

## MEETING NOTICE AND AGENDA

Name of Organization: Legislative Committee on Public Lands  
(*Nevada Revised Statutes* [NRS] 218E.510)

Date and Time of Meeting: Thursday, August 28, 2014  
9 a.m.

Place of Meeting: Legislative Building, Room 3138  
401 South Carson Street  
Carson City, Nevada

Note: Some members of the Committee may be attending the meeting and other persons may observe the meeting and provide testimony through a simultaneous videoconference conducted at the following location:

Grant Sawyer State Office Building, Room 4401  
555 East Washington Avenue  
Las Vegas, Nevada

*If you cannot attend the meeting, you can listen or view it live over the Internet. The address for the Nevada Legislature website is <http://www.leg.state.nv.us>. Click on the link "[Calendar of Meetings/View](#)."*

<p><b>Note:</b> Minutes of this meeting will be produced in summary format. Please provide the secretary with electronic or written copies of testimony and visual presentations if you wish to have complete versions included as exhibits with the minutes.</p>
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**Note:** Items on this agenda may be taken in a different order than listed. Two or more agenda items may be combined for consideration. An item may be removed from this agenda or discussion relating to an item on this agenda may be delayed at any time.

- I. Opening Remarks  
Assemblyman Paul Aizley, Chair

II. Public Comment  
(Due to time considerations, each speaker offering comments during the period for public comment will be limited to not more than 3 minutes. Speakers are urged to avoid repetition of comments made by previous speakers. A person may also have comments added to the minutes of the meeting by submitting them in writing either in addition to testifying or in lieu of testifying. Written comments may be submitted in person or by email, facsimile, or mail before, during, or after the meeting.)

*For Possible Action*

III. Approval of the Minutes of the Meeting Held on June 12, 2014, in Elko, Nevada

*For Possible Action*

IV. Update From Carson City on Recent Activities Related to Public Lands and Natural Resource Management  
Juan F. Guzman, Administrator, Open Space Division, Carson City

*For Possible Action*

V. Update on United States Forest Service (USFS), U.S. Department of Agriculture (USDA) Activities in the Carson Ranger District  
Bill Dunkelberger, Forest Supervisor, Humboldt-Toiyabe National Forest, USFS, USDA

*For Possible Action*

VI. Presentation on the Activities of the Desert Research Institute (DRI)  
Dr. Stephen G. Wells, President, DRI

*For Possible Action*

VII. Update and Overview of the Activities of the Division of State Lands, State Department of Conservation and Natural Resources (DCNR)  
Charles Donohue, Acting Administrator, Division of State Lands, DCNR

*For Possible Action*

VIII. Review of Programs and Activities of Public Water Authorities, Districts, and Systems  
A. John A. Erwin, Director of Natural Resources Planning and Management, Truckee Meadows Water Authority  
B. Edwin James, P.E., General Manager, Carson Water Subconservancy District

*For  
Possible  
Action*

IV. Work Session—Discussion and Possible Action on Recommendations Relating to:

- A. Greater Sage-Grouse
- B. Public Lands, Generally
- C. Wild Horses and Burros
- D. Grazing on Public Lands
- E. Water Resources and Water Supplies
- F. Wildfire Suppression

The “Work Session Document” is attached below and contains recommendations proposed at this and other meetings of the Legislative Committee on Public Lands during the 2013-2014 Legislative Interim. The document is also available on the Committee’s webpage ([Legislative Committee on Public Lands \[NRS 218E.510\]](#)) or a written copy may be obtained by contacting Jered McDonald, Senior Research Analyst, Research Division, Legislative Counsel Bureau, at (775) 684-6825.

X. Public Comment

**(Due to time considerations, each speaker offering comments during the period for public comment will be limited to not more than 3 minutes. Speakers are urged to avoid repetition of comments made by previous speakers. A person may also have comments added to the minutes of the meeting by submitting them in writing either in addition to testifying or in lieu of testifying. Written comments may be submitted in person or by email, facsimile, or mail before, during, or after the meeting.)**

XI. Final Comments and Adjournment

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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 the Research Division at (775) 684-6825 as soon as possible.

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Notice of this meeting was posted in the following Carson City, Nevada, locations: Blasdel Building, 209 East Musser Street; Capitol Press Corps, Basement, Capitol Building; City Hall, 201 North Carson Street; Legislative Building, 401 South Carson Street; and Nevada State Library, 100 North Stewart Street. Notice of this meeting was faxed or e-mailed for posting to the following Las Vegas, Nevada, locations: Clark County Government Center, 500 South Grand Central Parkway; and Capitol Police, Grant Sawyer State Office Building, 555 East Washington Avenue. Notice of this meeting was posted on the Internet through the Nevada Legislature’s website at [www.leg.state.nv.us](http://www.leg.state.nv.us).

Supporting public material provided to Committee members for this meeting may be requested from Natalie J. Pieretti, Committee Secretary, Research Division of the Legislative Counsel Bureau at (775) 684-6825 and is/will be available at the following locations: Meeting locations and the Nevada Legislature’s website at [www.leg.state.nv.us](http://www.leg.state.nv.us).

# **Legislative Committee on Public Lands**

*(Nevada Revised Statutes 218E.510)*

## **WORK SESSION DOCUMENT**



**August 28, 2014**

Prepared by the Research Division  
Legislative Counsel Bureau



## **WORK SESSION DOCUMENT**

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

**August 28, 2014**

This “Work Session Document” has been prepared by the Chair and staff of the Legislative Committee on Public Lands (*Nevada Revised Statutes* [NRS] 218E.510) and is designed to assist the Committee in determining which legislative measures it will request for the 2015 Session of the Nevada Legislature and what other actions the Committee will endorse.

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

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

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

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

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

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

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

Finally, please note that in the fall of 2014 during the legislative drafting process, specific details of Committee-requested legislation or other Committee action may be further clarified in consultation with the Chair of the Committee or others, as directed or as appropriate.

## **PROPOSED ACTIONS RELATED TO SAGE-GROUSE**

1. **Draft a legislative resolution** supporting the State Plan developed by the Sagebrush Ecosystem Council, State Department of Conservation and Natural Resources (SDCNR), to ensure sagebrush habitats are conserved and managed in accordance with the State’s Plan and in coordination with local government plans, policies, and actions. The resolution should express support for the State Plan and urge the federal government not to list the sage-grouse under the Endangered Species Act of 1973. (*Jake Tibbitts, Natural Resources Manager, Eureka County, Department of Natural Resources [DNR], June 12, 2014; J.J. Goicoechea, Chair, Sagebrush Ecosystem Council, SDCNR, and Tim Rubald, Program Manager, Sagebrush Ecosystem Program, SDCNR, August 1, 2014.* )

*Background: The Bureau of Land Management (BLM) is scheduled to publish a final Environmental Impact Statement for the Greater Sage-Grouse in September. An expected final Record of Decision (ROD) is set to be signed by the end of 2014. Based on a review of the ROD, the United States Fish and Wildlife Service will issue a Greater Sage-Grouse listing decision by September 2015.*

## PROPOSED ACTIONS CONCERNING THE PUBLIC LANDS, GENERALLY

2. **Send a letter** to the Chief of the U.S. Forest Service (USFS) and the Forest Supervisor, Humboldt-Toiyabe National Forest, encouraging the USFS to promote and develop a system to allow more private citizens to cut Pinyon-Juniper (P-J) within defined limits in USFS designated areas. (*Recommended testimony on April 24, 2014.*)

*Background: Based on testimony, the USFS is attempting to conduct controlled burns on 50,000 acres of P-J in the Austin Ranger District. The USFS indicated that the ability to encourage or direct individuals to specific areas for the highest need of P-J removal would be beneficial.*

3. **Draft a legislative resolution** urging Congress to enact legislation transferring title and ownership of certain federally administered land to the State of Nevada pursuant to the plan laid out in the Nevada Land Management Task Force Report (Assembly Bill 227, Chapter 299, *Statutes of Nevada 2013*). (*Recommended as part of the Nevada Land Management Task Force's final report, August 1, 2014.*)

*Background: Conceptual language for the resolution is contained in the report entitled "A Report of the Nevada Land Management Task Force to the Nevada Interim Legislative Committee on Public Lands: Congressional Transfer of Public Lands to the State of Nevada."*

4. **Include a statement** in the final report supporting the streamlining of federal and State permitting activities on public lands, provided that such streamlining preserves necessary community and natural resource protections. (*Jake Tibbitts, Natural Resources Manager, Eureka County, DNR, June 12, 2014.*)

*Background: In recent years, federal agencies have announced plans to fast-track the approval of seven renewable energy transmission projects; identified solar energy zones designed to identify conflicts early and avoid delays and litigation; required prescreening of renewable energy projects; and proposed the use of adaptive management in energy permitting.*

*In 2013, Senator Jon Tester (Montana) introduced the Public Lands Renewable Energy Development (RED) Act of 2013, of which Senator Dean Heller is a co-sponsor. Among its provisions, it would streamline the permitting process for renewable energy projects on public lands.*

5. **Include a statement** in the final report supporting the sharing of federal receipts from commercial activity on public lands among the federal government, the State

of Nevada, and Nevada Counties and notify the U.S. Department of the Interior (DOI) and U.S. Department of Agriculture of this statement. (*Jake Tibbitts, Natural Resources Manager, Eureka County, DNR, June 12, 2014.*)

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

*The RED (previously mentioned) will, among other provisions, establish the Renewable Energy Resource Conservation Fund to be administered by the Secretary of the Interior in regions impacted by the development of wind or solar energy for addressing and offsetting the impacts of such development on federal land.*

#### **PROPOSED ACTIONS RELATED TO WILD HORSES AND BURROS**

6. **Send a letter** to the Chairs of the U.S. Senate Committee on Energy and Natural Resources and the U.S. House Committee on Natural Resources, Nevada's Congressional Delegation, and the Secretary of the DOI urging action to provide adequate resources to fully implement the Wild Free-Roaming Horse and Burro Act (WH&B) of 1971, including the necessary funding to determine appropriate management levels (AMLs) as required in the Act. (*Recommended testimony on April 24, 2014.*)

*Background: Testimony at the Elko and Tonopah meetings indicated that local federal agencies lacked the financial and infrastructure resources necessary to effectively manage wild horses. Testimony from the Austin Ranger District indicated that to date, no AMLs have been set in herd management areas within the District.*

7. **Send a letter** to the Nevada Attorney General requesting that Nevada consider joining the Nevada Association of Counties' (NACO) legal challenge to compel the BLM to manage wild horse and burro herds as required by federal law under the WH&B Act and subsequent amendments. (*Jake Tibbitts, Natural Resources Manager, Eureka County, DNR, June 12, 2014.*)

*Background: Based on an overview provided by NACO, it is the responsibility of the federal agencies that manage public land in Nevada to maintain the balance of species and uses on federal public lands. To that end, the BLM established AMLs for wild horse and burro populations and is tasked with inventoring the animals and maintaining*



*population levels (AMLs) that maintain a thriving ecological balance on the range. For some time now, wild horse and burro populations have far exceeded AMLs and management practices have not kept pace with population growth.*

## **PROPOSED ACTIONS RELATED TO GRAZING ON PUBLIC LANDS**

8. **Draft a letter** encouraging the BLM, USFS, and grazing permittees to pursue efforts to ensure that: (1) management decisions are based upon the best rangeland science; (2) flexibility is built into grazing permits to allow for adaptive management as issues and concerns arise; and (3) that the quality and quantity of data collected can support all decisions made based on clear and measureable resource objectives. *(Jake Tibbitts, Natural Resources Manager, Eureka County, DNR, June 12, 2014.)*

*Background: During public comment, the Committee heard multiple allegations of arbitrary and unjustified closures of livestock grazing in certain areas, and cites these examples: (1) arbitrary and inappropriate drought thresholds; and (2) the BLM is applying prohibitive restrictions on grazing because it is easier to implement than an active management plan. Public comment indicated the science behind these activities is flawed, which prevents ranchers from being able to provide for the livestock at the right time of year, and shifts the resource burden to private lands without solving the resource issues.*

## **PROPOSED ACTIONS RELATED TO MANAGEMENT OF WATER RESOURCES AND WATER SUPPLIES**

9. **Draft a legislative resolution** creating a statewide committee consisting of all water authorities and the Division of Water Resources (DWR), SDCNR, to study current and future water supply and allocation levels in Nevada, including the State's capabilities and need to measure annual pumpage amounts, water resource budgets, and annual ground water levels. The study should result in sufficient data that can be used to create a long term statewide water plan and water supply program. *(Chair Paul Aizley.)*

*Background: According to the Central Nevada Regional Water Authority, Nevada is facing a water supply crisis. A limited and possible diminishing water supply is a critical issue for Nevada's economic well-being, valued quality of life, and natural environment. During the 2013 Legislative Session, the Authority testified that Nevada is the most arid state in the union, and the Colorado River Basin and*

*the Great Basin have experienced severe drought over the last decade. In testimony for A.B. 301 (2013), the Authority included a statement that verifies a number of Nevada communities do not have an identified, sustainable water supply within their control to accommodate projected population growth over the next 30 years.*

10. **Send a letter** to the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (USACE) expressing opposition to the adoption and use by the EPA and/or the USACE of the April 21, 2014, proposed rule defining the scope of waters protected under the Clean Water Act of 1972 (Definition of “Waters of the United States” Under the Clean Water Act, EPA-HQ-OW-2011-0880). (*Humboldt River Basin Water Authority [HRBWA], June 12, 2014.*)

*Background: Eureka County expressed concern that the proposed rule redefining “Waters of the United States Under the Clean Water Act” would empower the EPA and USACE to control all wet areas within a state, and for the first time ever, give the federal government the authority over all activities affecting those waters, regardless of whether the activity occurs in the water or actually adds a pollutant. Under the rule, regulatory authority would shift from state and local jurisdictions to the federal government for the development and use of local land and water resources.*

11. **Send a letter** to the Chairs of the Assembly Committee on Ways and Means and the Senate Committee on Finance expressing continued support for enhanced funding for the DWR to process the backlog of water rights applications and to improve online data sources. (*HRBWA, June 12, 2014.*)

*Background: In 2013, the Legislature approved Senate Bill 468 (Chapter 271, Statutes of Nevada), which provided additional resources to the DWR to process a backlog of water rights applications and enhance online data resources. The State Water Engineer testified at the Las Vegas meeting about the reduced backlog of water rights applications as a result of the increase in funding and support.*

12. **Request the drafting of a bill** amending Chapter 519A of the NRS, “Reclamation of Land Subject to Mining Operations or Exploration Projects,” to require that applicants to the Nevada Division of Environmental Protection (NDEP) seeking a waiver from mine reclamation regarding pit lakes, be required to demonstrate that they hold a water right covering pit lake evaporation as a condition of approval of said waiver. (*HRBWA, June 12, 2014.*)

*Many large gold mines in the Humboldt River Basin are open pit projects. Mining companies often need extensive groundwater dewatering systems to keep water levels below the pit floors. Nevada Administrative Code 519A.250 allows an exemption from the NDEP's mine reclamation requirements for open pits. According to the HRBWA: (a) exempted open pits often become pit lakes; (b) the aggregate surface area of present and future lakes in the Basin is several hundred acres or more; (c) as a result of surface evaporation, pit lakes act like high-production wells, drawing groundwater from surrounding aquifers; (d) the closed Lone Tree Mine between Winnemucca and Battle Mountain, when full, will lose 2,400 to 2,700 acre-feet per year to evaporation in perpetuity, for which no water right has been issued and which is not reflected in the Basin's water budget; (e) since no water right is required and pit lakes are not accounted for in water budgets, the State Engineer may over-appropriate basins with pit lakes; and (f) obtaining a water right for a pit lake is, at present, voluntary and few mines have chosen to do so.*

- 13. Request the drafting of a bill** to appropriate at least \$300,000 for a grant to support cloud seeding activities in Nevada, giving preference to grant applicants who offer matching funds. *(HRBWA, June 12, 2014.)*

*Background: Based on testimony from the June meeting in Elko, the cloud seeding program began in the 1980s with activities dating back to the 1970s; however, funding was suspended during the State budget crisis between 2007 and 2009. More recently, the Southern Nevada Water Authority supported cloud seeding in the Ruby Mountains in the annual amount of \$300,000; the Bureau of Reclamation, U.S. DOI, has paid for seeding in the Walker River Basin program; and the Truckee Meadows Water Authority has paid for the program in the Truckee River Basin. Additionally, in the past, the State appropriated funds for the costs and the materials, while the Desert Research Institute provided funds for the personnel costs and other items associated with the cloud seeding program.*

- 14. Send a letter** to the Chief of the USFS and the Forest Supervisor, Humboldt-Toiyabe National Forest, urging no further delay in approving and investing in water-related range improvements, notwithstanding USFS concerns with Nevada's water law concerning stock water rights. *(HRBWA, June 12, 2014.)*

*Background: In 2003, the Legislature passed S.B. 76 (Chapter 505, Statutes of Nevada), which provides that the State Engineer may issue a permit to water livestock only to the rancher or operator of the livestock. Therefore, since 2003, the USFS and BLM cannot normally*

*obtain a stock water permit in their own name. Although the BLM adapted its policy to allow stock water-related improvements on public lands in Nevada without the BLM having to own the stock water right, the USFS has not done so, and has maintained a policy that stock water rights associated with any water improvement on the Humboldt-Toiyabe National Forest must be owned by the USFS before an improvement will be approved. The HRBWA says this policy has blocked many water related range improvements to the detriment of the environment, the livestock industry, and wildlife.*

15. **Send a letter (or include a statement in the final report)** to the NDEP requesting the reconsideration of the beneficial use designation of the Humboldt River. Testimony noted that NDEP’s designation of the Humboldt River for municipal drinking water use results in an inappropriately high water quality standard. (HRBWA, June 12, 2014.)

*Background: Nevada Revised Statutes 445A.520 requires the State to establish water quality standards at a level necessary to protect beneficial uses of the surface waters of the State. According to HRBWA, there are no municipal systems along the river that use the water for drinking water purposes.*

#### **PROPOSED ACTIONS RELATED TO WILDFIRE SUPPRESSION**

16. **Request the drafting of a bill** to amend Chapter 244 of the NRS, “Counties: Government,” to create nonprofit Rangeland Fire Protection Associations in each county. (Nevada Division of Forestry [NDF], SDCNR, May 29, 2014.)

*Background: This proposal will allow the NDF to enter into agreements with nonprofit organizations consisting of rangeland agricultural producers or landowners for initial fire response.*

17. **Send a letter to the County Commissioners** in Clark, Mineral, and White Pine Counties encouraging the counties to join the Wildland Fire Protection Program to ensure reimbursement for initial fire response on federal lands. (Recommended testimony on March 24, 2014.)

*Background: Under the Healthy Forests Restoration Act of 2003, the BLM and USFS provide incentives for local communities who develop and implement forest management and hazardous fuel reduction projects.*