

POLICY PLAN FOR PUBLIC LANDS

a section of the Churchill County 2010 Master Plan



EXHIBIT U – LANDS
Document consists of 33 slides.
Entire Exhibit provided.
Meeting Date: 01-27-12

In 1983, the Nevada State Legislature enacted Senate Bill 40 to take advantage of the accommodation provisions {Section 202(c)(9)} in the Federal Land Policy and Management Act (FLPMA). This section of public law requires the Bureau of Land Management to develop land use plans consistent with state and local land use plans to the extent that the Secretary of the Interior finds these consistent with federal law and the purposes of FLPMA. SB40 directed the State Land Use Planning Agency, with cooperation from state agencies and local governments throughout the state to prepare plans and policy statements concerning the acquisition and use of lands in Nevada which are under federal management and/or ownership. The purpose of this effort is to increase the role of Nevadans in determining the management of public lands. With such a large percentage of state land under control of the federal government, it is important that the federal land managing agencies understand and address the concerns and needs of Nevada. The final documented policy plan was completed in June 1985. Churchill County, as part of this effort, developed the "Churchill County Policy Plan for Public Lands." This was reviewed and adopted by the City of Fallon City Council and the Churchill County Board of County Commissioners on June 4, 1985 and June 6, 1985 respectively. The legislation did not provide for periodic updating of the plan. Churchill County will continue to review and update its policies with respect to federal lands as part of the Churchill County Master Plan process.

LAND OWNERSHIP

The federal and state government controls over 86% of the land in Churchill County. Only 13% of the land in the county is on the tax roll. Data in the following table is as of October 2011.

TABLE 12-1

Land Ownership	Acreage 2011	Percentage of County
Federal	2,704,533	83.88%
BLM	2,182,644	67.69%
BOR	456,231	14.15%
Military	38,261	1.19%
US Government (Incl. Postal)	27,397	0.85%
Tribal	50,938	1.58%
State	18,261	0.57%
Local Government	36,840	1.14%
TCID	3,268	0.10%
Private Lands	410,400	12.73%
Total	3,224,240	100.00%

Break Down
of Federal
Ownership

These numbers were derived by using the exemption codes in the Assessor's database, rounded to whole numbers. The Acreage for BOR is as reported by the BOR. The BOR acreage was subtracted from the BLM acreage found from Assessor data. All numbers are estimates and are subject to change.

INTRODUCTION

Public Lands form the vast majority of Churchill County. As such, they contribute to the open spaces and broad vistas that give a unique character to the high desert of Northern Nevada. The citizens and visitors of Churchill County enjoy many advantages and opportunities afforded by these public lands.

The Churchill County policy plan for public lands is a guide developed by the citizens and their local government regarding the use of public lands (all lands that are not privately owned) in Churchill County. The plan addresses federal land

use management issues and is intended to be used as a positive guide for federal land management agencies in their development and implementation of federal land plans and management actions.

Public Lands are part of the rich heritage of Churchill County. From the earliest mining activities, to modern day ranching, energy development, and military training, the use of public land resources has been an integral part of the rural lifestyle and local economy. The county and citizens support the continued multiple use of the public lands in Churchill County. The policies are intended to further agriculture, mining, military training, renewable energy development and recreation, as principal economic bases of the county.

Open public access to recreation, wildlife, and resources should be available to all. The multi-use nature of public lands requires that management decisions be made with the public's interest at the forefront, and careful consideration to maintaining sustainable resources for future generations. The county desires to maintain a thriving ecological balance among all species and resources found on public lands. This includes wild horse herds, managed at populations that are consistent with the land's capacity to support them, wildlife populations that are sustainable via hunting and natural predation, and livestock populations controlled by careful management of grazing permits.

Churchill County recognizes that certain private property interests exist on public lands. Any established private property, including mining claims, water rights, access easements, or any other private interests, must be upheld and

the property owners should be considered as equal stakeholders in decisions that may affect their interests.

This policy portion of the Churchill County Master Plan outlines expectations and desires of the people of Churchill County, and requires consultation prior to decisions that affect public lands within the County's boundaries. Churchill County is desirous of cooperation from the Bureau of Land Management and other Federal agencies in being guided by these policies. If at any time, according to the National Environmental Protection Act (NEPA), FLPMA or any other legislation, the U.S. Government (under any agency) intends to change uses or availability of resources on public lands in a way that will impact current historical and cultural uses, input from the citizens of the County is required and the Board of County Commissioners will be consulted. In addition, the County Commission should be consulted on any interpretation of these policies.

AIR QUALITY

GOAL: Prevent significant deterioration of the air quality found in Churchill County.

OBJECTIVES: Churchill County supports and it is our objective to continue to support:

- 1) Engaging state and federal agencies in their industrial air quality permitting process for proposed development that may impact air quality in Churchill County.
- 2) Developing local ordinances and requirements where gaps in state and federal law, oversight, or enforcement exist, that may allow threats to local health, welfare or environmental conditions; or threat to the economic/developmental future of the local communities.

- 3) Opposition to the reduction in, or export of surface or ground water and other commercial/industrial actions that may create uncontrolled dust/particulate matter, increased local temperature or other deterioration of air quality. Any proposal that impacts water resources shall trigger coordination.
- 4) Encouraging the use of water for recreation, irrigation, wildlife habitat, plant life (including phreatophyte) and surface disturbing activities as known methods of air quality sustainment.
- 5) Conducting limited controlled burning and/or grazing to control threat of wildfire and resultant large scale smoke and wind-blown dust pollution.

CULTURAL, HISTORIC, AND PALEONTOLOGICAL RESOURCES

GOAL: In coordination with federal, state, and local government planning agencies, tribal leadership, and interested members of the public, identify cultural, historical, and archaeological resources that may increase the opportunity for educational, recreational, socio-cultural enjoyment for the people of Churchill County.

PRIMARY PLANNING GUIDANCE:

- ◆ Antiquities Act of 1906
- ◆ National Historic Preservation Act of 1966
- ◆ National Environmental Policy Act of 1970
- ◆ Archaeological Resource Protection Act of 1979
- ◆ State Protocol Agreement Between BLM and SHPO (2009)
- ◆ OPNAVINST 5090.1

GUIDANCE: The National Historic Preservation Act is the

single largest piece of legislation that governs the treatment of cultural resources. It states that "...the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people..." Put simply, the Act requires that federal land managers consider the impacts of federal undertakings on cultural, historical, and archaeological resources. Other important federal cultural resource laws include the Antiquities Act of 1906 and the Archaeological Resources Protection Act of 1979, which: require protection of archaeological resources; require permits for excavation or appropriation of such resources; and impose fines for the disturbance or destruction of cultural resources. The National Environmental Policy Act requires that federal agencies examine their actions in regard to the environment and requires consultation with the public. OPNAVINST 5090.1 requires that the Navy follow the requirements of the above mentioned federal laws. The State Protocol Agreement between the BLM and the Nevada State Historic Preservation Office outlines the BLM's duties under the NHPA.

OBJECTIVES:

Churchill County supports and it is our objective to continue to support:

- 1) The federal designation of historic districts and cultural landscapes and development of cultural parks, museums, and cultural areas for preservation with open access for all. The County should be notified for coordination of these plans and be afforded an opportunity to respond.
- 2) The reasonable nomination of cultural resources to the

National Register of Historic Places. The County should be notified for coordination prior to nomination and be afforded an opportunity to comment.

- 3) The excavation of archaeological sites for scientific research with limited time constraints. The County should be given the opportunity to enter into an agreement with federal agencies that would allow the artifacts to be displayed at the Churchill County Museum on at least a temporary basis.
- 4) Cultural, historical, and archaeological studies. A copy of the final report from these studies should be made available to the Churchill County Museum and Churchill County Library.

FORAGE AND LIVESTOCK GRAZING

GOAL: It is Churchill County's goal to provide for landscape vegetation maintenance and improvement that will optimize Animal Unit Months (AUM) while maintaining a thriving ecological balance.¹

OBJECTIVES:

Churchill County supports and it is our objective to continue to support:

- 1) Implementing rangeland improvement programs, including but not limited to water developments, rangeland restoration, pinyon-juniper control, and weed control to increase forage production; improve livestock

grazing management to increase stocking rates. Appropriation of water for each beneficial use and use of that water will be in accordance with Nevada water law. It is the policy of Churchill County that water rights for livestock uses are to be held solely in the name of the permittee and not held jointly with a federal agency.

- 2) Identification and development of off-stream water sources, where such opportunities exist, in all allotment pastures with sensitive riparian areas and in all allotments where improved livestock distribution will result from such development.
- 3) Stocking level adjustments only after scientifically sound monitoring techniques and the expertise and practical knowledge of each permittee demonstrate that grazing management (including range improvements and specialized grazing systems) are not supporting basic soil, vegetation, wildlife and watershed goals.
- 4) Monitoring history, actual use or authorization of Temporary Non-Renewable grazing (TNR) demonstrates that supplemental use is continuously available, and can or should be used to improve or protect rangelands (e.g., reduction of fuel loads to prevent recurring wildfire), and initiate a process to allocate such use to permittees as active grazing preference.
- 5) Use of additional forage during those years when climatic conditions result in additional availability.
- 6) Temporary "voluntary non-use" of all or a portion of adjudicated forage if necessary, on occasion, due to drought, economic difficulties, animal health, etc., is an acceptable management strategy. "Voluntary non-use" for the purpose of long-term or permanent retirement of

¹ Thriving Ecological Balance (Interior Board of Land Appeals definition): The goal of wild horse and burro management should be to maintain a thriving ecological balance between wild horse and burro populations, wildlife, livestock and vegetation, and to protect the range from the deterioration associated with over population of wild horses and burros. (109 IBLA 115; also ref. Dahl vs. Clark supra at 592)

a grazing allotment is considered detrimental.

HUNTING, FISHING, AND OUTDOOR RECREATION

Outdoor recreation is important to the citizens of Churchill County. The unique outdoor recreational opportunities found in Churchill County are many of its greatest assets. Churchill County values the opportunity and freedom these lands provide and encourages balanced management goals that include hiking, camping, wildlife viewing, hunting, fishing, off highway vehicle and other outdoor recreation activities. Churchill County strongly advocates the rights of recreationists to continued lawful access to public lands.

GOAL: It is Churchill County's goal to provide for multiple recreation uses on Churchill County, federal and state administered lands located within its boundaries for residents and visitors to the County. Provide high quality recreational opportunities at developed and dispersed/undeveloped recreation sites by allowing historic uses and access while maintaining existing amenities and by providing new recreation sites for public enjoyment. Maintain public access opportunities in both motorized and non-motorized settings through the identification of rights-of-way or easements across government administered lands and private lands at the invitation of the property owner. Recognize that multiple recreation uses are mandated by the multiple use concepts and that adequate resources must be provided on the federal administered areas; keeping open all existing access roads and the ability to maintain those same roads or accesses.

PRIMARY PLANNING GUIDANCE: The Federal Land

Policy & Management Act declares it to be the policy of the United States that BLM administered lands be managed on the basis of multiple use in a manner which provides for outdoor recreation and human occupancy and use, while at the same time protecting scenic, ecological, environmental, water, and archaeological values. The Act also mandates that outdoor recreation be considered one of the principle uses in the multiple use concept for the BLM administered lands. In 1963, Congress enacted the Outdoor Recreation Coordination Act declaring it "desirable that all American people of present and future generations be assured adequate outdoor recreation resources". Churchill County supports the mandate that trails for multiple recreation uses be made available for a diversity of motorized and non-motorized uses. Multiple recreation uses must also be provided for the elderly, physically challenged and very young in order to provide diversity of recreation opportunities. All areas historically accessed by off-road recreational vehicles, mechanized vehicles, horses and boats should continue to be available for their historical uses.

OBJECTIVES: Churchill County supports and it is our objective to continue to support:

- 1) Multiple recreation uses for residents and visitors to Churchill County and to provide recreation in special and extensive recreation management areas.
- 2) Cooperative and coordinated planning of trailhead facilities for both motorized and non-motorized access, development and/or maintenance of roads and trails for both motorized and non-motorized access, restoration of those areas that are open to the public for historical recreational uses, e.g. motorized and equestrian access

for recreational and competitive events, hunting, fishing, and camping.

- 3) Optimizing outdoor recreation uses based on a thriving ecological balance.
- 4) Planning and establishment of limited (existing roads and trails) trail systems for compatible recreational, agricultural, off highway vehicle and other passive and active multiple uses.
- 5) Maintaining existing facilities at developed recreational sites and upgrade, reconstruct, and/or increase recreation facilities.
- 6) The recognition that hunting and fishing are valid uses of public resources. All public lands and waters should be open to fishing and hunting sanctioned under all federal, state, and local laws. However, recreation on private property without the approval of the owner is not permitted or approved.

LAW ENFORCEMENT

GOAL: Churchill County strives to protect and enhance the general safety and security of its residents and visitors on public lands. Churchill County appreciates the presence and cooperation of federal law enforcement officers on public lands but is opposed to any increase in BLM law enforcement authority. The County recognizes the Churchill County Sheriff as the primary law enforcement agency. Unless otherwise granted to another agency by specific federal or state law or memorandum of understanding, the Churchill County Sheriff shall be the controlling authority for any law enforcement action on public lands in Churchill County.

OBJECTIVES: Churchill County supports and it is our

objective to continue to support:

- 1) Ensuring that the people of Churchill County are adequately represented in all law enforcement activities that occur on state and federal lands within the County's borders or involve federal actions affecting private property within the County's borders.
- 2) Resolving questions of law regarding appropriate authority over the regulation of natural resources on state and federal land and access to state and federal lands through regularly updated Memorandums of Understanding.
- 3) Supporting cooperative training in areas of public safety such as search and rescue, fire and emergency responses, and hazardous materials. Federal agencies and State agencies should work with the County to ensure adequate personnel, training and equipment to meet the demand for back country rescues.
- 4) Fully supporting the coordinated efforts of the Churchill County Sheriff's Department, Nevada Highway Patrol, Federal agency law enforcement, and other pertinent entities, in the interdiction of illegal drug production and trafficking on public lands.

MILITARY LANDS AND ACTIVITIES

GOAL: Churchill County is supportive of economic development and creating a diverse base of commercial, industrial, agricultural and military growth in our community. Sustainment and expansion of military operations and training at the NAS Fallon, surrounding ranges and airspace are desired, to bring additional economic benefits to the county.

OBJECTIVES:

Churchill County supports and it is our intention to continue to support:

- 1) The protection of NAS Fallon operations through the use of conservation and restrictive use easements requiring compatible development within the NAS Fallon Buffer Zone. This buffer zone is established through the use of noise contours generated by flight operations from NAS Fallon. The noise contours will be updated as aircraft types and usage change at the air station.
- 2) The protection of the airspace used by manned and unmanned aerial vehicles.
- 3) The protection of bombing ranges and electronic warfare ranges against encroachment from incompatible land development and frequency spectrum interference.
- 4) The growth of the Navy mission and expansion of its ranges for new weapons, tactics, and ground forces. Churchill County realizes the desired growth of the Navy's mission may necessitate the potential increase in withdrawing more land. Many of those areas currently allow public access. The County supports the permitted use of federal lands for training, greater than casual use, without the need to withdraw from public access. If land is withdrawn, Navy should compensate and mitigate for improvements and infrastructure impacted by withdrawal.
- 5) The Navy's exploration and development of renewable energy for the use of NAS Fallon without fees or taxes. All power developed greater than used by NAS Fallon and its facilities are expected to pay all fees and taxes as a private developer would on public lands.
- 6) Navy management of resources on Navy lands and training areas, maximizing their sustainment,

minimizing detrimental impacts, allowing access to the public as much as possible without interfering with the Navy's training mission.

MINERALS, FLUID MINERALS, AND GEOTHERMAL RESOURCES

GOAL: Facilitate environmentally responsible exploration, development and reclamation of oil, gas, geothermal, locatable minerals, aggregate, and similar resources on federal lands.

OBJECTIVES:

Churchill County supports and it is our objective to continue to support:

- 1) Efforts ensuring that lands remain open and available for exploration and utilization of natural resources unless withdrawn by Congress or federal administrative action. To the extent practicable, land with high mineral or oil and gas values shall remain open for economic use. Closure or exclusion of federal lands containing mineral or fluid resources requires coordination.
- 2) Active engagement in NEPA analysis of environmental and community impacts related to proposed mineral, geothermal, oil and gas development, including social, economic, and fiscal impacts.
- 3) Working cooperatively with industry to make county permitting processes as clear and efficient as practicable.
- 4) The requirement for industrial projects on federal lands to be coordinated with and permitted by Churchill County for the purpose of evaluation and monitoring.

SOIL, VEGETATION, AND WATERSHEDS

GOAL: To maintain or improve the soil, environmental conditions, water, natural vegetation and watershed resources in a manner that perpetuates and sustains a diversity of life and uses while fully supporting the custom, culture, economic stability and viability of Churchill County and its individual citizens.

PRIMARY PLANNING GUIDANCE: To insure State and Federal agencies comply with the multiple use goals and objectives of Congress as stated in the various statutory laws, such as: Taylor Grazing Act, Federal Lands Policy & Management Act, Public Rangelands Improvement Act, Forest and Rangelands Renewable Resources Act, Mining Laws of 1866 and 1872, Mining & Mineral Policy Act of 1970, National Materials and Minerals Policy, Research & Development Act of 1980, and other related federal and state laws concerning recreational and other multiple use of natural resources which impact the soils, vegetation, and watersheds. The National Environmental Policy Act requires consideration of all environmental actions on the culture, heritage and custom of local government (16 U.S.C. sec. 4331 (a) (4)).

OBJECTIVES:

Churchill County supports and it is our objective to continue to support:

- 1) Development of a systematic procedure to coordinate all federal and state land use inventory, planning, and management activities with Churchill County, to assure that consideration is given to County natural resource strategies and County land use plans, and to assure that

agency land use plans are consistent with the Churchill County Master Plan to the extent required by Federal law.

- 2) Review and adjustment of livestock (grazing) stocking levels only in accordance with developed Allotment Management Plans (AMP) and/or trend in ecological status. Monitoring data, as obtained through the use of standardized rangeland studies such as ecological status inventory and frequency/trend monitoring completed at scheduled intervals or when triggered by climatic or environmental events following implementation of AMPs, will be required for stocking level adjustments. Other studies such as Rangeland Health evaluation, Riparian Functional condition, stubble height, and livestock utilization may be useful as indicators of the need for additional examination and objective monitoring techniques.
- 3) Development of prescribed fire and wildfire management plans to re-establish historic fire frequencies for appropriate vegetation types and include in such plans livestock grazing techniques as a tool for fire fuel management related to both wildfires and prescribed fires.
- 4) Inclusion with fire line and site rehabilitation plans, identification, utility and limitations of native or exotic vegetation capable of supporting watershed function and habitat for wildlife and livestock.
- 5) Development of grazing management plans following wild or prescribed fire through careful and considered consultation, coordination and cooperation with all affected permittees and affected landowners to provide for optional use of grazing animal management to enhance recovery.

- 6) Development of surface disturbance mitigation plans on soils with a high or very high erosion hazard rating within plans for multiple recreation use, road building, timber harvest, mechanical range treatments, prescribed fires, range improvements and vegetation manipulation.
- 7) Management of wildlife at levels (population numbers) that preclude adverse impacts to soil, water and vegetation until monitoring studies and allotment evaluations demonstrate that population adjustments are warranted by changing resource conditions. Seek to restore mule deer and sage grouse population numbers to highest healthy sustainable levels.
- 8) Management of wild horse and burro populations within Herd Management Areas (HMAs) at levels (population numbers) that preclude adverse impacts to soil, water and vegetation until monitoring studies and allotment evaluations demonstrate that population adjustments are warranted by changing resource conditions.
- 9) Integration of recreational uses into all planning efforts to preclude adverse impacts to soil, water and vegetation. Impacts to private property rights, including water rights and easements must be considered and may exclude some types of recreation or recreational development.
- 10) Prevention of the introduction, invasion or expansion of undesirable plants and noxious weeds into native rangelands and improve the ecological status of sites that are currently invaded by undesirable plants or noxious weeds by integrating, through consultation with the Churchill County Mosquito, Vector and Weed Control District and Churchill County Planning Department, appropriate control methods into all

planning efforts. Prescriptions for control of undesirable plants and noxious weeds may include, but are not limited to burning, grazing, mechanical, manual, biological and chemical methods. Range Improvement Fund money (8100 Fund) may be a source of payment for these activities where ever it is lawful.

- 11) Protection and improvement of the natural ecology and environmental health of all watersheds for the prevention of erosion, over use, pollution of surface and ground waters, or deterioration of riparian habitats.

WATER RESOURCES, RIPARIAN AREAS AND AQUATIC HABITATS

GOAL: Churchill County supports the requirements for water quality contained in the Nevada Administrative Code (NAC) Section 445, to the extent they can be met while complying with constitutional and statutory law as to vested water rights, and to maintain or improve riparian areas and aquatic habitat that represents a range of variability for function condition. Churchill County recognizes that precipitation, transpiration, evaporation, surface waters, ground waters, and geothermal reservoirs are all interconnected and interdependent.

Water Resources

OBJECTIVES:

Churchill County supports and it is our objective to continue to support:

- 1) The doctrine of prior appropriation as established by state law; and that the right to appropriate water is a compensable property right available to individuals and municipalities. Ownership of the right to use water has, as a key principal, those provisions set forth in Nevada

Revised Statutes 533.0010 through 533.085, including, but not limited to, first right, first use, beneficial use, and point of diversion.

- 2) The promotion of private development of water resources on state and federal land for beneficial use in Churchill County, including, but not limited to geothermal reservoirs, power generation, municipal water supplies, irrigation, stock water, and wildlife.
- 3) As an important part of the county economy, the continuation and maintenance of grazing allotment owners and grazing permit holders, owning and continuing to acquire new sources for livestock watering rights on federal lands as security to their continued ability to grazing on federal land.
- 4) The use of peer-reviewed science in the assessment of impacts related to water resource development.
- 5) Riparian monitoring data in view of technical limitations that may be present such as intermittent or ephemeral stream flows, soils or substrate susceptibility to erosion, expected stream flow of perennial waters, and site specific base data for water quality.
- 6) Opposition to any transfer of water out of the county which may impact current practices, the local economy or potential future growth, and will adamantly oppose such transfers that do not (a) pass the highest test of scientific rigor in demonstrating minimal impacts to existing water rights and (b) show a long-term benefit to the economic viability and community stability of the County. Out-of-basin and out-of-county transfers of water shall be accorded full attention of NRS 533.370, NRS 533.438 and other applicable state laws.
- 7) The maintenance of its water resources in a condition that will render it useable by future generations for the

full range of beneficial uses that further a viable and stable economic and social base for its citizens.

- 8) Retaining authority of States to protect water quality under the Clean Water Act. The County does not support abrogation of that authority to any other governmental or non-governmental entity.
- 9) Water quality standards that are (a) consistent with actual uses for which a particular water source or body is lawfully appropriated, and (b) based on accurate information regarding its natural state and range of variability.
- 10) Coordination among all responsible and affected federal agencies when considering water quality actions.
- 11) Modeling and monitoring of any significant commercial/industrial pumping of ground water or geothermal resources.
- 12) Water rights, which are private property, for livestock grazing. Churchill County opposes Wild Horse and Burro use of privately held water unless there is an agreement between the water rights owner and the appropriate land management agency.
- 13) Provision of additional water resources from innovative treatment of water or wastewater.

Newlands Project: Irrigation System

GOAL: The water for the Newlands Project arises on Federal land and terminates on Federal land, as many of its structures and facilities are on or traverse Federal land. The Project was created by and is still controlled by the United States Bureau of Reclamation. As the water passes through the farming district of Lahontan Valley in Churchill County, it augments the quality of life to the county in

numerous ways, indeed it is the reason for the community's existence.

Churchill County relies on Nevada State water law in connection with the water rights associated with the Project.

Churchill County also relies on a rapport with the Bureau of Reclamation to continue this valuable resource to the county. Before the Bureau does a plan, program, action, or prepares to make a decision, Churchill County requires, through this County Master Plan, to be contacted, and consulted, for coordination, so that the Bureau may address and rectify any inconsistencies between their actions and this County Master Plan.

OBJECTIVES:

Churchill County supports and it is our objective to continue to support:

- 1) Opposition to the transfer of irrigation water rights from productive agricultural lands and encourages all alternatives to be exhaustingly pursued and all agricultural water transfers to be designed to minimize health, ecological and economic impact to the community.
- 2) Opposition to the transfer of irrigation water rights to upstream out-of-county uses.

Riparian Habitat and Wetlands

GOAL: Riparian areas and wetlands are critically important to well-balanced and productive rangeland ecosystems. Many riparian areas and wetlands in Churchill County exist on private ranches and farms.

OBJECTIVES:

Churchill County supports and it is our objective to continue to support:

- 1) Consultation, cooperation and coordination as provided under Section 8 of the Public Rangelands Improvement Act of 1978 for riparian areas and wetlands under the jurisdiction of a federal agency.
- 2) Retaining responsible private ownership of sustainable riparian areas and wetlands that improve the economic environment for the ranching and farming community.
- 3) Water quality standards that are realistic and attainable for the specific location that the regulation will be applied. Consequently, standards for water quality must be applied on the basis of sound baseline data that is specific to each perennial body of water or naturally occurring reach of perennial stream. Water quality standards for naturally occurring streams or lakes, reservoirs, or other impoundments are based on mean water quality determined throughout the course of entire years, over multiple year time frames. Point in time measurements of water quality may provide an indication that more sampling and analysis is warranted, but such limited samples will not provide sufficient evidence to justify regulatory action on a basis that water quality has been impaired.

WILDERNESS, WILDERNESS STUDY AREAS (WSA), AREAS OF CRITICAL ENVIRONMENTAL CONCERN (ACEC), AND OTHER RESTRICTIVE LAND USE CLASSIFICATIONS

GOAL: Immediate Congressional designation action on all WSAs and special or restrictive land classifications based on Churchill County policy to release these areas for

multiple use management and in the interim prevent, minimize or mitigate impairment or degradation of such areas to the extent that Congressional actions are not preempted. Provide the amenities promised by wilderness designation through multiple use management that includes dispersed recreation where appropriate and opportunities for solitude.

Existing land uses and pre-existing property rights are described in other sections of this Master Plan. As every area of Churchill County includes pre-existing property rights and existing uses that are best served through multiple use management, Churchill County is committed to the protection of those existing rights.

As discussed within the Master Plan, Churchill County is committed to future development of mining, communication infrastructure, and energy production. Locations for many of the future developments cannot be identified at this time; therefore all currently available land must remain available and not be included in Wilderness Areas, Roadless Areas, ACEC, or other restrictive designations.

OBJECTIVES: Churchill County supports and it is our objective to continue to support:

- 1) Multiple-use of federal lands as vital to the economy of Churchill County, the County is opposed to the designation of any additional Wilderness Areas or Wilderness Study Areas within its geographic boundaries. Churchill County calls for removal of Wilderness Study Area designations and re-introduction of active stewardship of these lands that do not meet the suitability criteria of the 1964 Wilderness Act. Churchill County demands coordination, local input and decision-making in the designation and management of parks, refuges, Areas of Critical Environmental Concern, road-less areas or any other legislative action, regulatory decision or policy that limits access to, or use of, federal land or resources within the geographic boundaries of the County.
- 2) Provision for optimum scenic value in Churchill County through achievement of vegetation and soils watershed objectives and implementation of non-degrading, non-impairing range improvement activities, construction, use and maintenance of livestock management facilities, and facilities for public enjoyment of the land.
- 3) Development and establishment of objective scientific classifications of areas providing the amenities of wilderness experience under multiple use management based upon ecological site potential, desired plant community, and ecological condition and trend criteria, soil stability, topography, and proximity of disturbance such as designated military air space.
- 4) Identified measurable benefits that will be obtained through future designation of restricted use areas; no designation of restricted use areas such as Roadless, ACEC, or others will be completed until it is clearly demonstrated that such designations will not be detrimental to existing property rights, recreation including hunting or fishing, livestock grazing management, wildlife habitat management, County administrative needs, and future mining or energy development.
- 5) Designation of ACEC, Roadless Area, or other use restrictions serve as surrogate for Wilderness

designation but do not fall within the limitations of the Wilderness Act; therefore, such designations must not impair existing rights and must not impair public safety including search and rescue or drug law enforcement.

- 6) No Wilderness Areas will be supported or permitted in Churchill County without coordination and local support.

WILDLIFE AND WILDLIFE HABITAT

GOAL: Churchill County recognizes the value of healthy wildlife populations and their habitat and strives to support efforts to protect, preserve, manage, and restore wildlife and its habitats for their aesthetic, scientific, educational, recreational, and economic benefits to its citizens. We support wise human use of wildlife through consumptive and non-consumptive uses. The County is committed to the maintenance and enhancement of the diverse wildlife habitats that occur here. When appropriate and the opportunity is available, we will work to enhance citizen understanding of the County's wildlife resources and how they may enhance the quality of life of its citizens and visitors.

PRIMARY PLANNING GUIDANCE: Churchill County recognizes that wildlife resources in Nevada belong to the people of the state and the protection, management, restoration, and use of these resources are the responsibility of the State. We also recognize that public input with regard to management and use of wildlife resources is an important part of the process, and the appropriate vehicle for that input is through the Churchill County Advisory Board to Manage Wildlife to the Nevada Board of Wildlife Commissioners.

OBJECTIVES: Churchill County supports and it is our objective to continue to support:

- 1) The active protection and management of wildlife habitats within the county.
- 2) Major projects on public lands such as fishery development, range rehabilitation, guzzler installation, wildlife management areas and water manipulations to benefit wetlands.
- 3) Recognition of the strong public desire to enjoy the wildlife resources of the county and will work to ensure the public has access to those wildlife resources.
- 4) Efforts to recover potentially threatened species and habitat so they may be safely removed from candidate or special status listing.

WOODLAND RESOURCES

GOAL: It is Churchill County's goal to maintain or improve native species such as aspen, cottonwood, pinyon, and juniper, and to maintain tree health, vegetation diversity, wildlife, and watershed values through active management of woodland sites to include thinning, removal, or other management measures. Churchill County supports historic and economic use of our woodland resources and supports continued multiple use public land management and open public access for recreational uses such as hunting, camping, and hiking.

OBJECTIVES: Churchill County supports and it is our objective to continue:

- 1) The planning and implementing, where necessary and useful, of programs to improve pinyon and juniper woodland health, e.g.: selective fence post, Christmas

tree and firewood harvesting, or other operations such as biomass fuels and green-cuts.

- 2) The reclamation of disturbed forest sites.
- 3) The removal of pinyon or juniper from plant communities that are identified as non-woodland (rangeland) ecological sites and restore the vegetation that is appropriate for those respective sites.
- 4) Documentation of woodland product harvest activities on the BLM administered lands as necessary to promote customary and new economic use of woodland resources (i.e. pine nuts, firewood, posts, Christmas trees, etc.)
- 5) Wildlife habitat improvements and grazing management strategies designed to enhance woodland or forest goals for aspen, cottonwood, pinyon-juniper, or other woodland types.
- 6) Mitigating actions for the occurrence of insects and diseases that threaten the health of woodland resources.
- 7) Maintaining the ability of local residents to cut firewood and cut Christmas trees as a historic tradition of the residents of the County.

APPENDIX AND REFERENCES

FEDERAL LAWS, STATE LAWS, AND OTHER LEGAL CITATIONS THAT SUPPORT THE REQUIREMENT FOR COORDINATION AND DEFINE STATE, LOCAL AND PRIVATE PROPERTY RIGHTS

Following are excerpts from various laws, regulations, and some supporting court decisions that have been used to guide development of this document. This section is not intended to be a comprehensive source of reference, but is illustrative of the Federal and State laws and regulations that may support or aid in coordination.

Churchill County recognizes that each regulation in the Code of Federal Regulations (CFR) has, as its authority, an original law recorded in the United States Code (USC) that specifies or limits the scope of the regulation. Any reference to a portion of the CFR is also, by inference, dependent on the specific language of the respective law(s). Similarly, Nevada Administrative Code (NAC) is founded in an original law recorded in Nevada Revised Statute (NRS). Section 8.2.2 guides state and federal proposals for land use regulation or management, and Churchill County cooperation with these agencies.

Federal Land Policy and Management Act ("FLPMA" as amended)

The Bureau of Land Management ("BLM") must follow the consistency and coordination requirements in FLPMA "when the Secretary is making decisions directly affecting the actual management of the public lands," whether formally characterized as "resource management plan" activity or not. Uintah County, Utah v. Norton, Civ. No.

2:00-CV-0482J (Memorandum Opinion, September 21, 2001) citing State of Utah v. Babbitt, 137 F. 3d 1193, 1208 (10th Cir. 1998).

In addition to public involvement, the BLM is obligated to coordinate its planning processes with local government land use plans. 43 C.F.R. § 1610.3-1(a).

In providing guidance to BLM personnel, the BLM State Director shall assure such guidance is as "consistent as possible with existing officially adopted and approved resource related plans, policies or programs of other Federal agencies, State agencies, Indian tribes and local governments that may be affected. . . ." 43 C.F.R. § 1610.3-1(c)(1).

The BLM is obligated to take all practical measures to resolve conflicts between federal and local government land use plans. Additionally, the BLM must identify areas where the proposed plan is inconsistent with local land use policies, plans or programs and provide reasons why inconsistencies exist and cannot be remedied. 43 C.F.R. §§ 1610.3-1(c),(2),(3).

The BLM "shall provide other Federal agencies, State and local governments, and Indian tribes opportunity for review, advice, and suggestion on issues and topics which may affect or influence other agency or other government programs. To facilitate coordination with State governments, State Directors should seek the policy advice of the Governor(s) on the timing, scope and coordination of plan components; definition of planning areas; scheduling of public involvement activities; and the multiple use

opportunities and constraints on public lands.” 43 C.F.R. § 1610.3-1(b).

“A notice of intent to prepare, amend, or revise a resource management plan shall be submitted, consistent with State procedures for coordination of Federal activities, for circulation among State agencies. This notice shall also be submitted to Federal agencies, the heads of county boards, other local government units and Tribal Chairmen or Alaska Native Leaders that have requested such notices or that the responsible line manager has reason to believe would be concerned with the plan or amendment. These notices shall be issued simultaneously with the public notices required under § 1610.2(b) of this title.” 43 C.F.R. § 1610.3-1(d).

“Federal agencies, State and local governments and Indian tribes shall have the time period prescribed under § 1610.2 of this title for review and comment on resource management plan proposals. Should they notify the District or Area Manager, in writing, of what they believe to be specific inconsistencies between the Bureau of Land Management resource management plan and their officially approved and adopted resources related plans, the resource management plan documentation shall show how those inconsistencies were addressed and, if possible, resolved.” 43 C.F.R. § 1610.3-1(e)

The BLM plan must be consistent with officially approved and adopted local land use plans, as long as such local plans are consistent with federal law and regulations. 43 C.F.R. § 1610.3-2(a).

Prior to BLM resource management plan or management framework plan approval, the BLM shall submit a list of known inconsistencies between the BLM plans and local plans to the governor. 43 C.F.R. § 1610.3-2(e).

The BLM has no duty to make its plan consistent with a local government plan, if the BLM is not notified by the local government of the existence of its local plan. 43 C.F.R. § 1610.3-2(c).

Public Rangelands Improvement Act of 1978 (PRIA) **(43 U.S.C. 1901-1908)**

The Public Rangelands Improvement Act of 1978. 43 U.S.C. § 1901-1908, provides that the Secretary of Interior "shall manage the public rangelands in accordance with the Taylor Grazing Act, the Federal Land Policy and Management Act of 1976 and other applicable law consistent with the public rangelands improvement program pursuant to this Act." See 43 U.S.C. § 1903, which also provides that: "the goal of such management shall be to improve the range conditions of the public rangelands so that they become as productive as feasible in accordance with the rangeland management objectives established through the land use planning process, and consistent with the values and objectives listed in [Section 1901]." The values and objectives listed in Section 1901 by which the Secretary was to be guided include a finding and declaration by the Congress that: "to prevent economic disruption and harm to the western livestock industry, it is in the public interest to charge a fee for livestock grazing permits and leases on the public lands which is based on a formula reflecting annual changes in the costs of

production." 43 U.S.C. § 1901 (a) (5)."

The Congress further found and declared that one of the reasons the Public Rangelands Improvement Act was necessary is that segments of the public rangelands were producing less "than their potential for livestock" and that unsatisfactory conditions on some public rangelands prevented "expansion of the forage resource and resulting benefits to livestock and wildlife production." 43 U.S.C. § 1901 (a) (3). The Act mandates improvement of the rangelands in order to increase the potential for livestock development and to prevent economic harm to the "western livestock industry."

Taylor Grazing Act of 1934 (TGA)
(43 U.S.C. 315)

The Taylor Grazing Act of 1934, 43 U.S.C. § 315, was passed primarily to provide for stabilization of the western livestock industry. The Act authorized the Secretary of Interior to establish grazing districts in those federally managed lands which were "chiefly valuable for grazing and raising forage crops." The Secretary was authorized to act in a way that would "promote the highest use of the public lands." 43 U.S.C. § 315. The Act authorized the Secretary to issue grazing permits on a preferential basis with preference to be given to those "land owners engaged in the livestock business," "bona fide occupants or settlers," or "owners of water or water rights." 43 U.S.C. § 315 (b). The Secretary was authorized to take action to stabilize the livestock industry which was recognized as necessary to the national well-being.

The Act also recognized the property interests of a

permittee in the form of an investment backed expectation in § 315 (b). That Section provided that no preference would be given to any person whose rights were acquired during the year 1934 except that the Secretary could not deny the renewal of any such permit "if such denial will impair the value of the grazing unit of the permittee, when such unit is pledged as security for any bona fide loan."

The Forest and Rangeland Renewable Resources Planning Act of 1974

Public Law 93-378 Approved Aug 17, 1974 and as amended by P.L.106-580 December 31, 2000;. Section 4 (16 U.S.C. 1602) and Section 6 (16 U.S.C. 1604) requires coordination with State and Local Governments. FS can cooperate with other agencies but coordination is mandatory with the local governments. <http://www.fs.fed.us/emc/nfma/includes/range74.pdf>

Clean Air Act

[T]he prevention and control of air pollution "at its source is the primary responsibility of States and local governments" 42 U.S.C. § 7401(a)(3).

"[F]ederal financial assistance and leadership is essential for the development of cooperative Federal, State, regional, and local programs to prevent and control air pollution." 42 U.S.C. § 7401(a)(4).

The federal government "shall encourage cooperative activities by the States and local governments" 42 U.S.C. § 7402(a).

Each State "shall provide a satisfactory process of

consultation with general purpose local governments" 42 U.S.C. § 7421.

Clean Water Act

"Federal agencies shall co-operate with State and local agencies to develop comprehensive solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources." 33 U.S.C. § 1251(g).

The Environmental Protection Agency "shall, after careful investigation, and in cooperation with other Federal agencies, State water pollution control agencies, interstate agencies, and the municipalities and industries involved, prepare or develop comprehensive programs for preventing" water pollution. 33 U.S.C. § 1252(a).

Section 404 of the Clean Water Act regulates the placement of fill material into wetlands, and defines what wetlands are for purposes of regulation. This section is jointly administered by at least four federal agencies.

Endangered Species Act

"[N]ot less than ninety days before the effective date of the regulation," the U.S. Fish and Wildlife Service ("FWS") is required to give actual notice to local governments of its intent to propose a species for listing or change or propose critical habitat. 16 U.S.C. § 1533(b)(5)(A)(ii).

Once notified, the local government has the opportunity to comment on the proposed species listing or critical habitat designation. 50 C.F.R. § 424.16(c)(i)(ii).

The FWS must directly respond to the "State agency"^[2] comments. 16 U.S.C. § 1533(i).

Other federal agencies must also consider local government and public comments regarding the management of threatened or endangered species. 16 U.S.C. § 1533(f)(5).

Section 2 (c)(2) instructs federal agencies to cooperate with State and local agencies to resolve water resource issues in concert with conservation of endangered species. 16 U.S.C. § 1531 (c)(2)

The listing of a species as threatened or endangered by the FWS is to be based on the "best scientific and commercial data available." 16 U.S.C. § 1533(b)(1)(A).

The FWS shall list species only after taking into account efforts of State or political subdivisions to protect the species. 16 U.S.C. § 1533(b)(1)(A).

Critical habitat designations must take economic impacts into account. Areas may be excluded as critical habitat based upon economic impacts unless the failure to designate the area as critical habitat would result in extinction of the species. 16 U.S.C. § 1533(b)(2).

The FWS is required to complete full NEPA documentation when designating critical habitat. Commission of Catron County v. U.S.F.W.S., 75 F.3d 1429 (10th Cir. 1996).

The Secretary "shall develop and implement [recovery]

plans for the . . . survival of endangered species . . . unless he finds that such a plan will not promote the conservation of the species." 16 U.S.C. § 1533(f)(1).

According to the ESA section 7 consultation regulations, an applicant "refers to any person . . . who requires formal approval or authorization from a Federal agency as a prerequisite to conducting agency action. 50 C.F.R. § 402.02. "Although early consultation is conducted between the Service [FWS] and the Federal agency, the prospective applicant should be involved throughout the consultation process. 50 C.F.R. § 402.11(a). The Biological Assessment or Biological Evaluation ("BA"), i.e., the document created by the federal agency containing the proposed action, may be prepared by a non-Federal representative. 50 C.F.R. § 402.12(a) to (c).

The Sensitive Species Program was created on January 6, 1989 by the FWS and is implemented by all federal agencies. These federal agencies are to give "special consideration" to those plant and animal species that the FWS is considering for listing but lacks the scientific data to list. 54 Fed. Reg. 554 (January 6, 1989).

General Mining Act of 1872

The General Mining Act of 1872 is a United States federal law that authorizes and governs prospecting and mining for economic minerals, such as gold, platinum, and silver, on federal public lands. This law, approved on May 10, 1872, codified the informal system of acquiring and protecting mining claims on public land, formed by prospectors in California and Nevada from the late 1840s through the 1860s, such as during the California Gold

Rush. All citizens of the United States of America 18 years or older have the right under the 1872 mining law to locate a lode (hard rock) or placer (gravel) mining claim on federal lands open to mineral entry. These claims may be located once a discovery of a locatable mineral is made. Locatable minerals include but are not limited to platinum, gold, silver, copper, lead, zinc, uranium and tungsten.

Nevada Revised Statutes Chapter 517

- Locating Mining Claims 43 CFR 3830
- Locating Mining Claims 43 CFR 3832
- Recording Mining Claims and Sites 43 CFR 3833
- Required Fees for Mining Claims or Sites 43 CFR 3834
- Waivers From Annual Maintenance Fees 43 CFR 3835
- Annual Assessment Work Requirements for Mining Claims 43 CFR 3836
- Acquiring a Delinquent Co-Claimant's Interest in a Mining Claim or Site 43 CFR 3837
- Locating Mining Claims on Stockraising Homestead Act Lands 43 CFR 3838

National Environmental Policy Act ("NEPA")

All federal agencies shall prepare an environmental impact statement ("EIS") or an environmental assessment ("EA"), (i.e. a NEPA document) for "every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment." 42 U.S.C. § 4332(2)(c).

Such EIS or EA shall include, among other things,

alternatives to the proposed action. 42 U.S.C. § 4332(C)(iii).

Each EIS or EA shall also contain a "no action" alternative which describes the status quo. Natural Resources Defense Council v. Hodel, 624 F.Supp. 1045, 1054 (D. Nev. 1985).

Copies of comments by State or local governments must accompany the EIS or EA throughout the review process. 42 U.S.C. § 4332(C).

Federal agencies shall "consult [] early with appropriate state and local agencies and Indian tribes and with interested private persons and organizations when its own involvement is reasonably foreseeable." 40 C.F.R. § 1501.2(d)(2).

Local governments shall be invited to participate in the scoping process. 40 C.F.R. § 1501.7(a)(1).

Federal agencies shall cooperate "to the fullest extent possible to reduce duplication" with State and local requirements. Cooperation shall include:

- (1) Joint planning
- (2) Joint environmental research
- (3) Joint hearings
- (4) Joint environmental assessments. 40 C.F.R. § 1506.2
40 C.F.R. § 1506.2(b).

Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and comparable State and local requirements, unless

the agencies are specifically barred from doing so by law. Such cooperation shall to the fullest extent possible include joint environmental impact statements. In such cases one or more Federal agencies shall be joint lead agencies. Where State laws or local ordinances have environmental impact statement requirements in addition to but not in conflict with those in NEPA, Federal agencies shall cooperate in fulfilling these requirements as well as those of Federal laws so that one document will comply with all applicable laws. 40 C.F.R. § 1506.2(c).

Federal, State, or local agencies, including at least one Federal agency, may act as joint lead agencies to prepare an environmental impact statement. 40 C.F.R. § 1501.5(b).

Any Federal agency, or any State or local agency or a private person substantially affected by the absence of lead agency designation, may make a written request to the potential lead agency that a lead agency be designated. 40 C.F.R. § 1501.5(d).

A State or local agency of similar qualifications [one who has special expertise] . . . may by agreement with the lead agency become a cooperating agency. 40 C.F.R. § 1508.5.

To better integrate EIS into State or local planning processes, such statement shall discuss any inconsistency of a proposed action with any approved State or local plan and laws (whether or not federally sanctioned). Where an inconsistency exists, the statement should describe the extent to which the agency would reconcile its proposed action with the plan or law. 40 C.F.R. § 1502.16(c).

Environmental impact statements must discuss any "inconsistency of a proposed action with any approved State or local plan and laws (whether or not federally sanctioned). Where an inconsistency exists, the [EIS] should describe the extent to which the agency would reconcile its proposed action with the plan or law." 40 C.F.R. § 1506.2(d).

Appropriate mitigation measures must be included in the EIS. 40 C.F.R. § 1502.14(F). Mitigation includes (a) avoiding the impact altogether, (b) limiting the degree of the impact, (c) repairing, rehabilitating or restoring the affected environment, (d) reducing the impact by preservation opportunities, or (e) compensating for the impact by replacing or providing substitute resources or environments. 40 C.F.R. § 1508.20.

Federal agencies shall circulate the entire draft and final EIS, or if the EIS is unusually long, a summary of the EIS, to State and local agencies authorized to develop and enforce environmental standards. 40 C.F.R. § 1502.19(a).

A local government, because of a concern for its environment, wildlife, socio-economic impacts and tax base, has standing to sue federal agencies and seek relief for violations of NEPA. Commission of Catron County v. U.S.F.W.S., 75 F3d 1429 (10th Cir. 1996).

Revised Statute 2477 (R.S. 2477)

Revised Statute 2477 provides that "the right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted." The Act of July 26, 1866, ch. 262, § 8, 14 STAT. 251, 253 (1866)

(formerly codified at 43 U.S.C. § 932).

The grant is self-executing; an R.S. 2477 right-of-way comes into existence "automatically" when the requisite elements are met. See Shultz v. Department of Army, 10 F.3d 649, 655 (9th Cir. 1993).

One hundred and ten years after its enactment, R.S. 2477 was repealed with the passage of the Federal Land Policy and Management Act of 1976 ("FLPMA"), 43 U.S.C. § 1701 *et seq.* See 43 U.S.C. § 932, repealed by Pub. L. No. 94-579, § 706(a), 90 STAT. 2743, 2793 (1976). However, FLPMA explicitly preserved any rights-of-way that existed before October 21, 1976, the date of FLPMA's enactment. See 43 U.S.C. § 1769(a).

Wild and Free-Roaming Horse and Burro Act

The Wild and Free-Roaming Horse and Burro Act of 1971 (as amended by the Public Range Land Improvement Act of 1978) requires the BLM to "immediately remove excess animals from the range so as to achieve appropriate management levels". Congress defines 'excess animals' as "wild free roaming horses or burros which must be removed from an area in order to preserve and maintain a thriving natural ecological balance and multiple-use relationship." The 1978 Conference Committee stated: "The goal of wild horse and burro management, as with all Range Management Programs, should be to maintain a thriving ecological balance between wild horse and burro populations, wildlife, livestock, and vegetation, and to protect the range from the deterioration associated with over population of wild horses and burros." There are no

provisions in the Wild and Free-Roaming Horse and Burro Act for allocating forage or water to horses and burros protected under the law.

Federal Advisory Committee Act, October 6, 1972

Public Law 92-463 (86 Stat.770) is enforceable through the Administrative Procedure Act (APA).

Committee requires clear designation of name, purpose, duties, and duration (time it will be in place).

Each Advisory Committee meeting shall be open to the public, allow for interested parties to attend, appear before the committee, and file statements.

Records, reports, transcripts, minutes, agendas, and other records shall be available for public display.

Federal Data Quality Act ("FDQA") **(See the Paperwork Reduction Act, also)**

Congress originally included this process in the Paperwork Reduction Act of 1995. OMB and other levels of organization within the Executive Branch ignored the law until, in 2000, Congress ordered specific actions and deadlines for the Executive branch to complete by 2002. Some agencies refer to their compliance with Data Quality as Information Quality.

The FDQA directs the Office of Management and Budget ("OMB") to issue government-wide guidelines that "provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility and integrity of information (including

statistical information) disseminated by Federal agencies." 515(a) of Pub.L. No. 106, 554, 114 Stat. 2763 (2000).

See Office of Management and Budget (OMB), "Guidelines for Office of Management and Budget (OMB), "Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Dissemination by Federal Agencies," *Federal Register*, Vol. 67, No. 2, January 3, 2002

The OMB guidelines apply to all federal agencies and require that information disseminated by the Federal government will meet basic informational quality standards. 66 Fed. Reg. 49719.

This "standard of quality" essentially requires that data used and published by all Federal agencies meet four elements. These elements include:

- (a) quality
 - (b) utility (i.e. referring to the usefulness of the data for its intended purpose)
 - (c) objectivity (i.e. the data must be accurate, reliable, and unbiased)
 - (d) integrity
- 66 Fed. Reg. at 49719.

In addition to following the OMB guidelines, all federal agencies were to issue data quality guidelines by October 1, 2002. (67 Fed. Reg. 9797). Each agency has complied, and now has both the requirements for data quality assessment in accordance with law, and in accordance with their specific policies.

Peer review, as a requirement to assure the quality and

credibility of scientific data, has been extensively discussed by the Office of Management and Budget in the "Final Information Quality Bulletin for Peer Review", 45 pages, as released December 16, 2004 (file code M-05-03). OMB defines the term "Peer Review", and specifies the procedures each agency is to follow including the qualifications required of peer reviewers.

OMB defines peer review as: "one of the important procedures used to ensure that the quality of published information meets the standards of the scientific and technical community. It is a form of deliberation involving an exchange of judgments about the appropriateness of methods and the strength of the author's inferences. Peer review involves the review of a draft product for quality by specialists in the field who were not involved in producing the draft. The peer reviewer's report is an evaluation or critique that is used by the authors of the draft to improve the product. Peer review typically evaluates the clarity of hypotheses, the validity of the research design, the quality of data collection procedures, the robustness of the methods employed, the appropriateness of the methods for the hypotheses being tested, the extent to which the conclusions follow from the analysis, and the strengths and limitations of the overall product."

Federal Data Access Act

Requires data obtained with federal funds be made available for analysis by interested parties, in addition to the scientists who generated the data.

Freedom of Information Act ("FOIA")

Under the FOIA, "each agency, upon any request for

records which (A) reasonably describes such records and (B) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person." 5 U.S.C. § 552(a)(3).

Intergovernmental Cooperation Act ("ICA")

The Intergovernmental Cooperation Act, 31 U.S.C. §§ 6501-6506 and companion Executive Order 12372, require all federal agencies to consider local viewpoints during the planning stages of any federal project. 31 U.S.C. § 6506(c).

The obligation of federal agencies to consider local government concerns is a legally enforceable right. City of Waltham v. U.S. Postal Service, 11 F.3d 235, 245 (1st Cir. 1993).

Injunctive relief is available in those cases in which federal agencies fail to comply with the ICA. City of Rochester v. U.S. Postal Service, 541 F.2d 967, 976 (2nd Cir. 1976).

The consideration of local government plans and policies must occur on the record. Federal agencies have an affirmative duty to develop a list of factors which support or explain an agency's decision to act in disharmony with local land use plans. Village of Palatine v. U.S. Postal Service, 742 F. Supp. 1377, 1397 (N.D. Ill. 1990).

Regulatory Flexibility Act see 5 U.S.C. §601 – 612

Includes requirements for agencies to publish notification of proposed rules that are likely to have significant economic impact on small entities and complete a regulatory flexibility analysis.

Resource Conservation Act of 1981

"It is the purpose of this subchapter to encourage and improve the capability of State and local units of government and local nonprofit organizations in rural areas to plan, develop, and carry out programs for resource conservation and development." 16 U.S.C. § 3451.

"In carrying out the provisions of this subchapter, the Secretary [of Agriculture] may . . . (2) cooperate with other departments and agencies of the Federal Government, State, and local units of government, and with local nonprofit organizations in conducting surveys and inventories, disseminating information, and developing area plans" 16 U.S.C. § 3455.

The Secretary of Agriculture may provide technical and financial assistance only if "the works of improvement provided for in the area plan are consistent with any current comprehensive plan for such area." 16 U.S.C. § 3456(a)(4).

Soil and Water Resources Conservation Act

"Recognizing that the arrangements under which the Federal Government cooperates . . . through conservation districts, with other local units of government and land users, have effectively aided in the protection and improvement of the Nation's basic resources, . . . it is declared to be policy of the United States that these arrangements and similar cooperative arrangements should be utilized to the fullest extent practicable. . . ." 16 U.S.C. § 2003(b).

"In the implementation of this [Act], the Secretary [of

Agriculture] shall utilize information and data available from other Federal, State, and local governments" 16 U.S.C. § 2008.

Examples of federal law enforcement statutes within Federal enclaves:

Federal law enforcement authority of the Bureau of Land Management over activities on public lands is provided in the Federal Land Policy and Management Act of 1976 at 43 USC § 1733. Pertinent provisions are:

§ 1733. Enforcement authority**(a) Regulations for implementation of management, use, and protection requirements; violations; criminal penalties**

The Secretary shall issue regulations necessary to implement the provisions of this Act with respect to the management, use, and protection of the public lands, including the property located thereon. Any person who knowingly and willfully violates any such regulation which is lawfully issued pursuant to this Act shall be fined no more than \$1,000 or imprisoned no more than twelve months, or both. Any person charged with a violation of such regulation may be tried and sentenced by any United States magistrate judge designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions and limitations as provided for in section 3401 of title 18 of the United States Code.

(b) Civil actions by Attorney General for violations of regulations; nature of relief; jurisdiction

At the request of the Secretary, the Attorney General may institute a civil action in any United States

district court for an injunction or other appropriate order to prevent any person from utilizing public lands in violation of regulations issued by the Secretary under this Act.

(c) Contracts for enforcement of Federal laws and regulations by local law enforcement officials; procedure applicable; contract requirements and implementation

(1) When the Secretary determines that assistance is necessary in enforcing Federal laws and regulations relating to the public lands or their resources he shall offer a contract to appropriate local officials having law enforcement authority within their respective jurisdictions with the view of achieving maximum feasible reliance upon local law enforcement officials in enforcing such laws and regulations. The Secretary shall negotiate on reasonable terms with such officials who have authority to enter into such contracts to enforce such Federal laws and regulations. In the performance of their duties under such contracts such officials and their agents are authorized to carry firearms; execute and serve any warrant or other process issued by a court or officer of competent jurisdiction; make arrests without warrant or process for a misdemeanor he has reasonable grounds to believe is being committed in his presence or view, or for a felony if he has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; search without warrant or process any person, place, or conveyance according to any Federal law or rule of law; and seize without warrant or process any evidentiary item as provided

by Federal law. The Secretary shall provide such law enforcement training as he deems necessary in order to carry out the contracted for responsibilities. While exercising the powers and authorities provided by such contract pursuant to this section, such law enforcement officials and their agents shall have all the immunities of Federal law enforcement officials.

(2) The Secretary may authorize Federal personnel or appropriate local officials to carry out his law enforcement responsibilities with respect to the public lands and their resources. Such designated personnel shall receive the training and have the responsibilities and authority provided for in paragraph (1) of this subsection.

(d) Cooperation with regulatory and law enforcement officials of any State or political subdivision in enforcement of laws or ordinances

In connection with the administration and regulation of the use and occupancy of the public lands, the Secretary is authorized to cooperate with the regulatory and law enforcement officials of any State or political subdivision thereof in the enforcement of the laws or ordinances of such State or subdivision. Such cooperation may include reimbursement to a State or its subdivision for expenditures incurred by it in connection with activities which assist in the administration and regulation of use and occupancy of the public lands.

(e) Applicability of other Federal enforcement provisions

Nothing in this Act shall be construed as reducing or limiting the enforcement authority vested in the

Secretary by any other statute.

(f) Unlawful activities

The use, occupancy, or development of any portion of the public lands contrary to any regulation of the Secretary or other responsible authority, or contrary to any order issued pursuant to any such regulation, is unlawful and prohibited.

PRESIDENTIAL EXECUTIVE ORDERS

Presidential Executive Order 12372 as amended by EO12416 - Intergovernmental Review of Federal Programs

See the discussion of Intergovernmental Cooperation Act ("ICA"), above.

Presidential Executive Order 12630 --- Governmental Actions and Interference With Constitutionally Protected Property Rights see 62 Fed. Reg. 48,445 (1988)

"The Fifth Amendment of the United States Constitution provides that private property shall not be taken for public use without just compensation Recent Supreme Court decisions, however, in reaffirming the fundamental protection of private property rights provided by the Fifth Amendment and in assessing the nature of governmental actions that have an impact on constitutionally protected property rights, have also reaffirmed that governmental actions that do not formally invoke the condemnation power, including regulations, may result in a taking for which just compensation is required." Section 1(a).

"The purpose of this Order is to assist Federal departments and agencies in undertaking such reviews and in proposing, planning, and implementing actions with due regard for the constitutional protections afforded by the Fifth Amendment and to reduce the risk of undue or inadvertent burdens on the public fisc resulting from lawful governmental action." Section 1(c).

"The Just Compensation Clause [of the Fifth Amendment] is self-actuating, requiring that compensation be paid whenever governmental action results in a taking of private property regardless of whether the underlying authority for the action contemplated a taking or authorized the payment of compensation. Accordingly, governmental actions that may have significant impact on the use of value or private property should be scrutinized to avoid undue or unplanned burdens on the public fisc." Section 3(e).

Agencies are required to prepare a Takings Implication Assessment prior to taking any action, issuing any rule, or making any decision which would constitute a taking of private property or private property interest including investment backed expectation.

Note: although not specified in this EO, agency actions may partially Take property as demonstrated in *Loveladies Harbor Inc., et. al. vs. the United States*, 21 C.L.C.T. 153 (1990) which have awarded compensation for partial takings where the takings have frustrated reasonable investment backed expectations and deprived the individual of the economically viable use of his land and property rights and interests.

Presidential Executive Order 12866 --- Regulatory Planning and Review see 58 Fed. Reg. 51,735 (1993)

"The American people deserve a regulatory system that works for them, not against them: a regulatory system that protects and improves their health, safety, environment, and well being and improves the performance of the economy without imposing unacceptable or unreasonable costs on society; regulatory policies that recognize that the private sector and private markets are the best engine for economic growth; regulatory approaches that respect the role of State, local and tribal governments; and regulations that are effective, consistent, sensible, and understandable. We do not have such a regulatory system today." Introduction. "Wherever feasible, agencies shall seek views of appropriate State, local and tribal officials before imposing regulatory requirements that might significantly or uniquely affect those governmental entities. Each agency shall assess the effects of Federal regulations on State, local, and tribal governments, including specifically the availability of resources to carry out those mandates, and seek to minimize those burdens that uniquely or significantly affect such governmental entities, consistent with achieving regulatory objectives. In addition, as appropriate, agencies shall seek to harmonize Federal regulatory actions with related State, local and tribal regulatory governmental functions." Section 1(b)(9).

"State, local and tribal governments are specifically encouraged to assist in the identification of regulations that impose significant or unique burdens on those governmental entities and that appear to have outlived their justification or be otherwise inconsistent with the public interest." Section 5(b).

"In particular, before issuing a notice of proposed rule making, each agency should, where appropriate, seek the involvement of those who are intended to benefit from and those who are expected to be burdened by any regulation (including, specifically, State, local and tribal officials). Each agency also is directed to explore and, where appropriate, use consensual mechanisms for developing regulations, including negotiated rule making." Section 6(a)(1).

Presidential Executive Order 13352 --- Facilitation of Cooperative Conservation August 26, 2004

"Purpose of this order is to ensure that the Departments of Interior, Agriculture, Commerce, and Defense and the Environmental Protection Agency implement laws relating to the environment and natural resources in a manner that promotes cooperative conservation, with an emphasis on appropriate inclusion of local participation in Federal decision making, in accordance with their respective agency missions, policies, and regulations."

Cooperative conservation means collaborative actions that relate to use, enhancement, and enjoyment of natural resources, protection of the environment, or both. Federal agencies are to take appropriate account of and respect the interests of persons with ownership or other legally recognized interests in land and other natural resources; properly accommodate local participation in Federal decision making; and provide that programs, projects, and activities are consistent with protecting public health and safety.

STATE LAWS RELATED TO PLANNING**Nevada Constitution and standing of County Government**

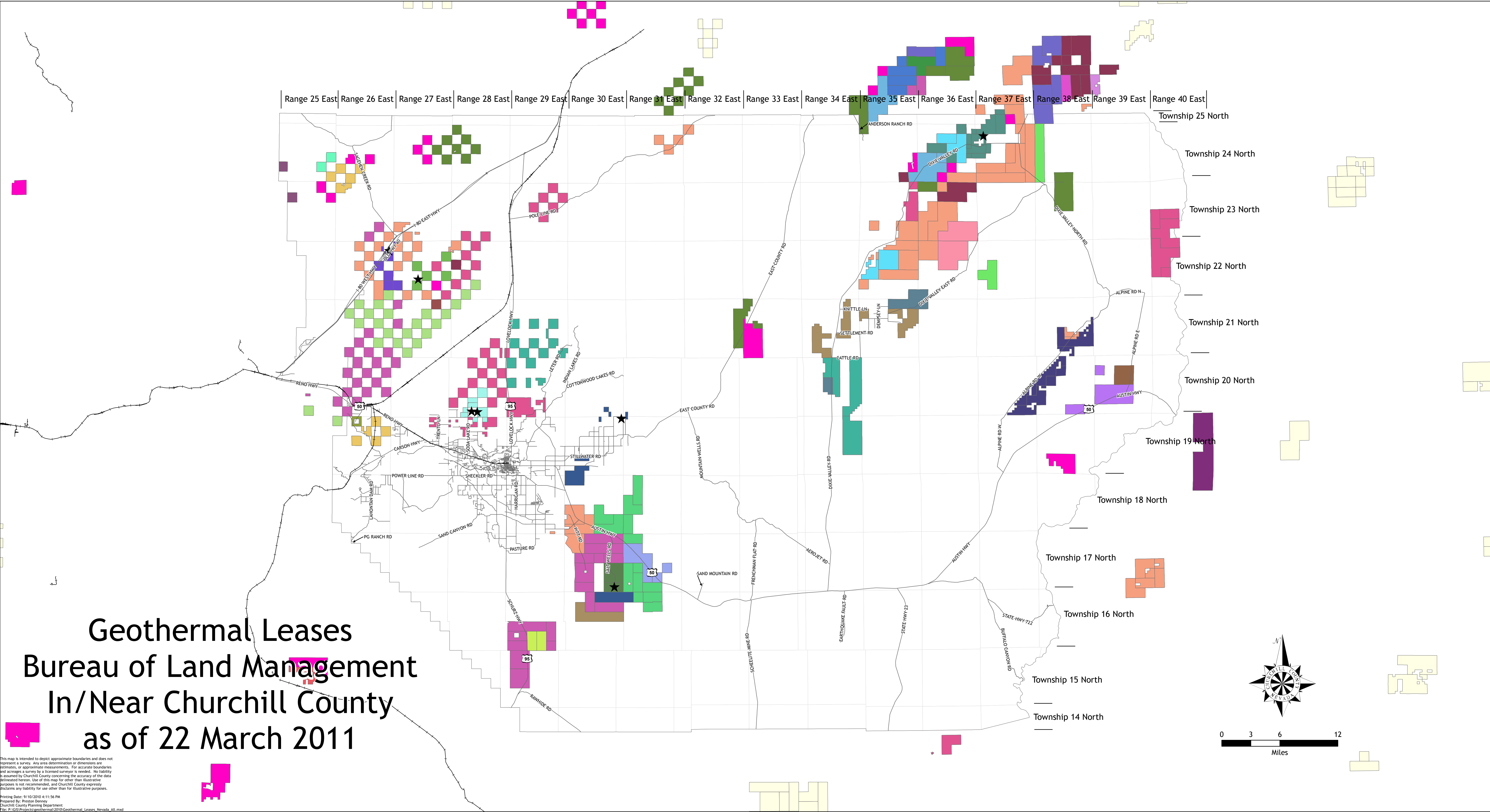
Nevada is among a handful of States which, according to the Nevada Association of Counties, is not considered to be organized under the concept of County home rule. Each County was originally organized in accordance with what became known as Dillon's Rule. It was named after Iowa Supreme Court Justice Dillon, who argued in the late 1800's that local government is to be limited in authority. This concept was largely a reaction to the widespread corruption among local officials of the late 1800's and early 1900's that some believed could only be solved with strict control by state legislatures. However, as the populations grew it was apparent that counties needed more flexibility to organize and finance the functions of local government, including hiring individuals to serve in such capacity as County Manager, and arranging intergovernmental agreements between county and city governments. Home Rule of counties was developed to meet this need either through a "Charter" or, in the case of Nevada, through legislation granting the necessary authority to the respective counties.

Churchill County's authority for components of this Master Plan also includes the passage of SB40 by the Nevada Legislature in 1983 and the resulting portions of NRS321, particularly NRS321.640 through NRS 321.770. Nevada law has provided the authority for each County to develop plans and strategies for resources that occur within lands managed by federal and state agencies. In turn, upon presentation of the Policy Plan for Public Lands of the Churchill County Master Plan this document will enable

the federal agencies to fully comply with the intent of Congress as specified in various federal laws by incorporating the policies of Churchill County into agency documents and activities and resolving inconsistencies between federal proposals and county plans. Churchill County has done its part to meet the combined goals of the Nevada Legislature and the United States Congress by completion of this update of the Policy Plan For Public Lands.

Nevada Administrative Procedures Act

Nevada Revised Statutes Chapter 233B specifies proper public notice, procedural due process, and full due process obligations of a number of Nevada agencies as they propose or adopt rules and regulations, orders, decisions, and take certain other actions.



Geothermal Leases Bureau of Land Management In/Near Churchill County as of 22 March 2011

This map is intended to depict approximate boundaries and does not represent a survey. Any area determination or dimensions are estimates, or approximate measurements. For accurate boundaries and acreages a survey by a licensed surveyor is needed. No liability is assumed by Churchill County concerning the accuracy of the data delineated hereon. Use of this map for other than illustrative purposes is not recommended, and Churchill County expressly disclaims any liability for use other than for illustrative purposes.

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Churchill County Planning Department
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- Churchill Roads
- Railroad
- County Line
- Township and Range
- ★ Geothermal Power Plant
- Other Geothermal Leases

Geothermal Lease Holder

- | | |
|--------------------------------|--------------------------------|
| ALEXANDRA KINGZETT | ENEL SALT WELLS LLC |
| BARTON ROY G JR | FIRST COVENANT CONSTRUCTION |
| BRADY POWER PARTNERS | GEO THERMAL TECHNICAL PARTNERS |
| DIXIE VALLEY POWER PARTNERSHIP | HALLADOR PETROLEUM CO |
| EARTH POWER RESOURCES INC | HANDSON VENTURES LLC |
| ENEL GEOTHERMAL LLC | HENKLE AND ASSOCIATES |
| | HILLIARD ENERGY LTD |

- | |
|----------------------------|
| HOMESTRETCH GEOTHERMAL LLC |
| HOV ENERGY |
| KINGZETT JAMES M |
| KODALI INC |
| MACKIE STUART J |
| MAGMA ENERGY US CORP |
| MICHAEL A CASEY |

- | |
|-----------------------------|
| MONTARA ENERGY VENTURES |
| NEVADA POWERVESTORS LLC |
| NGP BLACK WARRIOR I |
| ORMAT NEVADA INC |
| ORNI 26 LLC |
| RAM POWER INC |
| SIERRA GEOTHERMAL POWER INC |

- | |
|-----------------------------|
| SODA LAKE RESOURCES |
| STANDARD STEAM TRUST LLC |
| TERRA-GEN DIXIE VALLEY LLC |
| TGP DEVELOPMENT COMPANY LLC |
| TGP NEW YORK CANYON LLC |
| VENTURE PROSPECTS LLC |
| VULCAN POWER CO |

- | |
|------------------------------|
| WESTERN GEO PRTRNS LLC |
| WESTERN STATES GEOTHERMAL CO |
| ZEHNER RICHARD |
| 2011 Lease Sales |

Geothermal BLM Lease Holders in Churchill County 180,832 acres



- Geothermal Technical Partners 1,280 acres
- Earth Power Resources 2,911 acres
- Magma Energy Corp 45,275.95 acres
- Ormat Nevada 46,199.76 acres
- Enel Geothermal 2,706.92 acres
- Alexandra Kingzett 652 acres
- Michael Casey 20,907.40 acres
- Paul Plouviez 3,790.25 acres
- TGP Development Co 12,725.17
- Standard Steam Trust 11,776.56 acres
- Richard Zehner 2,560 acres
- Vulcan Power 5,815.51 acres
- Sierra Geothermal Power Inc 5,135.6 acres
- Venture Prospects, LLC 19,095.78 acres

Sample Abatement Calculation

- Putua Project Phase I \$390M Capital Investment 21 Jobs Created
- Sales & Use Tax Abatements \$14,625,000
- Property Tax Abatements \$30,638,560
- Total Abatements \$45,263,560
Abatement per Job Created \$2,155,708
Average Wage \$52,000 Payback period 41.5 yrs.
- *Estimated Fiscal Impact based on Company estimates*
- *Existing Geothermal Plants were developed Without Abatements (Magma, Ormat, TerraGen)*

Churchill County
Abatement Calculations
Summary Amounts

Description	Patua Project Phase I \$390M			Patua Project Phase II \$340M		
	Amounts	Jobs Created	Abatement Per Job	Amounts	Jobs Created	Abatement Per Job
Sales & Use Tax Abatement	\$ 14,625,000.00	21	\$ 696,428.57	\$ 12,750,000.00	11	\$ 1,159,090.91
Property Tax Abatement	\$ 30,638,560.44	21	\$ 1,458,979.07	\$ 26,710,539.87	11	\$ 2,428,230.90
Total Abatement	\$ 45,263,560.44	21.0	\$ 2,155,407.64	\$ 39,460,539.87	11.0	\$ 3,587,321.81
Job Creation/Payroll Cost	FTE's		Wages Paid	FTE's		Wages Paid
Estimated Average Salary	21	\$ 52,000.00	\$ 1,092,000.00	11	\$ 52,000.00	\$ 572,000.00
20 Years Salary Permanent Employees	21	19 Years	\$ 20,748,000.00	11	19 Years	\$ 10,868,000.00
Total Wages			\$ 21,840,000.00			\$ 11,440,000.00
Excess Abatement Over Payroll Cost			\$ 23,423,560.44			\$ 28,020,539.87

Description	Combinded Projects		
	Amounts	Jobs Created	Abatement Per Job
Sales & Use Tax Abatement	\$ 27,375,000.00	32	\$ 855,468.75
Property Tax Abatement	\$ 57,349,100.31	32	\$ 1,792,159.38
Total Abatement	\$ 84,724,100.31	32.0	\$ 2,647,628.13
Job Creation/Payroll Cost	FTE's		Wages Paid
Estimated Average Salary	32	\$ 52,000.00	\$ 1,664,000.00
20 Years Salary Permanent Employees	32	19 Years	\$ 31,616,000.00
Total Wages			\$ 33,280,000.00
Excess Abatement Over Payroll Cost			\$ 51,444,100.31