SENATE PUBLIC RESOURCES AND ECOLOGY COMMITTEE

MINUTES OF MEETING

Wednesday, March 14, 1973

The meeting was called to order at 3:00 p.m.

Senator Wilson in the Chair.

PRESENT: Senator Dodge
Senator Hecht
Senator Young
Senator Echols
Senator Bryan
Senator Blakemore

Irene Porter, the Planning Director for the city of North Las Vegas appeared as first speaker on behalf of the cities of Henderson and North Las Vegas.

S.B. 333 - Designates state land use planning agency and requires development of statewide land use planning process and land use program.

Mrs. Porter stated that this is a bill which, in her opinion is long over due. She is much in favor of land use planning and felt that S.B. 333 is a good bill with exception of some definitions which could be made clearer. She said the definitions in 131 are good.

Mrs. Porter presented to the Committee a copy of Planning Advisory Service which is a condensed version of Senator Jackson's bill, together with a memo from Norman S. Hall, setting out definintions in S. B. 333 and A. B. 449. These documents are attached hereto as Exhibit A and B respectively.

Mrs. Porter stated that she felt the advisory board should be made up of Elected officials throughout the state.

Daisey Talbotty, president of the League of Women's Voters appeared before the committee with a press release from the Environmental News and an Excerpt from the Congressional Record concerning air pollution regulations. The copy of the Environmental News is attached hereto as Exhibit C; the excerpt from the Congressional Record is attached hereto as Exhibit D.

Mr. Elmo DeRicco informed the Committee that the Governor had received the same press release and Congressional Record and had presented it to him. He further informed the Committee that his office was working on the suggestions contained therein.

Ralph Kraemer, a Consulting Engineer from Las Vegas appeared before Committee to discuss S.B. 333. It was his contention that this bill is too broad in nature to be acceptable in its present form. Mr.

Kraemer's remarks are attached hereto as Exhibit E.

Joe Midmore of the Builder's Association of Northern Nevada was next speaker. He was concerned with the language, "areas of critical environmental concern" and suggested that the Jackson bill be followed in this regard - On the first line on page 6, instead of saying that the director shall designate areas of critical environmental concern, that you say, "He shall establish a method for inventorying and designating areas".

Senator Dodge stated that there are three things within the next three years which the State can do. 1 - is to develope a land planning process as required by the Federal Act, 2 - Identify those critical areas of concern which can be factually supported as areas of State critical concern, and 3 - a basic natural resources inventory must be developed.

Al Barnarda, representing the Nevada Organizations of Wildlife, it is a group of sportsman of about 250 members. He stated that his group feels that a land planning use is needed. They feel that this agency should have some direction as far as working with Federal Agencies. He said they do feel that there should be a land planning agency at this time with possibly appointed out of the Governor's office.

Mr. Wayne Capurro appeared representing the Nevada Wildlife Federation and stated that his group has long been in favor of a land planning program. Mr. Capurro presented a resolution which attached hereto as Exhibit F.

Harold Foster, Deputy Director of Planning of the city of Las Vegas appeared next and stated that he was in favor of S. B. 333 rather than S. B. 131.

Don Crowley of the Nevada Highway department appeared before the Committee and stated that the Nevada Highway department generally support the proposal and think it is a good proposal. He stated that one of the areas of concern to the department is the Federal Funding. If the Director were allowed to override a highway directive, this might take away some of their funds. He felt that if the director of land planning had veto power over the Highway department, this would not be acceptable to the Federal Agency.

Mayor Echeverria from Ely informed the Committee that White Pine County has had a land planning program for two years and has spent some $46,000 on that program. He said White Pine generally agrees with the concept of S.B. 333, but does not feel that a land use planning agency can be established on a statewide basis. He feels that it should be county by county.

Howard Gray, represented the Nevada Mining Association appeared before the Committee and discussed S. B. 333, and its possible effects on the mineral rights of the mining industry.

H. R. Conrad appeared before the Committee as an interested citizen. Mr. Conrad's remarks are attached hereto as Exhibit G.

Bob Warren, Director of the Nevada Municipal Association appeared before the Committee. He stated that the cities feel that if a vehicle can be introduced into this legislation which will permit the final arbitrating body final authority, if that body is representative of the local governing body within the cities and counties, it can be effective.

Paul Gemmill of the Nevada Mining Association was last speaker. He left with the committee a copy of Howard L. Edwards statement to the Congress, which statement is attached hereto as Exhibit I.

The committee then discussed definitions in S. B. 333. A copy of Mr. Elmo DeRicco's recommendations is attached hereto as Exhibit J.

The meeting was adjourned at 6:45 P.M.

Respectfully submitted,

Mae Lofthouse, Secretary

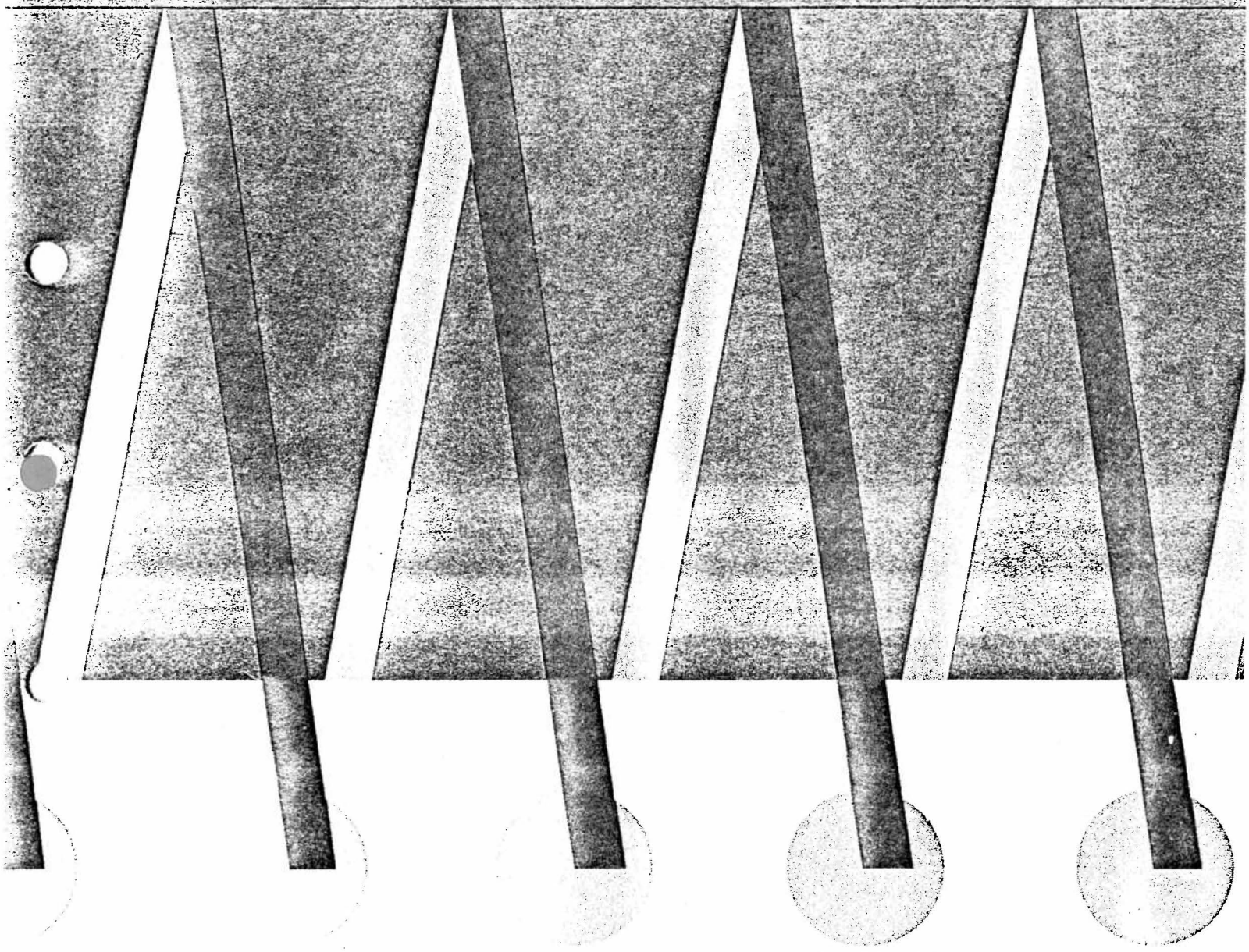
APPROVED:

Senator Wilson, Chairman

asPO

American Society of Planning Officials
1313 East Sixtieth Street Chicago Illinois 60637 Telephone 312: 324-3400

Planning Advisory Service



pas memo no. m-2

The National Land-Use Policy Act of 1971

EXHIBIT 11

THE NATIONAL LAND-USE POLICY ACT OF 1971

On the following pages is a complete draft of the proposed bill for the NATIONAL LAND-USE POLICY ACT OF 1971 which accompanied President Nixon's special message on the state of the environment February 8, 1971. Nixon endorsed the White House Council on Environmental Quality's revised edition of Senator Jackson's bill of a year ago.

At the same time the President introduced the national land-use policy, other major initiatives on land use were proposed ". . . to bring 'parks to the people,' to expand our wilderness system, to restore and preserve historic and older buildings, to provide an orderly system for power plant siting, and to prevent environmental degradation from mining."

We do not know the chances that this particular bill will be enacted in its present or possible amended form. That's really not the point of bringing it to the attention of Planning Advisory Service subscribers. What is important is that a strong trend is beginning to emerge wherein the relative land-use planning powers and responsibilities of municipal, county, metropolitan, state, and federal governments are in flux. The change is in the direction of a greater influence in land-use planning and decision-making at higher levels which in the past had little influence.

Regarding the purpose of the national land-use policy act, President Nixon said:

> We must reform the institutional framework in which land-use decisions are made.
>
> I propose legislation to establish a National Land-Use Policy which will encourage the States, in cooperation with local government, to plan for and regulate major developments affecting growth and the use of critical land areas. This should be done by establishing methods for protecting lands of critical environmental concern, methods for controlling large-scale development, and improving use of lands around key facilities and new communities.

The proposed bill encourages states to exercise their responsibility more fully by proposing federal grants to assist states in developing and managing land-use programs. Grants for up to 50 per cent of the costs to develop the state land-use programs are proposed as well as grants for up to 50 per cent of the cost of managing the programs.

The programs must meet certain requirements covering only key issues set forth in the bill. For instance the state's land-use program must include: a method for inventorying, designating, and controlling areas of critical environmental concern such as coastal zones and estuaries, shorelands and flood plains, scenic or historic areas, and key facilities such as major airports, highway interchanges, and major recreational lands and facilities. The land-use program must also include a method for assuring that local regulations do not prevent development and land use of regional benefit (defined as land use and private development for which there is a demonstrable need regional in scale and which outweighs the benefits of any restrictive or exclusionary local regulations); a method for controlling new communities and large-scale development; and a system of pollution controls for these areas. There are no requirements for a statewide inventory of land uses and a subsequent zoning schedule for the state. And no exemptions are granted to larger cities or the more populous regions of the state. Three acceptable techniques are spelled out, however, for achieving the requirements: (1) state criteria and standards subject to judicial review and enforcement of local implementation and compliance; (2) direct state land-use planning and regulation; and (3) state review of local land-use plans, regulations, and implementation with full powers to approve and disapprove.

The bill also authorizes the President to designate an agency to issue guidelines to assist federal agencies in carrying out the requirements of this Act. Secretary of the Interior, Rogers Morton, states in his cover letter to the President that he understands this responsibility will be given to the Council on Environmental Quality. The Department of the Interior is assigned the primary responsibility for the administration of the program. Before approving a program, however, the Secretary must consult with the Secretary of HUD concerning those aspects of the state's land-use program dealing with large-scale development, key facilities, development and land use of regional benefit, and new communities.

The bill further requires consistency of federal projects and activities with the state land-use programs and makes provision for the availability of federal expertise to states. In addition, where a state has not been found eligible for a management grant, any major federal action affecting non-federal lands must be preceded by a public hearing concerning the effect of the action in terms of the requirements set forth above. These findings are to be included along with comments of the Secretary as a part of the statement required of the responsible federal agency in the National Environmental Policy Act.

Funds are to be allocated based on the state's population and growth, the extent of coastal zones, and other areas of critical environmental concern within the state. Grant funds are not to be used to acquire real property. No mention is made for powers of eminent domain. The bill authorizes $20 million in each fiscal year 1972 through 1976 for grants to states.

Prepared by Mary E. Brooks

April 1, 1971

A B I L L

To establish a national land use policy; to authorize the Secretary of the Interior to make grants to encourage and assist the States to prepare and implement land use programs for the protection of areas of critical environmental concern and the control and direction of growth and development of more than local significance; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Land Use Policy Act of 1971."

FINDINGS AND DECLARATIONS OF POLICY

SEC. 101. (a) The Congress hereby finds and declares that decisions about the use of land significantly influence the quality of the environment, and that present State and local institutional arrangements for planning and regulating land use of more than local impact are inadequate, with the result:

(1) that important ecological, cultural, historic and aesthetic values in areas of critical environmental concern which are essential to the well-being of all citizens are being irretrievably damaged or lost;

(2) that coastal zones and estuaries, flood plains, shorelands and other lands near or under major bodies or courses of water which possess special natural and scenic characteristics are being damaged by ill-planned development that threaten these values;

(3) that key facilities such as major airports, highway interchanges, and recreational facilities are inducing disorderly development and urbanization of more than local impact;

(4) that the implementation of standards for the control of air, water, noise and other pollution is impeded;

(5) that the selection and development of sites for essential private development of regional benefit has been delayed or prevented;

(6) that the usefulness of Federal or federally-assisted projects and the administration of Federal programs are being impaired;

(7) that large-scale development often creates a significant adverse impact upon the environment.

(b) The Congress further finds and declares that there is a national interest in encouraging the States to exercise their full authority over the planning and regulation of non-Federal lands by assisting the States, in

cooperation with local governments, in developing land use programs including unified authorities, policies, criteria, standards, methods and processes for dealing with land use decisions of more than local significance.

DEFINITIONS

SEC. 102. For purposes of this Act: (a) "Areas of critical environmental concern" are areas where uncontrolled development could result in irreversible damage to: important historic, cultural, or aesthetic values, or natural systems or processes, which are of more than local significance; or life and safety as a result of natural hazards of more than local significance. Such areas shall include:

(1) Coastal zones and estuaries: "Coastal zones" means the land, waters, and lands beneath the waters in close proximity to the coastline (including the Great Lakes) and strongly influenced by each other, and which extend seaward to the outer limit of the United States territorial sea and include areas influenced or affected by water from an estuary such as, but not limited to, salt marshes, coastal and intertidal areas, sounds, embayments, harbors, lagoons, inshore waters, channels, and all other coastal wetlands. "Estuary" means the part of the mouth of a river or stream or other body of water having unimpaired natural connection with the open sea and within which the sea water is measurably diluted with fresh water derived from land drainage;

(2) shorelands and flood plains of rivers, lakes and streams of State importance;

(3) rare or valuable ecosystems;

(4) scenic or historic areas; and

(5) such additional areas of similar valuable or hazardous characteristics which a State determines to be of critical environmental concern.

(b) "Key facilities" are public facilities which tend to induce development and urbanization of more than local impact and include the following:

(1) any major airport that is used or is designed to be used for instrument landings;

(2) interchanges between the Interstate Highway System and frontage access streets or highways; major interchanges between other limited access highways and frontage access streets or highways; and

(3) major recreational lands and facilities.

(c) "Development and land use of regional benefit" includes land use and private development for which there is a demonstrable need affecting the interests of constituents of more than one local government which outweighs the benefits of any applicable restrictive or exclusionary local regulations.

(d) "State" includes the 50 States of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands.

PROGRAM DEVELOPMENT GRANTS

SEC. 103. (a) The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to make not more than two annual grants to each State to assist that State in developing a land use program meeting the requirements set forth in section 104 of this Act. Such grants shall not exceed 50 percent of the costs of program development. Prior to making the first grant, the Secretary shall be satisfied that such grant will be used in development of a land use program meeting the requirements set forth in section 104. Prior to making a second grant, the Secretary shall be satisfied that the State is adequately and expeditiously proceeding with the development of a land use program meeting the requirements of section 104.

(b) States receiving grants pursuant to this section shall submit to the Secretary not later than 1 year after the date of award of the grant a report on work completed toward the development of a State land use program. A State land use program meeting the requirements of section 104 of this Act shall satisfy the requirements for such a report.

(c) The authority to make grants under this section expires three years from date of enactment.

PROGRAM MANAGEMENT GRANTS

SEC. 104. Following his review of a State's land use program, the Secretary is authorized to make a grant to that State to assist it in managing the State land use program. Successive grants for this purpose may be made annually to any State resubmitting its land use program for review by the Secretary. Grants made pursuant to this section shall not exceed 50 percent of the cost of managing the land use program. Grants authorized by this section shall be made by the Secretary only if, in his judgment:

(a) the State's land use program includes:

(1) a method for inventorying and designating areas of critical environmental concern;

(2) a method for inventorying and designating areas impacted by key facilities;

(3) a method for exercising State control over the use of land within areas of critical environmental concern and areas impacted by key facilities;

(4) a method for assuring that local regulations do not restrict or exclude development and land use of regional benefit;

(5) a policy for influencing the location of new communities and a method for assuring appropriate controls over the use of land around new communities;

(6) a method for controlling proposed large-scale development of more than local significance in its impact upon the environment;

(7) a system of controls and regulations pertaining to areas and developmental activities previously listed in this subsection which are designed to assure that any source of air, water, noise or other pollution will not be located where it would result in a violation of any applicable air, water, noise or other pollution standard or implementation plan;

(8) a method of periodically revising and updating the State land use program to meet changing conditions; and

(9) a detailed schedule for implementing all aspects of the program.

For purposes of complying with paragraphs (1) through (7) of this subsection (a), any one or a combination of the following general techniques is acceptable: (i) State establishment of criteria and standards subject to judicial review and judicial enforcement of local implementation and compliance; (ii) direct State land use planning and regulation; (iii) State administrative review of local land use plans, regulations and implementation with full powers to approve or disapprove.

(b) in designating areas of critical environmental concern, the State has not excluded any areas of critical environmental concern to the Nation.

(c) in controlling land use in areas of critical environmental concern to the Nation, the State has procedures to prevent action (and, in the case of successive grants, the State has not acted) in substantial disregard for the purposes, policies and requirements of its land use program.

(d) State laws, regulations and criteria affecting areas and developmental activities listed in subsection (a) of this section are in accordance with the policy, purpose and requirements of this Act; and that State laws, regulations and criteria affecting land use in the coastal zone and estuaries further take into account:

(1) the aesthetic and ecological values of wetlands for wildlife habitat, food production sources for aquatic life, recreation, sedimentation control, and shoreland storm protection; and

(2) the susceptibility of wetlands to permanent destruction through draining, dredging, and filling, and the need to restrict such activities.

(e) the State is organized to implement its State land use program.

(f) the State land use program has been reviewed and approved by the Governor.

(g) the Governor has appropriate arrangements for administering the land use program management grant.

(h) the State, in the development, revision, and implementation of its land use program, has provided for adequate dissemination of information and for adequate public notice and public hearings.

(i) the State has: (1) coordinated with metropolitan-wide plans existing on January 1 of the year in which the State land use program is submitted to the Secretary, which plans have been developed by an area wide agency designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966;

(2) coordinated with appropriate neighboring States with respect to lands and waters in interstate areas;

(3) taken into account the plans and programs of other State agencies and of Federal and local governments.

(j) the State utilizes for the purpose of furnishing advice to the Federal Government as to whether Federal and federally-assisted projects are consistent with the State land use program, procedures established pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and Title IV of the Intergovernmental Cooperation Act of 1968.

FEDERAL REVIEW OF GRANT APPLICATIONS AND STATE LAND USE PROGRAMS

SEC. 105. (a) The Secretary before making a program management grant pursuant to section 104, shall consult with the heads of all Federal agencies which conduct or participate in construction, development or assistance programs significantly affecting land use in the State, and shall consider their views and recommendations. The Secretary shall not approve a grant pursuant to section 104 until he has ascertained that the Secretary of Housing and Urban Development is satisfied that those aspects of the State's land use program dealing with large-scale development, key facilities, development and land use of regional benefit, and new communities meet the requirements of section 104 for funding of a program management grant.

(b) The Secretary shall take final action on a State's application for a grant authorized under section 104 not later than six months following receipt for review of the State's land use program.

CONSISTENCY OF FEDERAL ACTIONS WITH STATE LAND USE PROGRAMS

SEC. 106. (a) Federal projects and activities significantly affecting land use shall be consistent with State land use programs funded under section 104 of this Act except in cases of overriding national interest. Program coverage and procedures provided for in regulations issued pursuant to section 104 of the Demonstration Cities and Metropolitan Development Act of 1966

and Title IV of the Intergovernmental Cooperation Act of 1968 shall be applied in determining whether Federal projects and activities are consistent with State land use programs funded under section 104 of this Act.

(b) After December 31, 1974, or the date the Secretary approves a grant under section 104, whichever is earlier, Federal agencies submitting statements required by Section 102(2)(C) of the National Environmental Policy Act shall include a detailed statement by the responsible official on the relationship of proposed actions to any applicable State land use program which has been found eligible for a grant pursuant to section 104 of this Act.

FEDERAL ACTION IN THE ABSENCE OF STATE LAND USE PROGRAMS

SEC. 107. Where any major Federal action significantly affecting the use of non-Federal lands is proposed after December 31, 1974, in a State which has not been found eligible for a program management grant pursuant to section 104 of this Act, the responsible Federal agency shall hold a public hearing in that State at least 180 days in advance of the proposed action concerning the effect of the action on land use taking into account the relevant considerations set out in section 104 of this Act, and shall make findings which shall be submitted for review and comment by the Secretary, and where appropriate, by the Secretary of Housing and Urban Development. Such findings of the responsible Federal agency and comments of the Secretary or the Secretary of Housing and Urban Development shall be part of the detailed statement required by Section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4321 et seq). This section shall be subject to exception where the President determines that the interests of the United States so require.

AVAILABILITY OF FEDERAL EXPERTISE

SEC. 108. (a) The Secretary shall provide advice upon request to States concerning the designation of areas of critical environmental concern to the Nation.

(b) Federal agencies with data or expertise relative to land use and conservation shall take appropriate measures, subject to appropriate arrangements for payment or reimbursement, to make such data or expertise available to States for use in preparation, implementation, and revision of State land use programs.

GUIDELINES

SEC. 109. The President is authorized to designate an agency or agencies to issue guidelines to the Federal agencies to assist them in carrying out the requirements of this Act.

ALLOCATION OF FUNDS

SEC. 110. (a) Funds for grants authorized by sections 103 and 104 of this Act shall be allocated to the States based on regulations issued by the

Secretary which shall take into account State population and growth; nature and extent of coastal zones and estuaries and other areas of critical environmental concern and other relevant factors.

(b) No grant funds shall be used to acquire real property.

(c) A refusal by the Secretary to provide a program development or program management grant authorized by this Act shall be in writing.

MISCELLANEOUS

SEC. 111. (a) The Secretary shall develop, after appropriate consultation with other interested parties, both Federal and non-Federal, such rules and regulations covering the submission and review of applications for grants authorized by sections 103 and 104 as may be necessary to carry out the provisions of this Act.

(b) A State receiving a grant under the provisions of section 103 or 104 of this Act, the agency designated by the Governor to administer such grant, and State agencies allocated a portion of a grant shall make reports and evaluations in such form, at such times, and containing such information concerning the status and application of Federal funds and the operation of the approved management program as the Secretary may require, and shall keep and make available such records as may be required by the Secretary for the verification of such reports and evaluations.

(c) The Secretary, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for purposes of audit and examination, to any books, documents, papers, and records of a grant recipient that are pertinent to the grant received under the provisions of section 103 or 104 of this Act.

(d) Nothing herein shall be interpreted to extend the territorial jurisdiction of any State.

(e) Nothing herein shall be construed to imply Federal consent to or approval of any State or local actions which may be required or prohibited by other Federal statutes or regulations.

APPROPRIATION AUTHORIZATION

SEC. 112. (a) There are hereby authorized to be appropriated not to exceed $20,000,000 in each fiscal year, 1972 through 1976, for grants authorized by sections 103 and 104 of this Act, such funds to be available until expended.

(b) There are hereby authorized to be appropriated such sums as may be necessary for the Secretary of the Interior and the Secretary of Housing and Urban Development to administer the program established by this Act.

Exhibit O

Address Reply to
Nye Building
Telephone 882-7482

FORESTRY
STATE PARKS
STATE LANDS
WATER RESOURCES
OIL AND GAS CONSERVATION

STATE OF NEVADA

Department of Conservation and Natural Resources

OFFICE OF THE DIRECTOR

CARSON CITY, NEVADA 89701

March 13, 1973

MEMORANDUM

TO: Senator Thomas Wilson, Chairman
Public Resources & Ecology Committee

and

Assemblyman Roger Bremner, Chairman
Environment and Public Resources Committee

FROM: Norman S. Hall Norman Hall

SUBJECT: Definitions of S.B. 333 and A.B. 449

As per your request, following are definitions of terms used in the subject bills:

"Land use planning process" - means a series of steps based on factual information leading to establishment of a method of developing a state land use planning program as set forth in Sec. 6, 7, 8, 9, and 10.

"Land use planning program" - includes the land use planning process, and methods of implementation as set forth in Sec. 11 and 12.

"Key facilities" - means any public facility which tends to induce use, development or urbanization of more than local significance.

"Large-scale development" - means any non-public development which, because of its magnitude or the magnitude of its effect on the surrounding environment, is likely to present issues of more than local significance. In determining what constitutes "large-scale development" consideration shall be given, among other things, to the amount of pedestrian or vehicular traffic likely to be present; the potential for creating environmental problems such as air, water, or noise pollution; the size of the site to be occupied; and the likelihood that additional or subsidiary development will be generated.

NH:m

ENVIRONMENTAL NEWS

U.S. ENVIRONMENTAL PROTECTION AGENCY
National Environmental Research Center
P.O. Box 15027•Las Vegas, Nevada 89114

Temple (202) 755-0344
Fitzwater (202) 755-0344
Douglas (702) 736-2969

FOR IMMEDIATE RELEASE

NERC-LV 2773

March 8, 1973

EPA TO PROPOSE "COMPLEX SOURCE" AIR POLLUTION REGULATIONS

The Environmental Protection Agency today announced that it will soon propose regulations requiring States to review, prior to construction, the air quality impact of "complex sources" such as shopping centers, sport complexes, highways and other similar facilities.

The regulations would require States to review the locations, prior to construction or modification, of "complex sources" to determine whether associated activities such as newly generated auto traffic would result in violations of the National Ambient Air Quality Standards.

Today's advance notice of proposal is in response to a D.C. Court of Appeals Order of January 31, 1973, in the case of Natural Resources Defense Council vs. EPA, which directs EPA to review all State implementation plans to determine if they contain measures necessary to insure maintenance of National Ambient Air Quality Standards. The Court ordered that plans without such measures be disapproved.

The EPA announced today that the Court-ordered review has been completed and none of the State plans provide for adequate maintenance of air quality since they do not contain procedures for reviewing "complex sources."

In today's Federal Register notice disapproving the plans, EPA Administrator William D. Ruckelshaus said that in order to comply with the Court's directive, State plans must contain, as a minimum, procedures for reviewing, prior to construction or modification, facilities which may cause an increase in air pollution because of associated activities. These facilities are generally called "complex sources."

In an advance notice of proposed rulemaking, also published in today's Federal Register, the EPA says it will propose "complex source" regulations by April 15, 1973, with final regulations being promulgated by June 11, 1973.

(more)

The January Court Order required the States to submit necessary maintenance provisions by April 15, 1973. Due to the lack of time for State compliance, however, the EPA has asked the Court to defer submittal of the State plans until after promulgation of the "complex source" regulations. That request is still before the Court.

The new regulatory proposals would require States to have legally enforceable procedures for reviewing the location, prior to construction and modification, of "complex sources" and for preventing such construction if it interferes with the attainment or maintenance of national air standards.

In today's advance notice, the EPA directs States to determine now whether they have adequate legal authority to adopt such a regulation, and if not, to take steps to secure the authority.

Although the EPA has not officially identified the facilities to be considered "complex sources," a preliminary list includes shopping centers, sports complexes, drive-in theaters, parking lots and garages, residential, commercial, industrial or institutional developments, amusement parks and recreational areas, highways, sewer, water, power and gas lines.

Existing State plans contain regulations for review of air pollution emissions from stationary sources. EPA contends, however, that these regulations are inadequate to insure maintenance of the ambient standards because they do not deal with emissions from associated sources such as automobiles, or from general urban and commercial development.

Also, many of the State plan requirements for reviewing stationary sources contain a variety of exemptions. Accordingly, EPA intends to propose regulations limiting the sources which may be exempted from existing stationary source review procedures.

Today's disapproval of State plans does not affect the validity of prior approvals or promulgation by EPA of other portions of the plans. Approved and promulgated plans remain in effect and are enforceable by the State or Federal government in accordance with the provisions of the Clean Air Act. Both the notice of disapproval of State plans and the advance notice of "complex source" rulemaking are published in the Federal Register today, March 8, 1973.

(■)

[40 CFR Part 50]

PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

Advance Notice of Proposed Rule Making

On August 14, 1971 (36 FR 15486), the Administrator of the Environmental Protection Agency (EPA) promulgated as 40 CFR Part 420, regulations for the preparation, adoption, and submittal of State implementation plans under § 110 of the Clean Air Act, as amended. These regulations were republished November 25, 1971 (36 FR 22398), as 40 CFR Part 51. Section 110(a)(2)(B) of the Clean Air Act and 40 CFR 51.12 require that State implementation plans provide for maintenance as well as for attainment of the national standards.

On January 31, 1973, the U.S. Court of Appeals for the District of Columbia Circuit issued an order in the case of Natural Resources Defense Council, Inc., et al. v. Environmental Protection Agency (Case No. 72-1522) and seven related cases. That order directed the Administrator of EPA to again review all implementation plans which were approved on May 31, 1972 (37 FR 10842, et seq.), to determine if they contain measures necessary to insure maintenance of the standards.

Such review has been completed and the Administrator has determined that it is necessary for State plans to contain, as a minimum, procedures whereby the State can review, prior to construction or modification, the location both of sources of pollution and of other facilities which may cause an increase in air pollution because of activities associated with such facilities, in order to insure that the national standards will be maintained; 40 CFR 51.18 imposes a review requirement with respect to stationary sources of air pollution. However, it does not require the review of facilities to determine the effect on air quality caused by associated activity, such as increased motor vehicle traffic. Because the implementation plans did not contain such a provision, they are being disapproved with regard to maintenance of the standards.

Notice is hereby given that the Administrator will propose an amendment to 40 CFR 51.18 which will extend the requirements for review set forth therein to apply to facilities which may cause an increase in air pollution because of activity associated with such facilities. The States will be required to have legally enforceable procedures reviewing, prior to construction or modification, the location of such facilities and for preventing such construction or modification where it would result in interference with the attainment or maintenance of a national standard. The Administrator is presently considering the types of facilities to be covered by such procedures and the factors to be considered in determining the impact such facilities will have on air quality. The amendment to 40 CFR 51.18 will be proposed by April 15, 1973.

The reasons for the regulation and the general form of it are more specifically discussed in the preamble to the Administrator's disapproval of the maintenance provisions of State plans which is published in 38 FR 6279. This advance notice of proposed rule making is published with the intention of informing the public of the Agency's actions and plans in this important area, and for the purpose of providing States notice of an impending change in the implementation plan regulations which will require the adoption and submission to the Administrator of additional plan provisions. States should begin now to determine whether they have adequate legal authority to adopt such a regulation and, if they do not, take steps to secure such legal authority.

Dated: March 2, 1973.

WILLIAM D. RUCKELSHAUS,
Administrator,
Environmental Protection Agency.

[FR Doc.73-4404 Filed 3-7-73;8:45 am]

Title 32—National Defense

CHAPTER XVI—SELECTIVE SERVICE SYSTEM

PART 1661—CLASSIFICATION OF CONSCIENTIOUS OBJECTORS

Types of Decisions; Correction

The cross-reference in § 1661.10(a)(2) line 5, that appeared in FR Doc. 72-22438 (37 FR 28000 (December 30, 1972)) should read §§ 1661.3 and 1661.4.

BYRON V. PEPITONE,
Acting Director.

MARCH 5, 1973.

[FR Doc.73-4477 Filed 3-7-73;8:45 am].

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Maintenance of National Ambient Air Quality Standards

On April 30, 1971, pursuant to section 109 of the Clean Air Act, as amended, the Administrator promulgated national primary and secondary ambient air quality standards for six pollutants. The Act requires that the primary standards protect the public health with an adequate margin of safety and that the secondary standards protect the public welfare from any known or anticipated adverse affects. Under section 110 of the Act, States are required to prepare and submit to the Administrator plans for implementing the national ambient air quality standards in each air quality control region in the State. The Administrator published on May 31, 1972, his initial approvals and disapprovals of the State implementation plans developed and submitted under these provisions of Federal law.

On January 31, 1973, the U.S. Court of Appeals for the District of Columbia Circuit decided the case of "Natural Resources Defense Council, Inc., et al. v. Environmental Protection Agency" (Civil Action No. 72-1522) and seven other related cases. The Court's order required the Administrator to review within 30 days from the date of the order the maintenance provisions of all State implementation plans that were approved on May 31. The Administrator was directed to disapprove plans "which do not provide for measures necessary to insure the maintenance of the primary standard after May 31, 1975, and those plans which do not analyze the problem of maintenance of standards in a manner consistent with applicable regulations * * *."

The Administrator has completed his review as required by the court order. This further examination of State plans confirmed that no State plan contained adequate growth projections for any significant period of time into the future. Moreover, it is recognized that maintenance of standards cannot be insured simply by projecting future growth and curtailing present emissions in order to provide opportunities for this future growth of emission sources. Since the plans must provide for maintenance of the standards over an indefinite period of time, it is the Administrator's determination that the most practical manner in which to adequately and effectively provide for maintenance of the standards at this time is to require State plans to contain procedures by which each State will review a wide range of new sources and causes of air pollution and will have the authority to prevent the development of such sources or causes where necessary to insure that the standards are maintained.

Maintenance is partially insured by the provisions of 40 CFR 51.18 which require each State plan to have adequate procedures to review, and where necessary prevent, the construction or modification of any stationary source at a location where emissions from that source would result in interference with the attainment or maintenance of a national standard or with the State control strategy. Where State plans were judged inadequate in this respect, the Administrator has promulgated or will promulgate such regulations. In addition, new source performance standards promulgated by the Administrator under section 111 of the Act and motor vehicle emission standards promulgated under section 202 will also serve to mitigate the impact of growth.

However, these measures, by themselves, are not adequate to insure the maintenance of standards, particularly for air pollutants emitted largely by motor vehicles. Nor do they deal with the problem of emissions generated not by the facility being constructed but by sources associated with such facility, including general urban and commercial development. In the Administrator's judgment, it is also necessary to require States to review, and where necessary prevent, the construction of facilities which may result in increased emissions from motor vehicle activity or emissions from stationary sources that could cause or contribute to violations of national ambient air quality standards. Such facilities generally are designated "complex sources." EPA guidelines did not require this and the review of State plans indicates that no State included such a provision in its implementation plan. Accordingly, in order to comply with the court order, it has been determined that all State plans must be disapproved to the extent that they do not contain provisions which will permit the review, and provide the authority to prevent, the construction, modification, or operation of complex sources at a location where emissions associated with such source would result in violation of a national standard or the State's control strategy.

The action taken herein to disapprove State implementation plans with respect to their lack of provisions for review of complex sources is not intended to affect, and should not be construed as affecting, the validity of prior approvals of State plans by the Administrator or prior promulgation of regulations to correct State plan deficiencies. Provisions of approved or promulgated plans remain in effect and are enforceable by the State and/or Federal Government in accordance with the provisions of the Clean Air Act.

The Administrator has also determined that many States' procedures for the review of stationary sources, and the consequent authority to disapprove the construction or modification of any such source where it would interfere with the maintenance of a national standard, contain a variety of exemptions so that certain sources need not be reviewed by the State prior to construction or modification. While such exemptions will not necessarily interfere with the ability of the State to attain the national standards, the exempted sources may, at some time in the future, comprise significant sources of air pollution which should be reviewed in order to insure maintenance of the standards. Accordingly, the Administrator will also set forth a regulation that will specify a limitation on the sources that may be exempted from a new source review procedure.

In order to correct the disapprovals set forth in this document, the Administrator will require States, where necessary, to revise their review procedures for construction or modification of sources. He will also require all States to adopt and submit to him a legally enforceable procedure for reviewing the impact of the construction or modification of a "complex source" and for preventing the construction or modification of such complex source where necessary to attain and maintain a national standard or to prevent interference with the State control strategy. The Administrator will propose amendments to 40 CFR Part 51 which will set forth such requirements. This document is intended to be an advance notice of proposed rule making and will appear at page 6290 of this issue.

The complex source review procedures will also be required as part of the plan for attainment of the standards. EPA is continuing to review the problem of maintenance of standards to determine other techniques or procedures that could be employed by States as part of their plans.

At the present time, the Environmental Protection Agency is preparing draft regulations which will identify the types of facilities to be covered by complex source regulations and some of the factors to be considered in determining the impact that such facilities will have on air quality, as a result of emissions directly from such facilities and from air pollution sources associated with them.

A complex source is generally defined as a facility that has or leads to secondary or adjunctive activity which emits or may emit a pollutant for which there is a national standard. These sources include, but are not limited to:

(1) Shopping centers;
(2) Sports complexes;
(3) Drive-in theaters;
(4) Parking lots and garages;
(5) Residential, commercial, industrial, or institutional developments;

(6) Amusement parks and recreational areas;
(7) Highways;
(8) Sewer, water, power, and gas lines;

and other such facilities which will result in increased emissions from motor vehicles or other stationary sources. The regulation will further provide that each State must have procedures whereby, prior to construction or modification of such sources, the State will be able to determine whether the construction or modification of the complex source would cause violations of the applicable portions of a control strategy or interfere with the attainment or maintenance of the national ambient air standards. States will be required to have the authority to disapprove the construction or modification where it would have such a result. The regulation will set forth the basic minimum considerations which should be addressed by a State before it can approve or disapprove any such construction or modification. States should begin now to determine their legal authority to adopt such a regulation, and to obtain such authority where it is lacking.

The order of the court on January 31, 1973, required the Administrator, upon disapproval of State plans, to direct States to submit approval provisions for maintaining the standards by April 15, 1973. Since this does not provide States with adequate time to develop corrective regulations and submit them to the Administrator in accordance with the procedural requirements of 40 CFR 51.4, the Administrator has applied to the court for a modification of that order to defer submittal of plans by the States until after the promulgation of the amendments to Part 51 establishing the requirement of a complex source provision. The new timetable requested from the court would permit proposal of the amendment to 40 CFR Part 51 on April 15 with the final regulation being promulgated by June 11, 1973. State plans providing for maintenance of the standards and containing such a procedure would have to be submitted by August 15. Should the court not modify its order, States will have to submit their plan for maintenance of the standards by April 15, 1973. Should the court grant the motion, the disapproval prescribed below will be amended to set forth the later date for submittal of the plans.

The amendments set forth below are effective from the date of publication in the FEDERAL REGISTER since the amendments are made pursuant to a court order which requires the Agency to disapprove the State plans which do not provide for maintenance of the primary standards.

Dated: March 2, 1973.

WILLIAM D. RUCKELSHAUS,
Administrator,
Environmental Protection Agency.

Subpart A of Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended by adding § 52.22 as follows:

§ 52.22 Maintenance of national standards.

Subsequent to January 31, 1973, the Administrator reviewed again State implementation plan provisions for insuring the maintenance of the national standards. The review indicates that State plans generally do not contain regulations or procedures which adequately address this problem. Accordingly, all State plans are disapproved with respect to maintenance because such plans lack enforceable procedures or regulations for reviewing and preventing construction or modification of facilities which will result in an increase of emissions from State plans are disapproved with respect other sources of pollutants for which there are national standards. The disapproval applies to all States listed in Subparts B through DDD of this part. Nothing in this section shall invalidate or otherwise affect the obligations of States, emission sources, or other persons with respect to all portions of plans approved or promulgated under this part. Pursuant to an order of the U.S. Court of Appeals for the District of Columbia Circuit entered on January 31, 1973, State plans providing for maintenance of the national standards must be submitted to the Administrator no later than April 15, 1973.

[FR Doc.73-4405 Filed 3-7-73;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 1—FEDERAL PROCUREMENT REGULATIONS

PART 1-15—CONTRACT COST PRINCIPLES AND PROCEDURES

Miscellaneous Amendments

Correction

In FR Doc. 73-3376, appearing at page 4753 in the issue of Thursday, February 22, 1973, the following changes should be made:

1. On page 4755, directly under § 1-15.306-4(a), place a line of five stars.

2. In the first line of paragraph (g) of § 1-15.309-7, in the second column on page 4757, after the word "charging", insert "*personal services.* Budget estimates on a".

3. In the second column on page 4758, directly above § 1-15.309-13, place a line of five stars.

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

SUBCHAPTER E—FOREST MANAGEMENT (5000)

[Circular 2339]

SALES OF FOREST PRODUCTS

Timber Sale Contract Procedures

On page 26114 of the FEDERAL REGISTER of December 8, 1972, there was published a notice and text of a proposed amendment to Group 5400 of Title 43, Code of Federal Regulations. The purpose of the amendment is to update the regulations relating to timber sale contracts and bidding procedures. These changes include definition of "loading point," permission to submit a payment bond to assure payment for timber to be cut, revision and clarification of bidding procedures, provision for the resale of timber involved in uncompleted contracts, and extension of the maximum term for a timber contract from 30 to 36 months.

Interested persons were given until January 8 to submit comments, suggestions, or objections to the proposed amendment. No comments were received. However, it has been determined that the format of portions of the proposal would be more self-explanatory if the text were rearranged. Accordingly, several editorial changes are made and the proposed amendments to §§ 2451.2, 2451.4, and 2461.2 are revised.

Since these are nonsubstantive modifications, the proposed amendment is hereby adopted as revised, and is set forth below in its entirety. This amendment shall become effective July 1, 1973.

JOHN C. WHITAKER,
Acting Secretary
of the Interior.

MARCH 1, 1973.

Group 5400 of Chapter II of Title 43 of the Code of Federal Regulations is amended as follows:

PART 5400—SALES OF FOREST PRODUCTS; GENERAL

1. In § 5400.0-5 a new paragraph (m) is added to read as follows:

§ 5400.0-5 Definitions.

* * * * * *

(m) "Loading point" means any landing or other area in which logs are capable of being loaded for transportation out of the contract area: *Provided, however,* That right-of-way timber which has been cut shall not be considered to be at a loading point until such time as logs from any source are actually transported over that portion of the right-of-way.

PART 5440—CONDUCT OF SALES

Subpart 5441—Advertised Sales

2. In § 5441.1-1 the last sentence is amended to read as follows:

§ 5441.1-1 Bid deposits.

* * * The deposit of the successful bidder will be applied on the purchase price at the time the contract is signed by the authorized officer unless the deposit is a corporate surety bid bond or a bond is accepted by the Bureau to secure payment of the first installment.

3. Subpart 5442 is revised to read as follows:

Subpart 5442—Bidding Procedure

Sec.
5442.1 Procedure.
5442.2 Resale of timber from uncompleted contracts.
5442.3 Rejection of bids; waiver of minor deficiencies.

AUTHORITY: Sec. 5, 50 Stat. 875, 61 Stat 681, as amended, 69 Stat. 367; 43 U.S.C. 1181e 30 U.S.C. 601 et seq.

Exhibit C

TEXT OF PRESENTATION BEFORE COMMITTEE ON ECOLOGY AND PUBLIC RESOURCES
SB 333 and AB 449
MARCH 14, 1973

by
RALPH KRAEMER

Mr. Chairman and committee members, I am Ralph Kraemer, Consulting Engineer from Las Vegas, representing the Southern Nevada Homebuilder's Association, speaking as a member of the Legislative Committee.

Since SB 333 and AB 449 have been patterned after Federal legislation, namely the Jackson Bill, we have had an opportunity to review ~~both~~ the Federal Bill, SB 333 and AB 449. All three bills were discussed in detail and after extensive consultation with general counsel from our national offices in Washington, D.C. we have come to the conclusion that SB 333, in its present form, is too broad and vague a piece of legislation to be acceptable to our organization at this time.

In the first place, SB 333 has been patterned almost identically after the Jackson Act which was passed to establish general guidelines for the enactment of State legislation relating to land use. The Jackson Act, in its history, states that "the Act does not propose Federal zoning as it is both unconstitutional and unwise. Nor does it propose 'statewide zoning' or 'comprehensive master planning," which would, and I quote, "only produce costly, dilatory, duplicative and often inflexible regulation of the vast majority of land use problems that are of concern, interest and knowledge only to the local units of government," unquote. Recall that the Federal Act does not propose comprehensive master planning, yet SB 333, page 5, line 3, calls for a comprehensive land use plan.

SB 333, in its attempt to copy the Jackson Act, has omitted many of the basic checks and balances which are the backbone of our legislative process. Page 4, line 19 reads -- 2. The director may (a) conduct public hearings, etc., and (b) make available to the public, promptly upon request, land use data and information, etc. The word shall should be substituted for "may."

In the creation of the advisory council, which is appointed by the Governor, the bill should specify the number of members to be appointed; and they should represent a cross-section of the industries affected by this legislation; For example, construction, banking, real estate, mining, agriculture, etc.

We feel you should define the term "key facilities," on page 3, line 27.

Also needing definition is the phrase on page 6, line 11, "or in which the ecology is sensitive or fragile."

Page 6, line 15, "Areas which are presently or potentially subject to large scale development." What is considered "large scale development?" Four acres, forty acres, four hundred acres? And what a broad word "potentially" becomes. Since this is such an important phrase, it should have added definition.

Page 7, Number 2 allows the director to bring court action or injunctive relief for non-compliance. This is very one-sided in favor of the director and so there should be an appeals process clause for the municipality or private builder.

Also, the way the measure is presently written, the director is not accountable for his actions. See Addition A This should be corrected.

It should be pointed out at this time that any private lands which could be held or taken because of this bill could create massive lawsuits against the state because of "inverse condemnation laws." If private lands should be held or taken, then something should be written into the law to provide just compensation for said actions by the state.

We feel that the measure should be amended to allow formation of

a state master plan but not a comprehensive master plan. Further, we believe that local government should be the foundation of this measure and be responsible for feeding the data to the state and not the other way around. The state could then guide and assist the local political subdivisions in maintaining sound land planning under this bill. Approval by the state for each subdivision submitted to local government would be too expensive and unwieldy. Besides, the director of the state department of conservation and natural resources through AB 458 (1971) already has this control over our maps which must be approved by him as to water quantity and quality. AB 458, or amendments to existing subdivision and real estate laws would be sufficient to control the Storey County land deal discussed in last Wednesday's hearing.

We have not read the Oregon Bill, but our National Association in Washington recommends you take the time to study it before committing yourself to the present draft. They also refer to the American Law Institute Bill, "Model Zoning Laws, Draft 3" as excellent help in preparation of a good law.

Also, tomorrow and Friday in Washington, D.C. there will be a meeting of NAHB attorneys from all over the country to discuss exclusionary zoning, no growth and slow growth, moratoriums and invironmental impact laws. A synopsis of this important meeting will be made available to you as soon as we receive our copy in Las Vegas.

Furthermore, we fear that unless extreme care is taken with this measure, you may create a monster you cannot control as evidenced by hastily approved legislation in California.

For example, because of unwieldy wording and lack of funds, Proposition 20 has caused a 62% decline in construction in San Diego County alone.

Now, we know SB 333 is not Proposition 20, but nevertheless it could well be the "foot in the door" legislation for other environmental restraints If you have any doubts as to what has happened to California construction, we urge you to contact Dick Mansfield, Assistant Secretary of California Building Trades Council, Sacramento, AC 916-443-3302, or Paul McCarran, Executive Vice President for the California Builders Council, Sacramento. His number is AC 916-443-7933.

In conclusion, we know that President Nixon has asked for legislation to curb ill-planned or unwise development practices. We agree with him. But he has also asked the homebuilders of America to provide immediate, adequate housing for all. We are trying to accomplish that goal.

Please, Mr. Chairman and committee members, we ask that you deliberate this measure with extreme caution. Remember, at stake is the State of Nevada.

Additions: We agree with Mrs. Porter that the plan should be approved by elected officials.

DB Exhibit (F

RESOLUTION

WHEREAS, the State of Nevada does not have a land planning agency, and

WHEREAS, the explosive growth of the population in this state makes it apparent that regional and state land planning capacity be provided, and

WHEREAS, there is reason to believe that a national land policy act will be given a high priority in this session of Congress with grants in aid to states with the necessary enabling legislation for the purpose of establishing state land planning agencies,

NOW THEREFORE, BE IT RESOLVED by the Nevada Wildlife Federation that the Nevada Legislature be encouraged to pass legislation establishing a state land planning agency and regional planning districts.

APPROVED this 14th day of January, 1973.

NEVADA WILDLIFE FEDERATION, INC.

By /S/
Its President

ATTEST:

/S/
Secretary

COMMENTS BY H.R. CONRAD.

Mr. Elmo DeBRico has undertaken a very difficult task, He has made a stron g, effort to write an enabling Bill that may or may not become effective,

There provisions in it to which you and I may be opposed, It is to be hoped that these criticems will be offerd in a courteous and constructive fassion.

The Kresident and the Congress appear inclined to return some controll of these public Lands to the States. This is in line with findings ~~and~~ and recondemendations of the Hoover Comm, This Comm. recomendated all Lands including Forest Lands be given to the States.

You well know we will not get more than we ask for, therefore make it known that we want all of it,

May we continue to remember and carefuly take into account the little fellow, in all facets of thos very complecks society. Not forgeting the elderly Claim holder, many on State welfare, who in declining years cling to the hope that ~~and~~x one day , soon they will get a piece of money for the remaining years.

Due consideration must be given to the plight of the smaller man stock, Who now faces bankrupsey from, ~~fire~~ first forced reduction of the cattle permited, This in Lander County, recently, In White Pine County give a permit for more cattle that the rancher has and refuse to ~~and~~x renew his permit on this ame grounds not enough cattle, regardless, he did pay for the number of cattle recomended.

Who is the small cattle operator? the 10. to 30,000, acre man. Who gets it the very large Land Cattle Copo. and it is owned by Giant Coporations. Sure with the coniving of the Gestopo.

H.R. Conrad

MUSKIE, AND JACKSON BILLS:

The Muskie Bill seems to be the bill more easily amended to and is patterned after a Law in The State of Maine In his opening remarks the Senator tryes to give the impression thay it is working real well, with 49 % of Maine public Land,

Some of his paragraphs are quite restrictive as they are now presented, I think they are, A billpatterned after this bill would appear to be mush less expensive to have on the books, He does not propose to permit the entire Admistrative Departmentd s to get their finger into the pie,

It is mucr shorter and not so many, less important paragraphs.

It has the wording such that it gives the impression of knowing what is intended. The Senator knew that which he wanted to say and said it.

There are many objectional features there also, he purports to hold to much of the veto power in ~~xxx~~Executive. and of all places the Enviromenta tal agency, Witness the Annaconda Smelter fracas and the fact that the testing instruments were not consistant and the operators nod not know enough to pound sand in a rat hole.

JABKSON BILL:

THIS Bill is long with many paragraphs, suggesting but not fully spelled out, leaving ample room for one man Law.

Rather than reduce the power of the B.L.M. he increeses it very clearly, Permiting almost every Department ot have a veto on almost every phase of this problum. This can be a most expensive Law. A lofe of bread in one hand and sign here is not my way of making Laws, Neither do I want rules and /regulations, Both Senators begin with give the authority to the States, Counties, then take it away.

In fact both are far behind the thinking of almost every one as of today.It is surprising the change in thinking of people compared to two short years, Aheated argument was in store for anyone who advocated controlled water, or air for that matter.

After two years of continual hassel with F.S.& B.L.M. and what do we get The wilderness proposels may be stopped in Nevada o nly, B.L.M. controlled may be closed, at any moment, all of it.

To sum it up shall we make the effort ot get controll of our own immediate destany.

Let Congress know we will take all they will give and ask for more.

H. R Conrad

Owing to the uncertanty of passage of a Law by Congress and the form it will be it would appear about all can be done by the legislature is to apporate only such moneys as are available, from State funds, for such planning and collecting of information, preparatory to what and when Congress acts.

The county goverments should be given all possible authority and this xx should include Stock raising (Cattle) and Mining. Posability just Prospecting, up to a small tonnage of say 25 tons, This is not to indicate this operator is not excluded from reasonable air controll Water in another problum, water will not clean by its self, must have help These restrictions must not be

The Stockman must be protected from the king of fear as I outlined in a previous article.

I believe that the State must Project into this enviromental Problum in such a way as to protect all enterprise from uncontroll ab nonelctive emploies both Federal and State, The only way this can be done is to provide County officials with powers to examine and make required decisions, This must include the taking evedence from citizens and to seek information from persons knowlegable in the industry involved.

The State Agency should confine its self mostly to compiling pertinant data available to County Gourvement.

There should be no positive veto from this Commitee. at this point a full blown hearing should be be held.

The use of rules/ regulations must be held to a very minimum. This will open the door for Executive order, then comes the Ex. law one man law.

If you do not know what you want to say dc not say it.

Factual data of required should be used to make decisions onlt and applied to each individual case as a caseonly.

The continual trend to permit enforcement officials to exersise supposed authority not expesly granted mus not continue,-- One man Law.

This is directly primarily toward Stockmen and the Prospector, small Miner, ZAsto the other phaseds of this enviromental problum I do not consider myself sufficiently informed to offerknowlegable comment, except, I note the Churchill County Commisioners are using caution in a developers proposals.

H. R. Conrad

ENVIRONMENTAL NEWS

U.S. ENVIRONMENTAL PROTECTION AGENCY
National Environmental Research Center
P.O. Box 15027•Las Vegas, Nevada 89114

Temple (202) 755-0344
Fitzwater (202) 755-0344
Douglas (702) 736-2969

FOR IMMEDIATE RELEASE

NERC-LV 2773

March 8, 1973

EPA TO PROPOSE "COMPLEX SOURCE" AIR POLLUTION REGULATIONS

The Environmental Protection Agency today announced that it will soon propose regulations requiring States to review, prior to construction, the air quality impact of "complex sources" such as shopping centers, sport complexes, highways and other similar facilities.

The regulations would require States to review the locations, prior to construction or modification, of "complex sources" to determine whether associated activities such as newly generated auto traffic would result in violations of the National Ambient Air Quality Standards.

Today's advance notice of proposal is in response to a D.C. Court of Appeals Order of January 31, 1973, in the case of Natural Resources Defense Council vs. EPA, which directs EPA to review all State implementation plans to determine if they contain measures necessary to insure maintenance of National Ambient Air Quality Standards. The Court ordered that plans without such measures be disapproved.

The EPA announced today that the Court-ordered review has been completed and none of the State plans provide for adequate maintenance of air quality since they do not contain procedures for reviewing "complex sources."

In today's Federal Register notice disapproving the plans, EPA Administrator William D. Ruckelshaus said that in order to comply with the Court's directive, State plans must contain, as a minimum, procedures for reviewing, prior to construction or modification, facilities which may cause an increase in air pollution because of associated activities. These facilities are generally called "complex sources."

In an advance notice of proposed rulemaking, also published in today's Federal Register, the EPA says it will propose "complex source" regulations by April 15, 1973, with final regulations being promulgated by June 11, 1973.

(more)

The January Court Order required the States to submit necessary maintenance provisions by April 15, 1973. Due to the lack of time for State compliance, however, the EPA has asked the Court to defer submittal of the State plans until after promulgation of the "complex source" regulations. That request is still before the Court.

The new regulatory proposals would require States to have legally enforceable procedures for reviewing the location, prior to construction and modification, of "complex sources" and for preventing such construction if it interferes with the attainment or maintenance of national air standards.

In today's advance notice, the EPA directs States to determine now whether they have adequate legal authority to adopt such a regulation, and if not, to take steps to secure the authority.

Although the EPA has not officially identified the facilities to be considered "complex sources," a preliminary list includes shopping centers, sports complexes, drive-in theaters, parking lots and garages, residential, commercial, industrial or institutional developments, amusement parks and recreational areas, highways, sewer, water, power and gas lines.

Existing State plans contain regulations for review of air pollution emissions from stationary sources. EPA contends, however, that these regulations are inadequate to insure maintenance of the ambient standards because they do not deal with emissions from associated sources such as automobiles, or from general urban and commercial development.

Also, many of the State plan requirements for reviewing stationary sources contain a variety of exemptions. Accordingly, EPA intends to propose regulations limiting the sources which may be exempted from existing stationary source review procedures.

Today's disapproval of State plans does not affect the validity of prior approvals or promulgation by EPA of other portions of the plans. Approved and promulgated plans remain in effect and are enforceable by the State or Federal government in accordance with the provisions of the Clean Air Act. Both the notice of disapproval of State plans and the advance notice of "complex source" rulemaking are published in the Federal Register today, March 8, 1973.

(30)

AGENCY

[40 CFR Part 50]

PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

Advance Notice of Proposed Rule Making

On August 14, 1971 (36 FR 15486), the Administrator of the Environmental Protection Agency (EPA) promulgated as 40 CFR Part 420, regulations for the preparation, adoption, and submittal of State implementation plans under § 110 of the Clean Air Act, as amended. These regulations were republished November 25, 1971 (36 FR 22398), as 40 CFR Part 51. Section 110(a)(2)(B) of the Clean Air Act and 40 CFR 51.12 require that State implementation plans provide for maintenance as well as for attainment of the national standards.

On January 31, 1973, the U.S. Court of Appeals for the District of Columbia Circuit issued an order in the case of Natural Resources Defense Council, Inc., et al. v. Environmental Protection Agency (Case No. 72-1522) and seven related cases. That order directed the Administrator of EPA to again review all implementation plans which were approved on May 31, 1972 (37 FR 10842, et seq.), to determine if they contain measures necessary to insure maintenance of the standards.

Such review has been completed and the Administrator has determined that it is necessary for State plans to contain, as a minimum, procedures whereby the State can review, prior to construction or modification, the location both of sources of pollution and of other facilities which may cause an increase in air pollution because of activities associated with such facilities, in order to insure that the national standards will be maintained; 40 CFR 51.18 imposes a review requirement with respect to stationary sources of air pollution. However, it does not require the review of facilities to determine the effect on air quality caused by associated activity, such as increased motor vehicle traffic. Because the implementation plans did not contain such a provision, they are being disapproved with regard to maintenance of the standards.

Notice is hereby given that the Administrator will propose an amendment to 40 CFR 51.18 which will extend the requirements for review set forth therein to apply to facilities which may cause an increase in air pollution because of activity associated with such facilities. The States will be required to have legally enforceable procedures reviewing, prior to construction or modification, the location of such facilities and for preventing such construction or modification where it would result in interference with the attainment or maintenance of a national standard. The Administrator is presently considering the types of facilities to be covered by such procedures and the factors to be considered in determining the impact such facilities will have on air quality. The amendment to 40 CFR 51.18 will be proposed by April 15, 1973.

The reasons for the regulation and the general form of it are more specifically discussed in the preamble to the Administrator's disapproval of the maintenance provisions of State plans which is published in 38 FR 6279. This advance notice of proposed rule making is published with the intention of informing the public of the Agency's actions and plans in this important area, and for the purpose of providing States notice of an impending change in the implementation plan regulations which will require the adoption and submission to the Administrator of additional plan provisions. States should begin now to determine whether they have adequate legal authority to adopt such a regulation and, if they do not, take steps to secure such legal authority.

Dated: March 2, 1973.

WILLIAM D. RUCKELSHAUS,
Administrator,
Environmental Protection Agency.

[FR Doc.73-4404 Filed 3-7-73;8:45 ...]

Title 32—National Defense

CHAPTER XVI—SELECTIVE SERVICE SYSTEM

PART 1661—CLASSIFICATION OF CONSCIENTIOUS OBJECTORS

Types of Decisions; Correction

The cross-reference in § 1661.10(a)(2) line 5, that appeared in FR Doc. 72-22438 (37 FR 23000 (December 30, 1972)) should read §§ 1661.3 and 1661.4.

BYRON V. PEPITONE,
Acting Director.

MARCH 5, 1973.

[FR Doc.73-4477 Filed 3-7-73;8:45 am].

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Maintenance of National Ambient Air Quality Standards

On April 30, 1971, pursuant to section 109 of the Clean Air Act, as amended, the Administrator promulgated national primary and secondary ambient air quality standards for six pollutants. The Act requires that the primary standards protect the public health with an adequate margin of safety and that the secondary standards protect the public welfare from any known or anticipated adverse affects. Under section 110 of the Act, States are required to prepare and submit to the Administrator plans for implementing the national ambient air quality standards in each air quality control region in the State. The Administrator published on May 31, 1972, his initial approvals and disapprovals of the State implementation plans developed and submitted under these provisions of Federal law.

On January 31, 1973, the U.S. Court of Appeals for the District of Columbia Circuit decided the case of "Natural Resources Defense Council, Inc., et al. v. Environmental Protection Agency" (Civil Action No. 72-1522) and seven other related cases. The Court's order required the Administrator to review within 30 days from the date of the order the maintenance provisions of all State implementation plans that were approved on May 31. The Administrator was directed to disapprove plans "which do not provide for measures necessary to insure the maintenance of the primary standard after May 31, 1975, and those plans which do not analyze the problem of maintenance of standards in a manner consistent with applicable regulations * * *."

The Administrator has completed his review as required by the court order. This further examination of State plans confirmed that no State plan contained adequate growth projections for any significant period of time into the future. Moreover, it is recognized that maintenance of standards cannot be insured simply by projecting future growth and curtailing present emissions in order to provide opportunities for this future growth of emission sources. Since the plans must provide for maintenance of the standards over an indefinite period of time, it is the Administrator's determination that the most practical manner in which to adequately and effectively provide for maintenance of the standards at this time is to require State plans to contain procedures by which each State will review a wide range of new sources and causes of air pollution and will have the authority to prevent the development of such sources or causes where necessary to insure that the standards are maintained.

Maintenance is partially insured by the provisions of 40 CFR 51.18 which require each State plan to have adequate procedures to review, and where necessary prevent, the construction or modification of any stationary source at a location where emissions from that source would result in interference with the attainment or maintenance of a national standard or with the State control strategy. Where State plans were judged inadequate in this respect, the Administrator has promulgated or will promulgate such regulations. In addition, new source performance standards promulgated by the Administrator under section 111 of the Act and motor vehicle emission standards promulgated under section 202 will also serve to mitigate the impact of growth.

However, these measures, by themselves, are not adequate to insure the maintenance of standards, particularly for air pollutants emitted largely by motor vehicles. Nor do they deal with the problem of emissions generated not by the facility being constructed but by sources associated with such facility, including general urban and commercial development. In the Administrator's judgment, it is also necessary to require States to review, and where necessary prevent, the construction of facilities which may result in increased emissions from motor vehicle activity or emissions from stationary sources that could cause or contribute to violations of national ambient air quality standards. Such facilities generally are designated "complex sources." EPA guidelines did not require this and the review of State plans indicates that no State included such a provision in its implementation plan. Accordingly, in order to comply with the court order, it has been determined that all State plans must be disapproved to the extent that they do not contain provisions which will permit the review, and provide the authority to prevent, the construction, modification, or operation of complex sources at a location where emissions associated with such source would result in violation of a national standard or the State's control strategy.

The action taken herein to disapprove State implementation plans with respect to their lack of provisions for review of complex sources is not intended to affect, and should not be construed as affecting, the validity of prior approvals of State plans by the Administrator or prior promulgation of regulations to correct State plan deficiencies. Provisions of approved or promulgated plans remain in effect and are enforceable by the State and/or Federal Government in accordance with the provisions of the Clean Air Act.

The Administrator has also determined that many States' procedures for the review of stationary sources, and the consequent authority to disapprove the construction or modification of any such source where it would interfere with the maintenance of a national standard, contain a variety of exemptions so that certain sources need not be reviewed by the State prior to construction or modification. While such exemptions will not necessarily interfere with the ability of the State to attain the national standards, the exempted sources may, at some time in the future, comprise significant sources of air pollution which should be reviewed in order to insure maintenance of the standards. Accordingly, the Administrator will also set forth a regulation that will specify a limitation on the sources that may be exempted from a new source review procedure.

In order to correct the disapprovals set forth in this document, the Administrator will require States, where necessary, to revise their review procedures for construction or modification of sources. He will also require all States to adopt and submit to him a legally enforceable procedure for reviewing the impact of the construction or modification of a "complex source" and for preventing the construction or modification of such complex source where necessary to attain and maintain a national standard or to prevent interference with the State control strategy. The Administrator will propose amendments to 40 CFR Part 51 which will set forth such requirements. This document is intended to be an advance notice of proposed rule making and will appear at page 6290 of this issue.

The complex source review procedures will also be required as part of the plan for attainment of the standards. EPA is continuing to review the problem of maintenance of standards to determine other techniques or procedures that could be employed by States as part of their plans.

At the present time, the Environmental Protection Agency is preparing draft regulations which will identify the types of facilities to be covered by complex source regulations and some of the factors to be considered in determining the impact that such facilities will have on air quality, as a result of emissions directly from such facilities and from air pollution sources associated with them.

A complex source is generally defined as a facility that has or leads to secondary or adjunctive activity which emits or may emit a pollutant for which there is a national standard. These sources include, but are not limited to:

(1) Shopping centers;
(2) Sports complexes;
(3) Drive-in theaters;
(4) Parking lots and garages;
(5) Residential, commercial, industrial, or institutional developments;

(6) Amusement parks and recreational areas;
(7) Highways;
(8) Sewer, water, power, and gas lines;

and other such facilities which will result in increased emissions from motor vehicles or other stationary sources. The regulation will further provide that each State must have procedures whereby, prior to construction or modification of such sources, the State will be able to determine whether the construction or modification of the complex source would cause violations of the applicable portions of a control strategy or interfere with the attainment or maintenance of the national ambient air standards. States will be required to have the authority to disapprove the construction or modification where it would have such a result. The regulation will set forth the basic minimum considerations which should be addressed by a State before it can approve or disapprove any such construction or modification. States should begin now to determine their legal authority to adopt such a regulation, and to obtain such authority where it is lacking.

The order of the court on January 31, 1973, required the Administrator, upon disapproval of State plans, to direct States to submit approval provisions for maintaining the standards by April 15, 1973. Since this does not provide States with adequate time to develop corrective regulations and submit them to the Administrator in accordance with the procedural requirements of 40 CFR 51.4, the Administrator has applied to the court for a modification of that order to defer submittal of plans by the States until after the promulgation of the amendments to Part 51 establishing the requirement of a complex source provision. The new timetable requested from the court would permit proposal of the amendment to 40 CFR Part 51 on April 15 with the final regulation being promulgated by June 11, 1973. State plans providing for maintenance of the standards and containing such a procedure would have to be submitted by August 15. Should the court not modify its order, States will have to submit their plan for maintenance of the standards by April 15, 1973. Should the court grant the motion, the disapproval prescribed below will be amended to set forth the later date for submittal of the plans.

The amendments set forth below are effective from the date of publication in the FEDERAL REGISTER since the amendments are made pursuant to a court order which requires the Agency to disapprove the State plans which do not provide for maintenance of the primary standards.

Dated: March 2, 1973.

WILLIAM D. RUCKELSHAUS,
Administrator,
Environmental Protection Agency.

Subpart A of Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended by adding § 52.22 as follows:

§ 52.22 Maintenance of national standards.

Subsequent to January 31, 1973, the Administrator reviewed again State implementation plan provisions for insuring the maintenance of the national standards. The review indicates that State plans generally do not contain regulations or procedures which adequately address this problem. Accordingly, all State plans are disapproved with respect to maintenance because such plans lack enforceable procedures or regulations for reviewing and preventing construction or modification of facilities which will result in an increase of emissions from State plans are disapproved with respect other sources of pollutants for which there are national standards. The disapproval applies to all States listed in Subparts B through DDD of this part. Nothing in this section shall invalidate or otherwise affect the obligations of States, emission sources, or other persons with respect to all portions of plans approved or promulgated under this part. Pursuant to an order of the U.S. Court of Appeals for the District of Columbia Circuit entered on January 31, 1973, State plans providing for maintenance of the national standards must be submitted to the Administrator no later than April 15, 1973.

[FR Doc.73-4405 Filed 3-7-73;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 1—FEDERAL PROCUREMENT REGULATIONS

PART 1-15—CONTRACT COST PRINCIPLES AND PROCEDURES

Miscellaneous Amendments

Correction

In FR Doc. 73-3376, appearing at page 4753 in the issue of Thursday, February 22, 1973, the following changes should be made:

1. On page 4755, directly under § 1-15.306-4(a), place a line of five stars.

2. In the first line of paragraph (g) of § 1-15.309-7, in the second column on page 4757, after the word "charging", insert "*personal services.* Budget estimates on a".

3. In the second column on page 4758, directly above § 1-15.309-13, place a line of five stars.

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

SUBCHAPTER E—FOREST MANAGEMENT (5000)

[Circular 2339]

SALES OF FOREST PRODUCTS

Timber Sale Contract Procedures

On page 26114 of the FEDERAL REGISTER of December 8, 1972, there was published a notice and text of a proposed amendment to Group 5400 of Title 43, Code of Federal Regulations. The purpose of the amendment is to update the regulations relating to timber sale contracts and bidding procedures. These changes include definition of "loading point," permission to submit a payment bond to assure payment for timber to be cut, revision and clarification of bidding procedures, provision for the resale of timber involved in uncompleted contracts, and extension of the maximum term for a timber contract from 30 to 36 months.

Interested persons were given until January 8 to submit comments, suggestions, or objections to the proposed amendment. No comments were received. However, it has been determined that the format of portions of the proposal would be more self-explanatory if the text was rearranged. Accordingly, several editorial changes are made and the proposed amendments to §§ 2451.2, 2451.4, and 2461.2 are revised.

Since these are nonsubstantive modifications, the proposed amendment is hereby adopted as revised, and is set forth below in its entirety. This amendment shall become effective July 1, 1973.

JOHN C. WHITAKER,
Acting Secretary
of the Interior.

MARCH 1, 1973.

Group 5400 of Chapter II of Title 43 of the Code of Federal Regulations is amended as follows:

PART 5400—SALES OF FOREST PRODUCTS; GENERAL

1. In § 5400.0-5 a new paragraph (m) is added to read as follows:

§ 5400.0-5 Definitions.

* * * * *

(m) "Loading point" means any landing or other area in which logs are capable of being loaded for transportation out of the contract area: *Provided, however,* That right-of-way timber which has been cut shall not be considered to be at a loading point until such time as logs from any source are actually transported over that portion of the right-of-way.

PART 5440—CONDUCT OF SALES

Subpart 5441—Advertised Sales

2. In § 5441.1-1 the last sentence is amended to read as follows:

§ 5441.1-1 Bid deposits.

* * * The deposit of the successful bidder will be applied on the purchase price at the time the contract is signed by the authorized officer unless the deposit is a corporate surety bid bond or a bond is accepted by the Bureau to secure payment of the first installment.

3. Subpart 5442 is revised to read as follows:

Subpart 5442—Bidding Procedure

Sec.
5442.1 Procedure.
5442.2 Resale of timber from uncompleted contracts.
5442.3 Rejection of bids; waiver of minor deficiencies.

AUTHORITY: Sec. 5, 50 Stat. 875, 61 Stat. 681, as amended, 69 Stat. 367; 43 U.S.C. 1181f, 30 U.S.C. 601 et seq.

#8 Exhibit F

RESOLUTION

WHEREAS, the State of Nevada does not have a land planning agency, and

WHEREAS, the explosive growth of the population in this state makes it apparent that regional and state land planning capacity be provided, and

WHEREAS, there is reason to believe that a national land policy act will be given a high priority in this session of Congress with grants in aid to states with the necessary enabling legislation for the purpose of establishing state land planning agencies,

NOW THEREFORE, BE IT RESOLVED by the Nevada Wildlife Federation that the Nevada Legislature be encouraged to pass legislation establishing a state land planning agency and regional planning districts.

APPROVED this 14th day of January, 1973.

NEVADA WILDLIFE FEDERATION, INC.

By /s/
Its President

ATTEST:

/s/
Secretary

COMMENTS BY H.R. CONRAD.

Mr. Elmo DeBRico has undertaken a very difficult task, He has made a stron g, effort to write an enabling Bill that may or may not become effective,

There provisions in it to which you and I may be opposed, It is to be hoped that these criticems will be offerd in a courteous and constructive fassion.

The Kresident and the Congress appear inclined to return some controll of these public Lands to the States. This is in line with findings and recondemendations of the Hoover Comm, This Comm. recomendated all Lands including Forest Lands be given to the States.

You well know we will not get more than we ask for, therefore make it known that we want all of it,

May we continue to remember and carefuly take into account the little fellow, in all facets of thps very complecks society. Not forgeting the elderly Claim holder, many on State welfare, who in declining years cling to the hope that one day , soon they will get a piece of money for the remaining years.

Due consideration must be given to the plight of the smaller man stoc,k Who now faces bankrupsey from, ~~firs~~ first forced reduction of the cattle permited, This in Lander County, recently, In White Pine County give a permit for more cattle that the rancher has and refuse to renew his permit on this ame grounds not enough cattle, regardless, he did pay for the number of cattle recomended.

Who is the small cattle operator? the 10. to 30,000, acre man. Who gets it the very large Land Cattle Copo. and it is owned by Giant Coporations. Sure with the coniving of the Gestopo.

H.R. Conrad

MUSKIE,*** JACKSON BILLS:

The Muskie Bill seens to be the bill more easily amended to and is patterned after a Law in The State of Maine In his opening remarks the Senator tryes to give the impression thay it is working real well, with 49 % of Maine public Land,

Some of his paragraphs are quite restrictive as they are now presented, I think they are, A billpatterned after this bill would appear to be mush less expensive to have on the books, He does not propose to permit the entire Admistrative Departmentd s to get their finger into the pie,

It is mucr shorter and not so many, less important paragraphs.

It has the wording such that it gives the impression of knowing what is intended. The Senator knew that which he wanted to say and said it.

There are many objectional features there also, he purports to hold to much of the veto power in ~~xxx~~Executive. and of all places the Enviromenta tal agency, Witness the Annaconda Smelter fracas and the fact that the testing instruments were not consistant and the operators nod not know enough to pound sand in a rat hole.

JABKSON BILL:

THIS Bill is long with many paragraphs, suggesting but not fully spelled out, leaving ample room for one man Law.

Rather than reduce the power of the B.L.M. he increeses it very clearly, Permiting almost every Department ot have a veto on almost every phase of this problum. This can be a most expensive Law. A lofe of bread in one hand and sign here is not my way of making Laws, Neither do I want rules and /regulations, Both Senators begin with give the authority to the States, Counties, then take it away.

In fact both are far behind the thinking of almost every one as of today.It is surprising the change in thinking of people compared to two short years, Aheated argument was in store for anyone who advocated controlled water, or air for that matter.

After two years of continual hassel with F.S.& B.L.M. and what do we get The wilderness proposels may be stopped in Nevada o nly, B.L.M. controlled may be closed, at any moment, all of it.

To sum it up shall we make the effort ot get controll of our own immediate destany.

Let Congress know we will take all they will give and ask for more.

A.R Powell

Owing to the uncertanty of passage of a Law by Congress and the form it will be it would appear about all can be done by the legislature is to apporate only such moneys as are available, from State funds, for such planning and collecting of information, preparatory to what and when Congress acts.

The county goverments should be given all possible authority and this should include Stock raising (Cattle) and Mining. Posability just Prospecting, up to a small tonnage of say 25 tons, This is not to indicate this operator is not excluded from reasonable air controll Water in another problum, water will not clean by its self, must have help These restrictions must not be

The Stockman must be protected from the king of fear as I outlined in a previous article.

I believe that the State must Project into this enviromental Problum in such a way as to protect all enterprise from uncontroll ab nonelctive emploies both Federal and State, The only way this can be done is to provide County officials with powers to examine and make required decisions, This must include the taking evedence from citizens and to seek information from persons knowlegable in the industry involved.

The State Agency should confine its self mostly to compiling pertinent data available to County Gourvement.

There should be no positive veto from this Commitee. at this point a full blown hearing should be be held.

The use of rules/ regulations must be held to a very minimum. This will open the door for Executive order, then comes the Ex. law one man law.

If you do not know what you want to say do not say it.

Factual data of required should be used to make decisions onlt and applied to each individual case as a caseonly.

The continual trend to permit enforcement officials to exersise supposed authority not expesly granted mus not continue,-- One man Law.

This is directly primarily toward Stockmen and the Prospector, small Miner, ZAsto the other phaseds of this enviromental problum I do not consider myself sufficiently informed to offerknowlegable comment, except, I note the Churchill County Commisioners are using caution in a developers proposals.

H. R. Conrad

EXHIBIT 7

AMERICAN MINING CONGRESS
1100 RING BUILDING • WASHINGTON, D.C. 20036 • TELEPHONE 202/338-2900
TELEX 89-2745
ESTABLISHED 1897
J. ALLEN OVERTON, JR., President

Statement of
HOWARD L. EDWARDS
Vice President and Secretary
The Anaconda Company
on behalf of the
AMERICAN MINING CONGRESS
in regard to
National Land Use Policy
before the
Committee on Interior and Insular Affairs
United States Senate
February 26, 1973

Mr. Chairman and Members of the Committee:

My name is Howard L. Edwards. I am Vice President and Secretary of The Anaconda Company in New York. I am also Vice Chairman of the Public Lands Committee and Chairman of the Ad Hoc Committee on National Land Use Policy of the American Mining Congress and appear here today on behalf of that organization.

The American Mining Congress is a national association of United States companies that produce most of the nation's metals, coal and industrial and agricultural minerals. The member companies operate on public and privately owned lands in all of the 50 states. The American Mining Congress is thus interested and concerned about the possible adverse effects on the minerals industry of the proposed Land Use Policy and Planning Assistance Act of 1973.

S. 268 is not balanced legislation. The findings and purposes allude to many legitimate, important and necessary land uses. The provisions of the bill, however, are tilted towards a prevailing theme of environmental protection and concomitant prevention of land use and development. Balanced and orderly use for basic human needs is neglected. The virtual veto power of the federal government, by withholding funds, over state land use plans is keyed to failure by the states to protect lands against environmental abuse. Other criteria is virtually nonexistent.

As the preamble to the bill finds, there is an evident need for improved and more efficient land use planning and decision making. It is important, however, that legislation establishing a new system be carefully conceived. Otherwise the purpose of the act to achieve sound land uses may well be frustrated by the bill becoming a vehicle for imposing wide-scale, unsound land uses or, perhaps, land non-use.

The bill, as now drafted, does not adequately recognize the unique nature of the use of land for mineral development. Likewise, it does not acknowledge the unique nature of mineral estates.

Section 302 (a) (3) requires each state to project the nature and quantity of land needed and suitable for each of a wide-ranging list of land uses, including mineral development. It is possible, although admittedly difficult, to make the projections for surface uses such as transportation and urban development and most other uses listed in the section. An educated guess could be used for a projection of the quantity of land needed for mineral development because proportionately small areas are actually required.

In Montana, for example, where mineral production is the second largest industry in the state, only 25,600 acres, or three one hundredths of one percent of the total land area has been used in the history of the state for mineral production.

Arizona, the largest producer of copper in the nation, has utilized only one-tenth of one percent of its land for mining.

Thus, near to middle term estimates or guesses can be made of the number of acres of land which will probably be occupied for mineral development if this nation is to produce most of its mineral requirements. However, to predetermine the geographic location of lands suitable for mineral development is an impossible legislative requirement. These are the lands where God saw fit to deposit the minerals, and He has not yet revealed to man all of His hiding places. Except for operating mines and a few known undeveloped mineral occurrences, the location of lands suitable for mineral development is unknown and projections would be meaningless.

Surface uses can be adjusted to conform to land use plans and human judgments. The luxury of choice does not exist for mineral development; such development can take place only where the minerals are located. There is no recognition of this natural phenomenon in S. 268.

Inventories and projections of land use, as required by Section 302, should not imply that lands are not available for exploration and development of the minerals. Except for limited areas of intense development or unusual historic

or scenic values, if minerals exist in sufficient quantity and quality to economically justify extraction and treatment, then mineral development is usually the highest and best use. As our nation becomes increasingly a mineral deficient country dependent on foreign sources, the value of land for mineral development will become comparatively higher. Curiously, as our mineral needs accelerate and the supply dwindles, the plethora of measures that would impair the development of domestic mineral resources multiply.

The ability of the mineral industry to meet the nation's mineral requirements would be further impaired by the following: Section 302 (a) (8) requires each state to inventory and designate areas of "critical environmental concern." Section 303 (a) (2) (A) requires each state to develop a program that assures that use and development of lands in areas of "critical environmental concern" is not inconsistent with the state's land use program. That provision could be administered, and is probably so intended, to prevent significant development, and especially mineral development, in any area of critical environmental concern. Then "areas of critical environmental concern" are defined by Section 501 (e) as areas designated by the state where uncontrolled development could result in irreversible damage to important historic, cultural or esthetic values or natural systems or processes which are of more than local significance. Notwithstanding that definition, the bill further states that such areas shall include:

1. Coastal wetlands, marshes and other lands inundated by tides;
2. Beaches and dunes;
3. Significant estuaries, shorelands and flood plains of rivers, lakes and streams;
4. Areas of unstable soils and with high seismicity;
5. Rare or valuable ecosystems;
6. Significant undeveloped agricultural, grazing and watershed lands;
7. Forests and related land which require long stability for continuing renewal;
8. Scenic or historic areas, and
9. Such additional areas as the state determines to be of critical environmental concern.

That mandatory list includes nearly every acre of land in the United States and, without question, does include every acre west of the Mississippi River, which is generally arid, mountainous and environmentally fragile.

The bill, by its terms, could be administered so as to designate the entire nation as an "area of critical environmental concern." Each of the defined areas could likely be restricted to a single use. Without considering the profound effect on the concept of private property, consider the threat to the principle of multiple use, which was so recently cogently and eloquently defended by the Public Land Law Review Commission and is proposed as a legislative policy in the Land Management Organic Act (S. 424).

Perhaps most lands should be considered as areas of critical environmental concern. Our nation is beautiful and our land base is finite and must be used with care. The use of lands with care must be the objective of the bill. That objective can be met and still provide for the important public need to produce minerals. State land use plans should generally guarantee access for mineral development. The care of the land can be insured by environmental control regulation separate from a land use policy act. This important exception to other types of land use planning is simple recognition of the fact that no one knows today where the mineral resources are hidden.

Perhaps another way to improve the bill would be to retain a definition of areas of critical environmental concern but eliminate the mandatory list of areas to be included.

In most land use regulatory proposals there exists the thought that proper land use and mineral development are mutually exclusive. While mining, by definition, disturbs the earth's surface and produces wastes in the extraction and beneficiation of ores, there are many, many examples of compatible multiple uses. One example is the Park City District of Utah where mining has been pursued for a century and still continues, having paid over $100 million in dividends. While exploration, development and mining of rich lead-zinc-silver ores continues underground, the surface is the site of one of America's fastest growing and most popular winter sports areas boasting an investment in the last decade of over $20 million and serving up to 6500 skiers each day. Improved methods of waste disposal and treatment and mined land reclamation confirm that such development can be responsible and that mining is a bona fide use of the lands. For those who eschew mineral development in any form as a proper or necessary use of the lands, the alternatives to such development and its impact on our nation and our society should be considered.

Contrary to the desires of the exponents of a "no-growth" society, current responsible thought projects increased uses of all mineral commodities. If government policy inhibits or thwarts mineral development, the alternative is to force undue reliance on foreign and frequently unstable sources. In so doing our tax base is impaired, jobs are exported and our record balance of payments deficit grows. Our nation is already mineral deficient. For example, in the last two years seven domestic zinc plants have been shut down and 40% to 50% of the zinc industry of the United States has been exported to foreign countries. This unbelievable development occurred when zinc consumption in the United States has reached an all-time high.

S. 268 does not admit to state jurisdiction over federal lands. It does require, however, that a condition precedent to any new program, policy, rule or regulation relating to federal lands is the publishing of a "consistency statement" indicating consistency with an approved state land use plan (Section 401 (b)).

This requirement opens a Pandora's box. The experience with environmental impact statements under the National Environmental Protection Act before there can be any major federal action portends the ease with which litigious contestants could frustrate federal programs. All that would be necessary is the questioning of the sufficiency of the "consistency statement" and such programs would be delayed interminably. Envision, for example, the federal government proposing a mineral leasing program for oil shale that would contemplate eventual mining, retorting, waste disposal, diversion of water, transportation of products, housing, etc., all in a fragile area of the Colorado Plateau that would fit 3 or 4 of the definitions of an area of critical environmental concern. The "consistency statement" would assume the proportions of the environmental impact statement prepared for the Alaska pipeline project.

The National Environmental Protection Act requires impact statements for every major federal action. S. 268 requires a "consistency statement" for any program, policy, rule or regulation and is not limited to "major" federal actions.

Because the availability for mineral development has been impaired by government withdrawals and set-asides for single-use purposes, the mining industry has sought, for years, with minimal success, restrictions on the withdrawal of public lands from the operation of the mining and mineral leasing laws. Privately owned lands have, however, generally been available and have, to some extent, counterbalanced the dwindling supply of available federal lands. S. 268 could change all of that. The bill could be administered to effectively prohibit, and certainly discourage, mineral development on vast areas of non-federal lands.

The mining industry supports the preservation of certain land areas with unusual and unique value. As a general policy, however, lands found to be most valuable for a particular surface use should not be closed to mineral evaluation. Any land use policy legislation with only rare exceptions should permit the exploration for, identification and development of mineral deposits, regardless of the highest and best use of the surface estate. Certainly, state land use plans should specifically provide that, as a general policy, lands identified as suitable for any use should be kept open to evaluation of their mineral importance. If the constitutional hurdle that the federal government cannot ordinarily tell a state how to exercise its police powers can be overcome and the presently conceived bill goes forward, why not provide in the legislation that state land use plans cannot remove lands from mineral development unless certain steps are taken. Why not require studies of mineral potential, hearings and specific findings that mineral development should not be permitted. And further provide for periodic review of prohibited areas to determine if the original reasons for closure are still valid.

In its deliberation of land use policy legislation, Congress should take cognizance of the historic concept of competing multiple uses, and of the recently adopted policy of the federal government that it is in the national interest to foster and encourage the development of mineral resources and reserves (Act of December 31, 1970, P.L. 91-631, 84 Stat. 1876). Land use policy legislation should encourage and not discourage the implementation of the Federal Mining and Minerals Policy Act.

Thank you for the opportunity to comment on this most important legislation.

NORMAN S. HALL, *Assistant Director*

Address Reply to
Nye Building
Telephone 882-7482

Governor

Exh. B.T S

DIVISIONS
FORESTRY
STATE PARKS
STATE LANDS
WATER RESOURCES
OIL AND GAS CONSERVATION

STATE OF NEVADA

Department of Conservation and Natural Resources

OFFICE OF THE DIRECTOR
CARSON CITY, NEVADA 89701

March 9, 1973

MEMORANDUM

To: Senator Thomas Wilson, Chairman
Public Resources & Ecology Committee

and

Assemblyman Roger Bremner, Chairman
Environment and Public Resources Committee

From: Elmo J. DeRicco

Subject: Suggested revision of S.B. 333, an Act relating to land use planning.

S.B. 333

Section 12 does not specify clearly that the "standards" and "land use plan" under subparagraphs (b) and (c) are meant to apply only to areas designated critical environmental concern under paragraph (a). In order to obviate the possibility of an interpretation problem, I would suggest the following revision of Section 12:

> Section 12. 1. The Director, acting through the state land use planning agency, shall /:/ designate areas of state or regional critical environmental concern, and shall:
>
> /(a) Designate areas of critical environmental concern within the State of Nevada./
>
> /(b)/ (a) Promulgate minimum standards and criteria for the conservation and use of land and other natural resources /therein/ within such areas.
>
> /(c)/ (b) Adopt a land use plan for the integrated arrangement and general location and extent of, and the criteria and standards for the uses of land, water, air space and other natural resources within the area, including but not limited to, an allocation of maximum population densities.

S.B. 333

Section 14 relating to the availability of funds limitation only applies to "state land use program". We believe that the intent would be much clearer if, on line 37, pg. 6, be changed to read:

> Section 14. In undertaking the /state land use program/ provisions of this act, the director .....

Section 7, paragraph 2 states: "The director may:". To be consistent, we feel that this should be changed to, "The director shall:"

Section 9 relates to the state land use planning advisory council. We feel that there should be some provision for the lay members of the advisory council to receive travel and per diem when federal funds become available. Members of this council which are appointed or employed by other levels of government should be supported in their travel and per diem by the agency they represent.

Definitions. We feel that there should be a section on definitions, which would include, among other things: key facilities, large scale developments, land use planning process, and land use planning program, as a minimum.