best it can be.

Following a brief discussion, Chairman Rhoads commented that agencies and individuals sometimes need to amend the paths they have taken.

John Hadder

John Hadder, Reno resident and staff member for Citizen Alert, explained he was speaking on behalf Grace Potorti, Military Land and Airspace Director for the Rural Alliance for Military Accountability (RAMA). Mr. Hadder read for the record a letter (see Exhibit B, Item 3, for a complete copy) from Ms. Potorti dated September 29, 1998, to Robert Abbey, State Director, Nevada, BLM, which conveys comments on and objections to the Central Nevada Communication Sites Modified Final Plan Amendment. That letter discusses the following general points:

- Disposition of the U.S. Navy protest on the "original" Central Nevada Communication Sites Final Plan Amendment — RAMA requested a written explanation of how BLM could modify a decision based on the disposition of a protest that was never resolved.
- The scope of the modified plan — RAMA asked: (1) how BLM plans to meet its responsibility to manage public land resources in a "harmonious and coordinated manner without impairment to the productivity of the land"; (2) if there is a direct relationship between placement of EW sites and the use of military special-use airspace for air combat maneuvers; and (3) what the relationship is between the Navy's envisioned airspace acquisition in central Nevada and the placement of the EW sites in the region.
- The need for a comprehensive EIS — RAMA stated that, due to public controversy, the Navy's proposed EW Range Plan must be subject to a full EIS to prevent continuous and long-term military impacts.

Mr. Hadder noted that, to his knowledge, no response has been received from BLM to this letter. Chairman Rhoads asked Mr. Hadder to send a copy of any response to committee staff.

Joe Johnson

Joe Johnson, citizen and environmentalist, said that he might not be present during the work session and asked to speak in support of items 1, 2, and 4 of the WSD. In addition, referring to item 3, he said.

- Citizens are the "public" and the citizens of the state own the wildlife in it, therefore, terms used in that

recommendation might need further review; and

- If this item is an attempt to deny wildlife as a beneficial use of water, then the recommendation should so stated, and he would oppose the idea.

Melissa Smith

Melissa Smith, resident of Churchill County, stated that she has followed and been involved in NAS Fallon military issues for many years. Ms. Smith explained that:

- She has read all the published reports on "chaff," the fibreglass-coated aluminum material that is used in conjunction with EW sites and combat training radar, and requested that the members of the committee also review those reports.
- The NAS Fallon chaff report was, in her view, "quite disturbing."
- The chaff used in Fallon affects not only military land but also BLM and privately owned land adjacent to training flights.
- Chaff is not biodegradable and can be found near any EW site on the range.
- The General Accounting Office has made an independent review of the chaff reports and its findings are "inconclusive" as to the effects of chaff; therefore, caution should be used in the placement of these EW sites.
- In her view, no additional EW site should be located in Dixie Valley or in the Smith Creek area.
- She testified similarly during the BLM hearings on this issue.

Ms. Smith added that the Navy continues to try to transfer water rights from Dixie Valley. In her experience, there is a difference between the attitudes adopted by NAS Fallon and Nellis AFB regarding range management. The Navy needs to be "more like the Air Force" in its willingness to deal with the public and the environment.

Fredda Stevenson

Fredda Stevenson, who lives near two threat emitters at Middlegate Station, testified regarding the effect of those sites, which:

- Has made the valley into "a war zone";
- Brought sonic booms and property damage; and
- Resulted in chaff being dropped daily onto her family and home.

She explained that no long-term study has been done to determine the possible effects of chaff exposure. In her view, the military has determined the lives of residents to be "expendable," since it continues to bombard her family with that material. In her view, she cannot work toward a solution with the Navy if it will not work with her, and it has refused to do so on several occasions in the past.

Senator Rhoads asked Ms. Stevenson if she had contacted her local representatives regarding her concern, and noted that this committee supported the 1996 BLM report. He also said that this committee has not been contacted by Senator Mike McGinness or Assemblywoman Marcia de Braga to discuss this issue. Ms. Stevenson noted that she belongs to the citizens' committee that has worked with the military, but was not included in "whatever went on" to make this last modification of the sites plan. The members of the citizens' committee, therefore, have apparently made no impact, she said. Senator Rhoads asked Ms. Stevenson to work through her local legislative representatives and county commissioners who will have an opportunity to present the facts to the Legislature.

Ray Bacon

Ray Bacon, Executive Director, Nevada Manufacturers Association, spoke in support of WSD Item 7. He noted that if the proposed regional haze regulations go forward, it appears that:

- A "clean air corridor," in which "zero" air quality degradation is permitted, would encompass 14 of Nevada's 17 counties. Effectively, therefore, in the short- and long-term, those counties would be faced with "no growth," and responsibility for improving air quality would be placed on three counties, Carson City, Clark and Washoe Counties.
- A heavy burden will be placed on Nye County, which by definition will be a "nonattainment" area, due to its proximity to California counties that generate air pollution. Nye County has no control over pollution that is transported from southern California.
- A Resource Data International (RDI — Boulder, Colorado) study, titled "RDI Evaluation of the WGA [Western Governors' Association] Haze Rule Proposal, Western Regional SO₂ Reduction at Utility Coal-Fired Power Plants" (see Exhibit L), was recently completed that indicates that the regulations are fundamentally an "anti-coal generation" strategy that will affect electric production. Currently, about 70 percent of power is coal-generated. New regulations would probably result in a move toward a power mix of approximately 20 percent renewables, 40 percent coal gassification, and 40 percent scrubbed coal; and power rates could potentially increase by as much as 50 percent the next 40 years, instead of going down due to restructuring.

This is a "make or break" issue for Nevada, he concluded, and although comments have been made by his and other organizations as well as local governments, they have been consistently ignored by the Environmental Protection Agency (EPA).

WORK SESSION

Chairman Rhoads explained some items would be taken out of sequence during this portion of the meeting. Items shown below in italics represent the original text of the work session document.

Work Session Document

Nevada's Legislative Committee on Public Lands

Nevada Revised Statutes (NRS) 218.5363

October 23, 1998

The following "work session document" has been prepared by the Chairman and staff of the Legislative Committee on Public Lands. It is designed to assist the committee members in determining recommendations to be forwarded to the 1999 Session of the Nevada Legislature.

Each item in this document may be the subject of further discussion, refinement, or action. The members of the committee may vote to send as many committee statements as they choose; however, pursuant to Assembly Concurrent Resolution No. 56 (File No. 135, Statutes of Nevada 1997), the committee is limited to ten bill draft requests (BDRs), including requests for the drafting of legislative resolutions. The source of each recommendation is noted in parentheses. All place names referred to in this document are in Nevada unless otherwise noted.

Recommendations for Legislative Measures (bills and resolutions):

Water Issues

1. Request the drafting of a bill to make the following amendments to statutes concerning the interbasin transfer of water in Nevada (Chapter 533 of NRS):

a. Specify that the State Engineer reject an application for a proposed interbasin transfer of water, and refuse to issue a permit, if the amount proposed to be transferred exceeds one-fifth of the perennial yield from groundwater in the hydrologically affected area, unless the board of county commissioners of the county of origin recommends the allowance of a greater proportion after holding a public hearing on the proposal. Such hearings must be held in the basin from which the water is to be transferred and in the county seat, if the county seat is not within the basin. (Recommended by Stephen T. Bradhurst; language from Senate Bill 454 of the 1997 Legislative Session.)

b. Include a provision stipulating that a pending application for the interbasin transfer of groundwater not approved or rejected by the State Engineer within five years from the final action date for filing protests be subordinated to a subsequently filed application(s) for groundwater use in the basin of origin, except where relevant court actions are pending. (Recommended by Stephen T. Bradhurst; language from amendments to S.B. 454 submitted by Lincoln, Nye, and White Pine County Commissioners on July 2, 1997.)

c. Include a provision stipulating that the State Engineer must reject an application for water if the approval of the application would be inconsistent with the protection of the identified water needs for current and future development in the basin of origin. Also specify that consideration for approval or rejection of the application must be given to factors including, but not limited to, the economy, environment, and quality of life of the basin of origin. (Recommended by Stephen T. Bradhurst; language from amendments to S.B. 454, submitted by Lincoln, Nye, and White Pine County Commissioners on July 2, 1997.)

d. Include a provision clarifying whether surface water, in addition to groundwater, should be included in the language proposed above. (Recommended by R. Michael Turnipseed, State Engineer, Division of Water Resources.)

Discussion and Vote, Item 1:

Stephen T. Bradhurst

Stephen T. Bradhurst, representing Lincoln, Nye, and White Pine Counties along with Rey Flake, said that S.B. 454, introduced late in the 1997 Session, was drafted to address the issues mentioned in this item. After providing historic background for that bill, Mr. Bradhurst noted:

- Some of the provisions of that bill, which addressed water basins that were located in more than one county, are included in Item 1a of the WSD.
- What evolved following a discussion of the language in S.B. 454, were the recommendations made in Items 1b and 1c of the WSD.
- Item 1c is the "meat" of the proposal. He read that recommendation and noted that the criteria listed in this suggestion are currently considered by the State Engineer and this change would amend statutes to reflect that.
- Item 1b on the first page was an effort to provide subordination or preference for an application made for a "small amount of water" to be processed before large interbasin transfers that have been pending for a long period of time. This provision would allow applicants to "get on with their lives." There is currently a provision for a subsequent applicant, after receiving approval from a previous interbasin applicant, to apply to the State Engineer for "jumping over the first."

Mr. Flake agreed with Mr. Bradhurst's comments and added that:

- There is little concern about the criteria used currently by the State Engineer, but it would be advantageous to have the language in Item 1c added to statute and provide for subsequent applicants to "jump over" interbasin

transfer applicants in some circumstances as set forth in Item 1b.

Assemblyman Neighbors commented that many of the provisions in Item 1 of the WSD are included in BDR No. 7, which will be presented for consideration during the 1999 Session. Much of the language from S.B. 454 also is included in that proposal. Chairman Rhoads suggested that Mr. Neighbors proceed with his BDR and a committee BDR will also be drafted along similar lines, based on the vote on this item.

R. Michael Turnipseed

R. Michael Turnipseed, Nevada's State Engineer, DCNR, noted:

- Item 1c outlines things to consider in the basin of origin, which he already incorporates into his decision.
- As to Item 1b, if there was no backlog of water applications, this issue would not be required; however, due to previous staff shortages, pending court decisions, and other reasons, approximately 3,000 applications remain to be decided, 1,700 of which are protested applications. The priority date effectively begins to "run" on these applications once the protest period expires.
- Although he holds no strong objection to Item 1b, some of the language therein should be clarified, especially regarding time frames and preferred uses, and he agreed to work with Mr. Bradhurst and staff to develop that wording.

Mr. Neighbors added that, because of the delay in processing Las Vegas Valley Water District applications for interbasin transfers, some of which have been on file for almost ten years, the economic development in Lincoln, Nye, and White Pine Counties has been "clouded."

Mr. Turnipseed also suggested that:

- Item 1a be stricken and given no further consideration; and
- Items 1a, 1b, and 1c pertain to groundwater applications, and Item 1d questions whether language should be included to expand provisions to include surface water. He explained an instance, the sale of the Rolling A Ranch near Dayton, in which surface water rights (i.e., from the Carson River or other sources) may be separated from the land to which they pertained and used for other purposes. In that situation, Lyon County wanted the water to stay within the Dayton corridor, to potentially provide for growth and development, while the Federal Government earmarked the water for use at the Stillwater Wildlife Refuge wetlands. In his view, the committee should carefully consider whether to make such a change.

Julie Wilcox

Julie Wilcox, Las Vegas Valley Water District and Southern Nevada Water Authority, stated that the district:

- Agrees with Mr. Turnipseed that Item 1a should be stricken; and
- Agrees with Mr. Bradhurst and Mr. Turnipseed on Item 1c.

She noted that existing applications can be and have been subrogated under current law. In the nine years that the district has held its applications, there have been three requests by other applicants made for such subrogation, i.e., one in Snake Valley for 3,400 acre-feet, one in Garden Valley for 80 acre-feet, and another for which an actual application was never filed. Representatives of Snake and Garden Valleys appeared before the district's board to request approval and it was granted.

Mr. Neighbors explained that BDR No. 7 will do what Items 1a, 1b, 1c, and 1d would do, but the concept in Item 1a might be stricken from his proposal. Chairman Rhoads called for a motion on Item 1, and to write a letter in support of the provision adopted by this committee for its BDR.

ASSEMBLYMAN NEIGHBORS MOVED TO: (1) ADOPT THE RECOMMENDATION IN ITEM 1b
(WITH THE CLARIFYING LANGUAGE TO BE DEVELOPED BY MR. BRADHURST AND

MR. TURNIPSEED IN CONJUNCTION WITH STAFF); (2) ADOPT ITEM 1c AS WRITTEN; (3) TO GIVE NO FURTHER CONSIDERATION TO ITEMS 1a AND 1d; AND (4) TO SEND A LETTER SUPPORTING THE CONCEPTS ADOPTED BY COMMITTEE TO THE SENATE AND ASSEMBLY COMMITTEES THAT WILL HEAR THE RECOMMENDED BILL DRAFT REQUEST.

ASSEMBLYMAN MARVEL SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

2. Request the drafting of a bill making an appropriation from the State General Fund to the Humboldt River Basin Water Authority of \$250,000 for the study of water management opportunities within the Humboldt River Basin. Include a provision stipulating that any remaining balance of the appropriation must not be committed for expenditure after June 30, 2001, and reverts to the State General Fund as soon as all payments of money committed have been made. (Recommended by Mike Baughman, President, Intertech Services, Inc., representing the Humboldt River Basin Water Authority.)

— OR —

Send a committee letter supporting BDR No. 524 to the Chairmen of the Senate Committee on Finance and the Assembly Committee on Ways and Means during the 1999 Legislative Session. The BDR, submitted by the Humboldt River Basin Water Authority, proposes the same funding request as noted above. (Recommended by Mike Baughman, President, Intertech Services, Inc., representing the Humboldt River Basin Water Authority.)

Discussion and Vote, Item 2:

Chairman Rhoads noted that a parallel proposal to this item, BDR No. 524, has been requested by the Humboldt River Basin Water Authority (HRWBA), represented by Michael Baughman, President, Intertech Services, Inc.

ASSEMBLYMAN MARVEL MOVED TO SEND A COMMITTEE LETTER REQUESTING CONSIDERATION OF BILL DRAFT REQUEST NO. 524, REQUESTED BY THE HRWBA, TO THE CHAIRMEN OF THE SENATE COMMITTEE ON FINANCE AND THE ASSEMBLY COMMITTEE ON WAYS AND MEANS DURING THE 1999 LEGISLATIVE SESSION.

ASSEMBLYMAN NEIGHBORS SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

3. Request the drafting of a bill to make the following amendments to NRS 533.330:

a. Include a provision stipulating that "no application shall be [made] for water to benefit wildlife unless the applicant is the owner of said [that] wildlife." (Conceptual language and recommendation by Mike Baughman, President, Intertech Services, Inc., representing the Humboldt River Basin Water Authority.)

b. Include a provision specifying that "no application shall be [made] for water to benefit the environment unless the applicant is the owner of said [that] environment." (Conceptual language and recommendation by Mike Baughman, President, Intertech Services, Inc., representing the Humboldt River Basin Water Authority.)

— OR —

Send a committee letter expressing support for BDR No. 523 to the appropriate Chairmen of the legislative committees initially hearing the measure during the 1999 Legislative Session. The BDR, submitted by the Humboldt River Basin Water Authority, proposes the amendments to NRS 533.330 as noted above. (Recommended by Mike Baughman, President, Intertech Services, Inc., representing the Humboldt River Basin Water Authority.)

Discussion and Vote, Item 3:

Following a brief period of comment by Mr. Turnipseed, the committee took **no action** on any portion of this item.

Land Use Planning on Federally Managed Lands, Mining Issues, Noxious Weeds, and Other Issues Pertaining to the Management of Federal Lands

4. Request the drafting of a bill creating the position of a scientist in the Cooperative Extension of the University of Nevada, Reno (UNR), University and Community College System of Nevada (UCCSN), to address noxious and invasive weed issues in Nevada. Specify that the duties of the scientist include: (a) investigating the available biological control agents designed to control invasive and noxious weeds; (b) documenting the effectiveness of these agents in the control of invasive plants and noxious weeds; and (c) developing strategies for the management of noxious weeds in the state. The annual legislative appropriation, as proposed by the UNR Cooperative Extension, would be \$66,000, which would be included in the entity's budget. (Recommended by Robert E. Wilson, Extension Educator, UNR, UCCSN.)

Discussion and Vote, Item 4:

Robert E. Wilson

Robert E. Wilson, Cooperative Extension Educator in Ely, UNR, UCCSN, representing the Nevada Weed Management Association, referred to the "Legislative Program Proposal," which was submitted at the committee's September 11, 1998, meeting in Tonopah (see Exhibit M) and explained that:

- The recommendation should be amended, since it places the proposed position in the wrong state agency; and
- The scientist position requested in this recommendation will be employed by the Division of Agriculture, Nevada's Department of Business and Industry (DBI), and housed with the U.S. Department of Agriculture (USDA), Agricultural Research Service, in Reno.

Paul J. Iverson

Paul J. Iverson, Administrator, Nevada's Division of Agriculture noted that this position has not been integrated into the division's proposed budget and, therefore, the establishment of and funding for this position would need to be done through a separate bill during the 1999 Session.

Chairman Rhoads noted that there should be "someone in charge" of this important issue, to steer the right course. One agency seems to be working on the problem, while others are not, and the activities are inconsistent. Senator Jacobsen noted that the Cooperative Extension had a program "for years," but it seems no longer to be the case.

Mr. Iverson said that this person would work for the division at the research center, be supervised by the USDA, do additional research, oversee mapping, and coordinate all the private and public weed abatement efforts and programs throughout the state. Senator Jacobsen also noted that, as part of this proposal, it should be recognized that expanding programs may increase taxes or fees and that should be investigated during hearings on this issue, e.g., stock trailer inspections and so forth.

ASSEMBLYMAN NEIGHBORS MOVED THAT THE COMMITTEE REQUEST A BILL DRAFT REQUEST FOR AN APPROPRIATIONS MEASURE THAT WOULD CREATE AND FUND THE NEW POSITION OUTLINED IN THE WORK SESSION DOCUMENT RECOMMENDATION AS AMENDED BY THE SUGGESTIONS OF MR. WILSON AND MR. IVERSON.

SENATOR JACOBSEN SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

5. Request the drafting of a bill to amend Chapter 278 of NRS to explicitly authorize counties and cities that have adopted master plans pursuant to NRS 278.150 through 278.230 to become involved in federal land management and planning activities and to bring or maintain any action or intervene in any case regarding any action or proposed action by a federal agency concerning land and natural resources within the county or city. (Conceptual language and recommendation by John Balliet, Contractual Resource Manager, Eureka County.)

— OR —

Send a committee letter supporting BDR No. 526 to the appropriate Chairmen of the legislative committees initially hearing the measure during the 1999 Legislative Session. The BDR, submitted by Eureka County, proposes amendments to Chapter 278 as noted above. (Recommended by John Balliette, Contractual Resource Manager, Eureka County.)

Discussion and Vote, Item 5:

Peter J. Goicoechea

Peter J. Goicoechea, Chairman, Eureka County Commission, stated that this recommendation contains the same provisions as BDR No. 526, requested by Eureka County, which would provide statutory authority for counties to participate as cooperating agencies in federal land management activities.

Following Mr. Goicoechea's comments and a brief discussion of this issue, the committee decided to take **no action** on any portion of this recommendation at this time but, depending on debate on BDR No. 526, to send a committee comment letter.

6. Request the drafting of a resolution urging the Secretary of Defense and the Secretary of the Interior to make certain areas of the Nellis Air Force Range available for use by the public. The resolution would emphasize the potential for mineral extraction in these areas and the benefits of such mining activity on the local economies surrounding the Nellis Air Force Range. (Recommended by committee members, Nevada's Division of Minerals, Esmeralda County, Nye County, officials in Washington, D.C., and others.)

Discussion and Vote, Item 6:

Following a brief discussion, the committee took **no action** on this item since a previous resolution already passed both houses of the Nevada Legislature during the 1995 Session (Senate Joint Resolution No. 25 [File No. 122, *Statutes of Nevada*]).

7. Request the drafting of a resolution expressing strong disapproval of the United States Environmental Protection Agency's (EPA) Proposed Regional Haze Regulations, indicating disappointment with the unrealistic nature of the regulations and emphasizing the financial burdens that compliance with the regulations would place on Nevada. The resolution also shall encourage productive communication between federal land managers (agencies), state agencies, the mining industry, the utility industry, and others in addressing air quality issues. (Recommended by committee members; Sierra Pacific Power Company; and Jolaine Johnson, Chief, Bureau of Air Quality in Nevada's Division of Environmental Protection.)

Discussion and Vote, Item 7:

Chairman Rhoads reminded the members of the earlier comments of Ray Bacon and others in support of this recommendation.

ASSEMBLYMAN MARVEL MOVED TO REQUEST THE DRAFTING OF A RESOLUTION AS DESCRIBED IN RECOMMENDATION NO. 7.

SENATOR JACOBSEN SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

8. Request the drafting of a resolution encouraging U.S. Congress and the U.S. Department of the Interior to utilize an outside third party, such as the National Academy of Sciences, to conduct an independent evaluation of the Code of Federal Regulations (C.F.R.), Section 3809, which regulates mining activity in the United States. Note that Nevada's current mining reclamation laws might well serve as the model for other states. (Recommended by Russell A. Fields, President, Nevada Mining Association, and noted by Nevada Governor Robert J. (Bob) Miller in his testimony before the U.S. Senate Committee on Energy and Natural Resources, April 29, 1998.)

Discussion and Vote, Item 8:

Chairman Rhoads said **no action** is needed on this item because it was incorporated into a bill recently signed by President Bill Clinton.

9. Request the drafting of a resolution supporting the sale, rather than the exchange, of public lands in Nevada in an effort to protect the taxable land base in sparsely populated and rural counties in the state. The resolution should encourage a land exchange/transfer policy of the Bureau of Land Management (BLM) and the United States Forest Service (USFS) that does not adversely affect Nevada's sparsely populated counties. (Recommended by committee members.)

Discussion and Vote, Item 9:

Senator Rhoads asked that the committee consider drafting a resolution directed to Nevada's Congressional Delegation requesting that it sponsor a measure similar to the Southern Nevada Public Land Management Act of 1998, which would include all areas of the state except those affected by the that act.

ASSEMBLYMAN NEIGHBORS MOVED TO REQUEST THE DRAFTING OF A RESOLUTION DIRECTED TO NEVADA'S CONGRESSIONAL DELEGATION REQUESTING THAT THE DELEGATION SPONSOR AND STRONGLY SUPPORT A "NORTHERN NEVADA LANDS MEASURE," SIMILAR TO THE SOUTHERN NEVADA PUBLIC LAND MANAGEMENT ACT OF 1998, WHICH WOULD PROVIDE PARALLEL LAND MANAGEMENT PROVISIONS FOR THE BALANCE OF THE STATE.

ASSEMBLYMAN MARVEL SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

10. Request the drafting of a resolution or send a committee letter to the BLM, the USFS, and the Lincoln County Board of Commissioners supporting a Lincoln County resolution calling for a "demonstration project for harvesting the pinyon juniper woodland" in certain areas of the county. The resolution or letter also should encourage Lincoln County and the BLM to assess the economic and environmental benefits and effects of a pinyon juniper harvest on local economies in the county. (Recommended by the Lincoln County Public Lands Commission (LCPLC); Shelley Wadsworth, Secretary, LCPLC; and Rey Flake, Vice Chairman, Lincoln County Board of Commissioners.)

Discussion and Vote, Item 10:

ASSEMBLYMAN NEIGHBORS MOVED TO SEND A COMMITTEE LETTER AS PROVIDED IN RECOMMENDATION NO. 10.

SENATOR JACOBSEN SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

11. Request the drafting of a resolution or send a committee letter to the members of Nevada's Congressional Delegation, the Secretary of the Interior, and the Director of the BLM, supporting a Lincoln County resolution calling for the disbursement of funds from the Payments in Lieu of Taxes (PILT) program not previously paid or for the allowance of such payments to be made in the form of "land in lieu of PILT." The resolution or letter should include language indicating that many local governments in Nevada do not have adequate operating budgets due to the lack of private, taxable land base for the collection of revenue. (Recommended by the LCPLC; Shelley Wadsworth, Secretary, LCPLC; and Rey Flake, Vice Chairman, Lincoln County Board of Commissioners.)

Discussion and Vote, Item 11:

Chairman Rhoads said this interesting, new concept is worthy of debate in the 1999 Legislature.

ASSEMBLYMAN MARVEL MOVED TO REQUEST THE DRAFTING OF A RESOLUTION AS PROVIDED IN RECOMMENDATION NO. 11.

SENATOR JACOBSEN SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

Other Possible Committee Statements or Actions — Items for Committee Discussion

12. Send a committee letter to the members of Nevada's Congressional Delegation, the Chairmen of the U.S. Senate Committee on Energy and Natural Resources and the U.S. House of Representatives Committee on Resources, the Secretaries of the Departments of Agriculture and Interior, the Chief of the USFS, and the Director of the BLM, expressing support for the Nevada Miners and Prospectors Association's proposed amendment to 43 U.S.C., Section 1769. The amendment would require the Secretaries of Agriculture and Interior to contract with the states for identification and mapping of rights-of-way across lands administered by the Federal Government and to administratively recognize the validity of those rights-of-way. (Recommendation and amendment language provided by Nevada Miners and Prospectors Association.)

Discussion and Vote, Item 12:

Frank W. Daykin

Frank W. Daykin, representing the Nevada Miners and Prospectors Association (NMPA), referring to a letter from Hugh Ingle, Jr., President NMPA, to the committee, dated August 23, 1998, which included a draft amendment to 43 U.S.C., Section 1769 (see Exhibit N), testified that U.S. Representative Jim Gibbons has informally agreed to have these provisions drafted as federal legislation. That draft has not been forthcoming, however;

If adopted in the proposed form, the change would:

- Require the Secretary of Agriculture, relative to forest lands, and the Secretary of the Interior, regarding lands managed by the BLM, each to contract with the governor of each state to have the state map out what is commonly called the "R.S. 2477 lands," which include the rights-of-way required under the law as it was from 1866 to 1976. The laws effective during those years granted the rights-of-way over unreserved public lands to any person who took it up for a rightful purpose. Generally, in the East those rights were for farming, and in the West they were for grazing and mining.

Mr. Daykin explained that in 1976 Congress explicitly, by one clause included in the Federal Lands Policy Management Act (FLPMA), recognized and preserved the validity of those previously acquired rights to avoid paying compensation for them. He further stated that:

- The BLM and the USFS have tried to obstruct, decrease, or render those rights-of-way less valuable by making miners, ranchers, and others who hold rights-of-way prove those rights on a case-by-case basis.
- However, in his view, if the states were given the responsibility of mapping and verifying those rights, it would benefit the holders.
- However, changing the law in this manner would preclude the need to "prove up" these rights before a federal court, which is an expensive and time-consuming process.
- If approved, the states could perform this work themselves or subcontract it to others, perhaps the counties.
- Each secretary would have to recognize administratively each such right-of-way identified by the affected states.

Responding to questions from the Chairman, Mr. Daykin said the forwarding of a legislative concurrent resolution to Congress, in conjunction with a letter from the committee to Nevada's Congressional Delegation, and inclusion of a statement in support for this concept in the committee's report would be helpful. He offered to assist in the drafting of that resolution.

MR. MARVEL MOVED TO REQUEST THE DRAFTING OF A CONCURRENT RESOLUTION AND TO SEND A COMMITTEE LETTER TO NEVADA'S CONGRESSIONAL DELEGATION IN SUPPORT OF ITEM 12.

ASSEMBLYWOMAN OHRENSCHALL SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

13. Send a committee letter to the Council of State Governments-West (CSG-West) and the various committees and organizations in the West that discuss public lands matters expressing support for the CSG-West in organizing and creating a series of issue papers regarding public lands matters such as federal land management, grazing, mining, and other issues in the West that need to be addressed at a regional level.

The ultimate goal of this forum would be to introduce legislation in the Congress that would attempt to relieve the environmental and economic burden in the West due to federal air, land, and water policy. The packaging of western issues would not only be introduced in Congress, but would serve as a "plate" of issues that is of major concern to the West.

These matters would be presented to presidential candidates during the 2000 federal elections and would be especially important if the proposed regional Rocky Mountain Presidential Preference Primary election becomes a reality. (Recommended by Senator Rhoads.)

Discussion and Vote, Item 13:

Senator Rhoads noted that at a recent CSG-West meeting in Alaska, all commodity groups expressed having had similar problems with federal agencies in the 13 western states. Therefore, CSG-West will provide staff to compile the information outlined in this recommendation

ASSEMBLYMAN MARVEL MOVED TO SEND A COMMITTEE LETTER AS OUTLINED IN RECOMMENDATION NO. 13.

ASSEMBLYWOMAN OHRENSCHALL SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

14. Send a committee letter expressing support for BDR 18-102 to the appropriate Chairmen of the legislative committees initially hearing the measure during the 1999 Legislative Session. The BDR, requested by Assemblyman John W. Marvel (R-Battle Mountain), reestablishes Nevada's Division of Agriculture and Nevada's Division of Minerals as state agencies. (Noted and recommended by committee members at the committee's Elko meeting on March 6, 1998.)

Discussion and Vote, Item 14:

There being no further discussion on this item, it was made part of a consent motion, as follows:

ASSEMBLYMAN MARVEL MOVED TO WRITE A COMMITTEE LETTER REQUESTING CONSIDERATION OF THE RECOMMENDATIONS CONTAINED IN WORK SESSION DOCUMENT ITEMS 14, 15, 16, 18, 20, AND 21.

SENATOR JACOBSEN SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

15. Send a committee letter to the Budget Division of Nevada's Department of Administration, the Senate Committee on Finance, and the Assembly Committee on Ways and Means supporting the Division of Water Resources' request for two additional staff positions. (Recommended by Stephen T. Bradhurst and committee members at the Elko meeting on March 6, 1998.)

Discussion and Vote, Item 15:

There being no further discussion on this item, it was made part of a consent motion, as follows:

ASSEMBLYMAN MARVEL MOVED TO WRITE A COMMITTEE LETTER REQUESTING CONSIDERATION OF THE RECOMMENDATIONS CONTAINED IN WORK SESSION

DOCUMENT ITEMS 14, 15, 16, 18, 20, AND 21.

SENATOR JACOBSEN SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

16. Send a committee letter to Nevada Governor Bob Miller, the Budget Division of Nevada's Department of Administration, the Senate Committee on Finance, and the Assembly Committee on Ways and Means expressing support for a Division of State Lands budget request to continue funding for a federal lands planner. Include in the letter a statement expressing support for Terry Randolph, Planner, Division of State Lands, and recognizing his efforts in the update of the Statewide Policy Plan for Public Lands. Also include in the letter a statement encouraging the Division of State Lands to maintain a registry of federal and private land available for the exchange. Furthermore, the letter should encourage the Division of State Lands to continue exploring various methods to ease the costs and impacts of land exchanges on the local economies and private citizens in Nevada. (Recommended by Chairman Rhoads in response to testimony from Pamela B. Wilcox, Administrator, Division of State Lands; and by Michelle Gamble, Nevada Association of Counties [NACO].)

Discussion and Vote, Item 16:

There being no further discussion on this item, it was made part of a consent motion, as follows:

ASSEMBLYMAN MARVEL MOVED TO WRITE A COMMITTEE LETTER REQUESTING CONSIDERATION OF THE RECOMMENDATIONS CONTAINED IN WORK SESSION DOCUMENT ITEMS 14, 15, 16, 18, 20, AND 21.

SENATOR JACOBSEN SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

17. Send a committee letter expressing support for BDR No. 521 to the Chairmen of the legislative committees initially hearing the measure during the 1999 Legislative Session. The BDR, submitted by NACO, proposes to amend NRS 321.739 by revising the provisions regarding governmental land transfers and related losses to county tax base. (Recommended by Michelle Gamble, NACO.)

Discussion and Vote, Item 17:

ASSEMBLYMAN MARVEL MOVED TO SEND A COMMITTEE LETTER AS OUTLINED IN RECOMMENDATION NO. 17.

ASSEMBLYMAN NEIGHBORS SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

18. Send a committee letter to the Secretaries of the Departments of Agriculture and Interior, the Director of the BLM, and the Chief of the USFS, requesting clarification of the term "environmentally sensitive lands" found in some federal laws and legislation. Include in the letter a statement expressing concern over the broad interpretation that may be applied to this term by federal managers of the public lands. (Recommended by committee members.)

Discussion and Vote, Item 18:

There being no further discussion on this item, it was made part of a consent motion, as follows:

ASSEMBLYMAN MARVEL MOVED TO WRITE A COMMITTEE LETTER REQUESTING CONSIDERATION OF THE RECOMMENDATIONS CONTAINED IN WORK SESSION DOCUMENT ITEMS 14, 15, 16, 18, 20, AND 21.

SENATOR JACOBSEN SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

19. Send a committee letter expressing support for flood control activities in Pahrump. The letter should encourage the BLM, the USFS, and other federal agencies involved to issue the appropriate permits and grant authority to Nye County and the Town of Pahrump to proceed with flood mitigation efforts in the

mountains surrounding Pahrump before water runoff occurs in the spring of 1999. (Recommended by Bob Little, Member, Pahrump Town Board, and Cameron McRae, Nye County Commissioner.)

Discussion and Vote, Item 19:

ASSEMBLYMAN NEIGHBORS MOVED TO SEND A COMMITTEE LETTER AS OUTLINED IN RECOMMENDATION NO. 19.

SENATOR JACOBSEN SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

Recommendations and Discussion Items Pertaining to the Function of the Public Lands Committee

20. Send a committee letter to the Chairman of the Legislative Commission addressing the appointment of alternates to the Legislative Committee on Public Lands. The letter should include a recommendation to the commission suggesting that alternates represent both houses of the Nevada Legislature and the political parties represented therein. (Recommended by Senator Rhoads.)

Discussion and Vote, Item 20:

There being no further discussion on this item, it was made part of a consent motion, as follows:

ASSEMBLYMAN MARVEL MOVED TO WRITE A COMMITTEE LETTER REQUESTING CONSIDERATION OF THE RECOMMENDATIONS CONTAINED IN WORK SESSION DOCUMENT ITEMS 14, 15, 16, 18, 20, AND 21.

SENATOR JACOBSEN SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

21. Send a committee letter to the Chairman of the Legislative Commission (to accompany the budget statement for the committee) requesting funding for a total of ten meetings of the Legislative Committee on Public Lands during the 1999-2000 interim. (Recommended by Senator Rhoads.)

Discussion and Vote, Item 21:

There being no further discussion on this item, it was made part of a consent motion, as follows:

ASSEMBLYMAN MARVEL MOVED TO WRITE A COMMITTEE LETTER REQUESTING CONSIDERATION OF THE RECOMMENDATIONS CONTAINED IN WORK SESSION DOCUMENT ITEMS 14, 15, 16, 18, 20, AND 21.

SENATOR JACOBSEN SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

NOTE: The Legislative Committee on Public Lands may make additional recommendations based on presentations made at its meeting in Reno on October 23, 1998. Please see meeting agenda for discussion topics.

COMMITTEE DISCUSSION AND FINAL RECOMMENDATIONS

ASSEMBLYMAN MARVEL MOVED THAT THE COMMITTEE CONSIDER SENDING A LETTER TO THE REGIONAL DIRECTOR OF THE UNITED STATES FOREST SERVICE IN OGDEN, UTAH, WITH A COPY TO NEVADA'S CONGRESSIONAL DELEGATION, REQUESTING THAT NEVADA'S USFS REPRESENTATIVES BE MORE ATTENTIVE AND RESPONSIVE AT THE UPCOMING LEGISLATIVE SESSION AND DURING THIS COMMITTEE'S FUTURE INTERIM MEETINGS.

ASSEMBLYWOMAN OHRENSCHALL SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

SENATOR JACOBSEN MOVED TO SEND A COMMITTEE LETTER TO THE LEGISLATIVE COMMISSION RECOMMENDING THAT IT CONSIDER THE ESTABLISHMENT AND CONSTRUCTION OF A MAP ROOM IN THE LEGISLATIVE BUILDING TO HOUSE AND DISPLAY STATE AND COUNTY MAPS FOR REFERENCE BY LEGISLATORS, STAFF, AND THE PUBLIC.

ASSEMBLYMAN NEIGHBORS SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

Chairman Rhoads noted that the inclusion of a county commissioner as a member of this committee has shown that commissioners' schedules are as intense as legislators. Therefore, he would suggest that, during the 1999 Session, the makeup of this committee be reconsidered. He also thanked the members, staff, and others who have participated in the meetings of the committee this interim.

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

There being no further business, the meeting was adjourned at 2:45 p.m.

Respectfully submitted,

Linda Chandler Law

Senior Research Secretary

APPROVED BY:

Senator Dean A. Rhoads, Chairman

Date: _____

LIST OF EXHIBITS

Exhibit A is the "Work Session Document" prepared by the Chairman and staff of the Legislative Committee on Public Lands.

Exhibit B is a memorandum to the committee dated October 23, 1998, titled "Enclosed Materials," from Staff Director Michael J. Stewart, which provided additional information on topics included in the agenda for this meeting.

Exhibit C is a copy of the "Draft Nevada Wild Horse Management Plan for Federal Lands," which was submitted previously and referred to by Catherine Barcomb, Administrator, Commission for the Preservation of Wild Horses, State Department of Conservation and Natural Resources (DCNR).

Exhibit D is an outline, titled "Review of Elk Management Issues in Nevada," presented by Terry Crawforth, Administrator, Nevada's Division of Wildlife, DCNR.

Exhibit E contains "Proposed Regulation of the Board of Wildlife Commissioners, Commission General Regulation 265," together with copies of brochures, titled "Special Incentive Elk Tags," "Elk Damage Compensation Program," and "Nevada's Deer and Antelope Damage Compensation Tag Program," also provided by Mr. Crawforth.

Exhibit F is a series of presentation slides and a map submitted by Captain David A. Rogers, Commanding Officer, United States Navy, Naval Air Station Fallon.

Exhibit G is a copy of a series of slides used in the formal Air Force presentation, submitted by Colonel Wilhelm F. Percival, Range Management Office, U.S. Air Force, Nellis Air Force Base, who is also Commander of the Nellis Air Force Range.

Exhibit H contains a copy of the *Keystone Dialogue on Nellis Air Force Range Stewardship*, which was also presented by Colonel Percival.

Exhibit I includes speaking notes provided by Heather Elliott, Grants and Projects Analyst, Nevada's State Clearinghouse, Budget Division, Nevada's Department of Administration.

Exhibit J is a map, titled "Major Mines, Oil Fields, and Geothermal Plants, 1997" and a "Stay Out and Stay Alive" bumper sticker, provided by Alan R. Coyner, Administrator, Division of Minerals, Nevada's Department of Business and Industry.

Exhibit K is a copy of written remarks, titled "Nevada's Seedbank Report," provided by Patrick M. Murphy, Deputy State Forester, Division of Forestry, DCNR.

Exhibit L is a Resource Data International (Boulder, Colorado) study, titled "RDI Evaluation of the WGA Haze Rule Proposal, Western Regional SO₂ Reduction at Utility Coal-Fired Power Plants," submitted by Ray Bacon, Executive Director, Nevada Manufacturers Association.

Exhibit M is a copy of the "Legislative Program Proposal," which was submitted at the committee's September 11, 1998, meeting in Tonopah, by Robert E. Wilson, Cooperative Extension Educator in Ely, University of Nevada, Reno, University and Community College System of Nevada, representing the Nevada Weed Management Association.

Exhibit N is a letter from Hugh Ingle, Jr., President Nevada's Miners and Prospectors Association (NMPA), to the committee, dated August 23, 1998, which includes a draft amendment to 43 *United States Code*, Section 1769, submitted by Frank W. Daykin, representing the NMPA.

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

Copies of the materials distributed in the meeting are on file in the Research Library of the Legislative Counsel Bureau, Carson City, Nevada. You may contact the library at (702) 684-6827.