

PROBLEM OF ACCESS TO PUBLIC LAND



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LEGISLATIVE COMMISSION
OF THE
LEGISLATIVE COUNSEL BUREAU
STATE OF NEVADA

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Assembly Concurrent Resolution No. 37—Assemblyman Rhoads

FILE NUMBER.....128

ASSEMBLY CONCURRENT RESOLUTION—Directing the legislative commission to study the problem of access of sportsmen to public land over private land and related problems.

WHEREAS, Over 87 percent of the land in this state is owned by the Federal Government; and

WHEREAS, Access to that land often requires travel over privately owned land; and

WHEREAS, Many private landowners have refused access across their land to sportsmen because of the damage some sportsmen have caused to their property; and

WHEREAS, The acts of property damage should be condemned and the landowners compensated for the damage; and

WHEREAS, Landowners who permit access across their lands to sportsmen should be given incentives to continue to allow such access; now, therefore, be it

Resolved by the Assembly of the State of Nevada, the Senate concurring, That the legislative commission is hereby directed to study the problems of access of sportsmen to public land over privately owned land, property damage, incentives to landowners and any other related problem the legislative commission determines exists between private landowners and sportsmen; and be it further

Resolved, That the results of the study and any recommendations for legislation be reported to the 61st session of the legislature.

REPORT OF THE LEGISLATIVE COMMISSION

TO THE MEMBERS OF THE 61ST SESSION OF THE NEVADA LEGISLATURE:

This report is submitted in compliance with Assembly Concurrent Resolution No. 37 of the 60th session of the Nevada legislature, which directs the legislative commission to study the problem of access to public land over privately owned land, with particular emphasis on access problems of sportsmen, property damage and incentives to landowners. On June 28, 1979, the legislative commission appointed a subcommittee to conduct this study. The subcommittee was composed of Assemblyman Dean A. Rhoads as chairman, Senator Wilbur Faiss as vice chairman, and Assemblymen Louis W. Bergevin, Alan H. Glover and Robert L. Weise as members.

In this report, the subcommittee has attempted to present its findings and recommendations in a concise form. Only that information which bears directly upon the scope of the study and the subcommittee's recommendations is included. All supporting documents, including minutes, staff reports and other research materials, are available and on file with the legislative counsel bureau.

The subcommittee wishes to give its thanks to those persons who participated in meetings and the special field tour. Of particular assistance were representatives of the Nevada department of wildlife, Nevada board of wildlife commissioners, Nevada division of state lands, United States Forest Service, Bureau of Land Management, Southern Pacific Land Company, Taylor Ranches, and the Nevada Cattlemen's Association.

This report is transmitted to the members of the 1981 legislature for their consideration and appropriate action.

Respectfully submitted,

Legislative Commission
Legislative Counsel Bureau
State of Nevada

Carson City, Nevada
October 1980

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SUMMARY OF RECOMMENDATIONS

The legislative commission's subcommittee studying the problems of access to public land over privately owned land recommends for the consideration of the 61st session of the Nevada legislature:

1. Amend Nevada Revised Statutes (NRS) to require the state land registrar, in any future land sales by the state, to reserve rights-of-way necessary to provide public land access. (BDR 26-88)
2. The division of state lands is requested to develop a listing of up to 10 of the top priority private access corridors. These are to be considered for acquisition by the state legislature in 1981. (BDR S-114)
3. The division of state lands is requested to prepare a comprehensive study to be submitted to the 1983 legislature. This study should inventory, identify, prioritize, coordinate, negotiate and outline funding sources for state acquisition of key access corridors around the state. The subcommittee recommends that the 1981 legislature approve the necessary budget request of the division of state lands to accomplish such a study.
4. A resolution should be adopted at the 1981 legislative session requesting increased cooperation by federal land managers. In some areas access to public lands is only as effective as provisions by such land managers to efficiently distribute persons over the public lands. Federal land managers and other public entities should be requested to develop programs whereby the adequate distribution of persons throughout public lands from points of access is assured. Routes and trails so developed should also be adequately maintained by the appropriate public land managers. (BDR 115)
5. Access acquisitions, studies and other proposals should be funded entirely out of the state's general fund.

6. Enact legislation to provide a civil remedy for victims of crime involving personal property damage. (BDR 14-71)
7. Enact legislation to give authority to game wardens to enforce, in addition to current responsibilities, laws relating to personal property damage, illegal trespass and related matters. (BDR 45-72)
8. Amend NRS 41.510 to specify that access to public lands is a use of private property which may be granted by a landowner without fear of personal liability. (BDR 3-70)
9. The Nevada department of wildlife is encouraged to develop a program similar to the "Operation Game Thief Program" in the State of New Mexico. Such a program could feature a "hotline" whereby reports may be made of observed violations of fish and game laws, trespass, gates left open, and damage to private property. The subcommittee recommends that the 1981 legislature approve the necessary budget request of the department of wildlife to develop such a program.
10. The Nevada department of wildlife is encouraged to enter into cooperative wildlife management area agreements (NRS 504.140) with private landowners when necessary to address access problems on private lands having significant wildlife values and high intensity use potential.
11. The Nevada department of wildlife should take the lead responsibility for preparation of uniform informational signs to direct the general public to and over public access corridors. These signs should be made available to private property owners who allow public access and to other governmental agencies for posting. The subcommittee recommends that the 1981 legislature approve the necessary budget item to develop such a program.

REPORT TO THE LEGISLATIVE COMMISSION
FROM THE SUBCOMMITTEE TO STUDY THE
PROBLEM OF ACCESS OF SPORTSMEN TO
PUBLIC LAND OVER PRIVATE LAND
AND RELATED PROBLEMS

I. INTRODUCTION AND BACKGROUND

General Background

Nevada's distinctive geography, climate and physiography have contributed to a unique land use pattern. Long north-south trending mountain ranges are separated by intervening valleys. Only on the valley floors can there be the proper combination of arable soil, length of growing season, and available water to sometimes allow for irrigated agriculture. Over the years, in a number of Nevada's valleys, agricultural operations have been developed on the private lands which exist. Also, public roads have been developed which typically trend north and south through valleys, with private lands often bordering such roads on either side. Most mountainous lands and lands not released for agriculture or urban development have remained in the public domain, with over 87 percent of Nevada's land area controlled by the Federal Government.

Another distinctive land ownership pattern which exists is the broad swath of alternating federal and railroad lands across northern Nevada. The Southern Pacific Land Company still owns some 1.5 million acres of land in northern Nevada, largely comprised of sections (one mile square) of land alternating with sections of land managed by the Federal Government. This land ownership pattern, which accompanies the east-west route of the Southern Pacific Railroad, significant portions of the Humboldt and Truckee Rivers and Interstate Highway 80, has been termed the "checkerboard" area.

With over 87 percent of Nevada's land area in some form of public control, it would appear that access to these public lands should not be a problem. However, public lands with the highest values for hunting, fishing and other recreational activities are often blocked from direct public access by intervening lands under private ownership. It is not just a coincidence that public lands with high recreational values are often immediately adjacent to private lands. Higher mountain ranges receive more rainfall and

have greater snowpacks to provide the water needed for irrigated agriculture in the valleys below. These higher mountain ranges are also important for recreation because of impressive scenery and frequent streams, lakes, meadows, and woodlands. These areas also provide good habitat for important fish and game species.

The issue of access to public lands initially had two aspects, with a third major aspect developing with passage of assembly bill 413 by the 1979 legislature. The first aspect relates to the fact that Nevada's public lands belong to the general public and should by right be accessible to all. The second aspect relates to increasing property damage, vandalism, and liability dangers for private land owners who permit the public to cross their lands to reach public lands. The third aspect of the access issue involves passage of A.B. 413 ("Sagebrush Rebellion") and the concern of some citizens that if Nevada gains ownership of vast amounts of public domain, the state may in turn sell significant amounts of this land, the end result being a further reduction in available access to public land areas.

With this background in mind, the remainder of this report will review the issue of access to public lands and the findings and recommendations of the A.C.R. 37 subcommittee.

History of Access Issue

The problems relating to access to public lands in Elko County, Nevada, had become serious enough by 1973 to result in the formation of a "Forest Service Rights of Way Committee." That committee was set up by the Farm Bureau office in Elko in coordination with the U.S. Forest Service. Ranchers, other private landowners and members of the general public also participated on this committee. Priority access routes for acquisition by the U.S. Forest Service, primarily into the Ruby Mountains and East Humboldt Range, were identified by this committee in 1975. A priority list and other recommendations were transmitted to the Forest Service at that time. However, because of funding cutbacks, the Humboldt National Forest has not acquired any significant access corridors since that time.

On January 12, 1979, the governor's state multiple use advisory committee on federal lands met in Reno to discuss, among other things, problems relating to access to public lands. A U.S. Forest Service representative discussed one

25-mile stretch of the Humboldt National Forest that has become virtually inaccessible to persons that adjacent land-owners want to keep out. Two other stretches of approximately 15 miles each were also pointed out. Some 28 access roads crossing private lands were cited to have been closed to public entry in the Ruby Mountain area over the past few years. Such closures can affect vast areas in steep canyon country like the Ruby Mountains where access generally follows the canyons. Lateral roads and trails to connect canyons are often lacking within the National Forest, thus making public entry into some public land areas impossible by vehicle and extremely difficult by foot.

Other discussion at that meeting included the fact that many old access roads and trails have been assumed to be public by longstanding usage. The problem is that in most instances local public officials have not declared such roads as public nor have public easements been secured. Many such traditional access ways have been closed to public entry over the past 10 years for several different reasons. In some cases these have been the result of changes in private ownership. Some new owners, often coming in from outside the local area or living out-of-state, have not carried on the old-style willingness of prior owners to allow public access over their private property. This has been accompanied by greater public demand and use of the public lands for hunting, fishing and other recreational activities. With this increased use has come an increase in instances of damage to private property, vandalism, and damage to the land and environment. It was pointed out by one rancher that with the recent popularity of the four-wheel drive vehicle, there have been increased problems of drivers straying from designated access roads, causing ruts to form, particularly when the ground is damp. Such ruts often initiate an erosional process that can result in deep and dangerous gullying.

On January 27, 1979, senate bill 133 was introduced in the Nevada state legislature. This bill proposed that it be state policy "to provide reasonable public access to remote public areas, including those areas which are not directly accessible by public highways." The bill further specified that "the public has a way of necessity over private land so situated that it constitutes the only feasible means of ingress or egress to a remote public area, and the owner of any land so situated shall not bar or obstruct this way, but

the landowner may designate any reasonably passable portion of his land as the location of the way of necessity." A fine of not more than \$500 was proposed for any person blocking such "ways of necessity."

After receiving public testimony and discussion, and after reviewing proposed S.B. 133, the state multiple use advisory committee on federal lands approved an official recommendation on February 24, 1979. Recommendation 79-3 of that committee resolved that "the Nevada Legislature consider tabling proposed legislation concerning this subject (S.B. 133) and authorize a 2-year interim study involving input from private property owners, Bureau of Land Management, U.S. Forest Service, fish and game department (now known as the department of wildlife), and all other interested parties."

Senate bill 133 was heard by the senate transportation committee on April 17, 1979, with a subsequent action to indefinitely postpone this bill because other proposed legislation would "take care of the problem." A.C.R. 37, which was introduced on April 16, 1979, was adopted on May 26, 1979, and this study and report is a product of that action.

Identification of Problem Areas in Nevada

The first listing of areas in Nevada in which problems of access to public lands exist was made by the Forest Service Rights of Way Committee in 1975 (appendix A). That study, however, was limited only to Elko County, and in particular the Ruby Mountains and East Humboldt Range area.

A comprehensive statewide list of access problem areas, as of October 3, 1979, was provided by the Nevada department of wildlife (formerly fish and game). This list (appendix B) and accompanying wall map served as a basic guide for the A.C.R. 37 subcommittee in their public meetings and discussions.

Elko County, particularly the Ruby-East Humboldt area, have the most significant problems of access in the state. Staff analysis of the access issue has pointed out several interrelated factors contributing to the greater problems in Elko County. These factors include:

1. High scenic mountains with excellent hunting, fishing and recreational values, particularly the Ruby Mountains-East Humboldt Range and the Jarbidge area, with heavy deer pressure in the fall.
2. Good water supply from these higher mountains to allow extensive irrigated agriculture and livestock grazing, especially near the mountains.
3. Public roads frequently separated from the more desirable public recreational lands by intervening private lands.
4. Private lands in the valleys and low hills bordering higher mountains often contain significant hunting, fishing and recreational values. Some persons requesting access to public lands illegally use these lower, less rugged private lands for these purposes.
5. Extreme ruggedness of some mountainous areas means that closure of access into individual canyons effectively precludes access into large public land areas, even if less direct routes and trails exist.
6. Recent ownership changes of some private lands has sometimes resulted in an increase of access closures.
7. "Checkerboard" ownership pattern, affecting nearly 25 percent of Elko County, causes additional problems in the provision of access.

Applicable Nevada Statutes

The subcommittee directed staff to develop a listing of those existing Nevada statutes which may relate to the overall access issue. Those statutes identified are as follows:

NRS 37.010 - Specifies those public uses for which the right of eminent domain may be exercised.

NRS 37.015 - Provides that the state or any political subdivision or district which possess the power of eminent domain may use such power for the purpose of providing necessary access for the owners or occupants thereof to ranges and grazing lands.

NRS 37.030 - Provides under subsection 5 that rights-of-way for all public and private uses mentioned in NRS 37.010 may be subject to condemnation.

NRS 37.220 - Provides that parties obtaining rights-of-way through eminent domain and condemnation shall, without delay construct such crossings and culverts as may be required by the court or judge, and shall keep them and the way itself in good repair.

NRS 41.510 - Specifies that owners, lessees, and occupants of private lands may permit the use of such lands for hunting, fishing, trapping, camping, hiking, sightseeing or other recreational purposes without the risk of liability if there is not a willful or malicious failure to guard against dangers and no consideration or fee was required for such use.

NRS 206.015 - Provides that persons who willfully or maliciously destroy or damage crops, gardens, trees or shrubs are guilty of a public offense proportionate to the value of the loss resulting therefrom.

NRS 206.040 - Provides that persons who willfully or maliciously enter real property with intention to take, damage or destroy private property are guilty of a misdemeanor.

NRS 206.150 - Provides that persons who willfully or maliciously maim, poison, or kill another person's animal are guilty of a public offense proportionate to the value of the loss resulting therefrom but in no event less than a gross misdemeanor.

NRS 206.160 - Provides that persons who willfully or maliciously release or take the horse of another are guilty of a misdemeanor.

NRS 206.310 - Provides that persons who willfully or maliciously destroy or injure the private property of another, for which no special punishment is prescribed, shall be guilty of a public offense proportionate to the value of the property affected or the loss resulting from such offense.

NRS 207.200 - Provides that persons found guilty of illegal trespass as prescribed are subject to a misdemeanor.

NRS 207.210 - Provides that persons who maliciously destroy or mutilate "no trespass" signs are guilty of a misdemeanor.

NRS 207.225 - Provides that persons who knowingly divert irrigation water are guilty of a misdemeanor.

NRS 328.2091 - Gives consent by the State of Nevada to federal acquisition of lands, easements and rights-of-way for protection of natural resources or promotion of public lands administration.

NRS chapter 406 - Provides the procedures, rights, privileges and restrictions for establishing and operating toll roads.

NRS 504.140-504.143 - Sets forth the procedures involved in developing cooperative wildlife management area agreements between the Nevada department of wildlife and private landowners.

Public Access Rights

Because of testimony received at the A.C.R. 37 subcommittee meetings in Reno, Elko and Las Vegas, staff was asked to research whether an historically used roadway over private land was also a public road by prescriptive right. The staff report to the subcommittee addressed several different matters relating to the issue of public access rights in general.

First of all, before discussing historical roads crossing private land, the matter of roads over public lands should be mentioned. Prior to the passage of the Bureau of Land Management Federal Land Policy and Management Act of 1976, counties were able to officially identify and designate public roads on public lands by a simple county action. That act, however, repealed that provision. In order for roads on public lands to now be designated as public roads, approval must also be given at the federal level after an official county request.

For public roads on private lands, NRS 403.410-403.430 sets forth the current procedure in Nevada. An official action by the county is required for roads developed after 1866. However, for almost all of the roadways closed to public access in recent years, this was never done.

A recent Nevada supreme court decision relates to the broader issue of public road status. On March 28, 1980, the court ordered reopening of an historical road from the Ponderosa Ranch near Lake Tahoe to Carson City. In this decision (William A. Anderson and Ponderosa Ranch vs. Paul A. Richards), which affirmed a district court decision from 1976, the state supreme court reaffirmed that the road in question was a public road, dated from before March 9, 1866, and had historically and continuously been used for ingress and egress to other private property.

Nevada Revised Statute 405.191 provides another method by which a road or way may be made public by prescriptive use. If the way is shown upon any plat, subdivision, parcel map or record of survey of any county, city or town which has been duly filed in a county recorder's office, and if the way is not specifically designated upon the recording as a private road or non-public road, it may be designated as a public road. Further, NRS 405.191 provides that a public road may be created if a way is conveyed by a duly recorded conveyance and is described within as a public road or is reserved thereby for public purposes.

It is generally held that while a political entity may acquire an easement by prescription, the general public may not. (Paden City v. Felton, 136 W Va 127, 66 SE2d 280, Bertolina v. Frats, 89 Utah 238, 57 P2d 346. See also 18 ALR3d 692.) Therefore, the mere fact of public use, even for the prescriptive period of 5 years, will not suffice to create a common-law easement in favor of the general public unless the requirements of NRS 405.191 are met.

Selected Access Programs in Other States

Montana

The State of Montana has developed several programs to address the problems of access to private land by sportsmen. Increasing interest in hunting and fishing has resulted in the desire of many sportsmen to be allowed to hunt and fish on certain private lands with significant wildlife values. A landowner relations/sportsmen access advisory council has been created, with appointments made by the governor. This council serves as an advisory body to the Montana Fish and Game Commission and the Department of Fish, Wildlife and Parks.

Montana officials, sportsmen and landowners apparently believe that the advisory council has been very effective in helping to provide a forum whereby sportsmen and landowners can settle their differences. This coordinated approach is claimed to be one of the most effective ways of solving the problem of access to private land. It should be pointed out that in Montana the issue involves access to, and use of, private lands for hunting, fishing and other recreation, and not access over private land to reach public land as is the case in Nevada.

Since establishment of the Montana Advisory Council in 1977, several programs relating to access problems have been developed. A statewide, toll free telephone number has been set up to allow the reporting of observed fish and game violations. This "hot line" number is widely publicized along with fish and game programs to emphasize the need for self-policing among sportsmen and improve enforcement of fish and game laws, particularly those related to public use of private lands.

Two of the main topics under study by the Montana Advisory Council relate to a property damage reimbursement program for landowners and a program to reward landowners who maintain and develop wildlife habitat and provide access to sportsmen. Along these lines, the 1979 Montana Legislature considered a bill (H.B. 575) to establish a property damage reimbursement program for landowners allowing access to sportsmen. A property damage reimbursement fund was proposed to be established by adding an additional \$2 fee on all hunting, fishing and trapping licenses. Provisions were also made for the investigation of damage claims and maximum amounts of reimbursement. This bill passed the Montana House of Representatives by a wide margin but was subsequently defeated in the senate. A revised version of this bill is expected to be introduced during the 1981 Montana Legislature.

The advisory council has also played an important role in developing a cooperative program involving the provision of signs to property owners. These signs are prepared at the expense of organized sportsmen's groups and are available with a variety of messages including whether private property is open to hunting and fishing, name of landowner, location of nearest access point, where keys to locked gates may be obtained, and the like.

Wyoming

Wyoming has three landowner sportsmen programs currently in operation.

- A. The landowner can charge sportsmen what are referred to as "trespass fees." These are basically hunting leases to individuals, and no statutory authority is needed to allow the activity. However, Wyoming has enacted a statute that is designed to relieve the landowner of liability unless he is grossly negligent (chapter 9, sections 1-6, Session Laws of 1965).
- B. Wyoming also has a program whereby the state pays for damage done by game animals to crops if the landowner allows hunting on his property (Wyoming Statutes 1977, 23-1-901). This program has averaged about \$30,000 per year in costs to the state, but the costs have run as high as \$60,000 per year. The staff of the Wyoming Fish and Game Department has outlined several problems and suggestions relative to this program. A problem has existed with a landowner letting one hunter onto the property and thus meeting the requirement. The staff recommends elimination of the arbitration procedure and taking disagreements directly to the courts. The burden of proof is currently upon the state to show that damage has not occurred; the staff recommends that the burden of proof should be upon the landowner to prove that damage has occurred. There are special problems with attempting to define "extraordinary damage to grass," and the staff suggests that damage to grass should be eliminated from the program. In general, it appears that this problem is very difficult to manage, and the legal problems could be substantial.
- C. The third Wyoming program is one whereby each deer and antelope tag contains a coupon worth \$5 to the landowner (Wyoming Statutes 1977, 23-3-105). In theory, if a deer or antelope is taken on a piece of private property, the landowner is given the coupon which he redeems at the fish and game department. The program currently costs the state about \$300,000 per year. However, the department budgets approximately \$400,000 annually to cover potential costs. The state is experiencing fraud problems with the program. Landowners are accumulating coupons in various ways that are probably illegal. Nevertheless, the fish and

game department believes that the program has opened up a considerable amount of private property to the sportsmen.

Utah

The Utah Code Annotated, section 23-21-4, provides that "there is reserved to the public the right of access to all lands owned by the state, including those lands lying below the official government meander line or high-water line of navigable waters, for the purpose of hunting, trapping and fishing" on them "during the lawful season." Two exceptions to this right of public access involve state lands situated within towns or cities and lands mutually agreed by the state land board and the wildlife board for lease or sale for exploration or development of minerals including oil and gas. However, the Utah state law further provides that "no charge shall be made by the lessee, contractee, or grantee to any person who desires to go upon the land for the purpose of hunting, trapping or fishing."

Pennsylvania

A recent article in the Journal of Soil and Water Conservation* discusses alternative approaches in various states regarding wildlife habitat development on private lands. In Pennsylvania, the Cooperative Farm Game Program is cited as the best known program in America to provide hunter access to private lands. Although this program has been financially restricted in recent years, it remains as an excellent model for other states. The article states that "Hunting rights are ceded to the game commission for 5 year periods, during which the commission manages the habitat acreage. Safety zones and enforcement are provided as well as technical assistance to cooperators. No more than one-third of a project area can be set aside for safety zones and refuges. The balance must remain open to hunting."

New Mexico

The State of New Mexico has operated a very successful "Operation Game Thief Program" since 1977. The program is

*"Wildlife Habitat Development on Private Lands: A Planning Approach to Rural Land Use" by Charles Deknatel, in Journal of Soil and Water Conservation, November-December 1979, pp. 260-263.

privately funded by donations from various land user groups, primarily the sportsmen's groups. Its purpose is to reward people who report someone who violates the game laws which leads to a conviction. One staff member in the fish and game department spends half of his time speaking to groups to generate funding for the program and half of his time handing out rewards. When the hotline call comes in, the caller is assigned a code number and told to call back in a few days to see if there is sufficient evidence for a conviction. If so, they arrange with the caller a time and place of his choosing to drop off the reward. About 10 percent of the callers refuse the reward. There is an advisory committee called the Citizens Task Force which oversees the money. Checks require the signatures of several of the members before funds are released for reward drops. Administrative costs of the program are paid by the state. Since 1977 they have had 300 convictions, paid \$28,000 in rewards, and have \$16,000 left. To date \$44,000 has been donated to this program. The conviction rate is 99 percent and there have been \$80,000 in fines collected in addition to civil damages. The reward for reporting violations of big game and endangered species is \$250 and for fishing and small game violations, \$100.

Public Meetings of the Subcommittee

The A.C.R. 37 subcommittee conducted five formal public hearings with one wrap-up work session. These meetings were held in Reno on September 20, 1979; Elko on November 19, 1979; Las Vegas on February 26, 1980; Wells and Elko on April 10, 1980; Carson City on June 24, 1980; and a wrap-up session in Carson City on July 24, 1980. A total of nearly 200 persons attended these meetings.

Reno Meeting

At the Reno meeting the subcommittee organized and planned for the development of this study, and reaffirmed the objectives stated in A.C.R. 37. At this meeting a representative of the attorney general's office discussed the legal background of the access issue, from both a legislative and judicial standpoint. A representative of the Sierra Club advocated state purchase of selected rights-of-way to provide access to public lands of outstanding recreation, hunting and fishing value. It was also recommended that necessary

funding for purchase and maintenance come from the state's general fund and not from special assessments on sportsmen.

Other testimony included a presentation by a private landowner east of the Reno area regarding public abuse to his private property, vandalism, and other violations of state law. A representative of the mining industry in Nevada reported some problems of access to mineral exploration and development. These access problems, however, were primarily on lands managed by the Federal Government rather than privately owned lands. Representatives of both the Bureau of Land Management and U.S. Forest Service spoke on various aspects of the access issue. Although the Federal Government has studied the access issue, with additional studies now underway, there have not been significant federal access acquisitions for several years in Nevada.

A representative of the Nevada wildlife commission spoke and also supported access acquisitions by the state out of the general fund because to place the entire financial burden on sportsmen would be unfair since many other recreation users will benefit from improved access to public lands. Other persons testifying at the Reno meeting included the director of the Nevada department of wildlife, the president of the Nevada Cattlemen's Association, the president of the Nevada Association of Wildlife and a representative of the Nevada Wildlife Federation.

Elko Meeting

The Elko meeting on the evening of November 19, 1979, was preceded by a subcommittee tour of key access problem areas and areas with provisions for access in the Ruby Mountains and East Humboldt Range. The tour pointed out the complexity of the access issue and that each problem area would eventually have to be addressed on an individual basis (appendix C).

At the public meeting in Elko later that evening, a large audience turned out to testify on various facets

of the access issue in Elko County and elsewhere in Nevada. Considerable discussion focused on the efforts of the "Forest Service Rights of Way Committee" in Elko County several years before.

Another topic that caused controversy in Elko County related to the closure of access in a portion of the Clover Valley-East Humboldt Range area approximately 10 miles south of the City of Wells. An area of several thousand acres of "checkerboard" land was exchanged in 1968 involving the Bureau of Land Management, U.S. Forest Service, and the Southern Pacific Land Company. The objective of the exchange was to preserve the integrity of the East Humboldt Range as public lands, and also allow for a solid block of private lands along the edge of the mountains to provide improved ranching and grazing. A major problem that did not emerge until later was that much of the entire area formerly in the "checkerboard" ownership pattern provided excellent hunting and fishing opportunities for both local residents as well as Nevadans from outside the area. Once the land in question was "blocked" into larger "chunks" of public and private ownership, management philosophy for these lands necessarily changed. Because of serious losses of private property and other instances of property damage, the 12,000 acres of land owned by the Southern Pacific Land Company was fenced and closed to public access. This program of fencing and closure was started in 1973 and was completed in 1979 prior to that deer hunting season. This program was performed by the lessee of the Southern Pacific lands, Taylor Ranches of Austin, Texas. The complete closure of access to private and adjacent public lands (both of which provide excellent opportunities for hunting), resulted in much opposition from those persons who had hunted and fished in this area in previous years. The subcommittee earlier in the day had traveled to the one existing access route in this area, the Weeks access. This one problem area was to be brought up again in subsequent public meetings.

Other persons testifying at the Elko meeting represented private landowners, sportsmen, governmental entities, and the general public. Maps provided by the department of wildlife, public testimony, and the field

tour, reinforced the earlier assumption of the subcommittee that many of the most serious access problems in Nevada were located in Elko County.

Las Vegas Meeting

The subcommittee met in Las Vegas on February 26, 1980, and reviewed most of its studies and findings to date for those in attendance. During the period of public testimony, two private citizens protested the closure of access in Clover Valley where they had hunted in previous years. The closure in question was the same area discussed in Elko, under the ownership of Southern Pacific Land Company and management of Taylor Ranches. Correspondence received by the subcommittee from the City of Wells also asked for help in providing better public access in the Clover Valley area.

A spokesman from the Toiyabe chapter of the Sierra Club spoke and addressed a wide range of subjects from the Sagebrush Rebellion and MX missile to Question 6 on the ballot. Regarding access, he supported state purchase of access when needed out of the state's general fund. He also advocated better maps and posting of private property so that the public may better recognize the boundaries of private land ownership.

The chairman of the Nevada wildlife commission spoke briefly on the problems of claims investigations in the property owners' reimbursement programs in Montana and Wyoming. Other persons testifying at this meeting represented the Clark County Game Management Board, the Southern Nevada Conservation Council, and the southern Nevada off-road vehicle enthusiasts.

Wells and Elko Meetings

On April 10, 1980, the A.C.R. 37 subcommittee conducted a public meeting in Wells, with the meeting continuing later in the day in Elko. Both meetings were very well attended.

In Wells, the entire discussion focused on the problems in Clover Valley and the adjacent East Humboldt Range. Most speakers advocated the provision of better public

access in this area. Representatives of Southern Pacific Land Company and Taylor Ranches reminded the group that the land in question was private property and that private property rights must be maintained. The Nevada department of wildlife agreed to take the lead in attempting to develop a cooperative program with the landowners, the wildlife commission, and the City of Wells.

The public meeting continued later in the afternoon in Elko, recessed for dinner, then reconvened again for an evening session. Very little new testimony was provided by the public, with most emphasis on the development of subcommittee recommendations. Of note was the policy position of the Nevada Cattlemen's Association which advocated a state program to identify and obtain reasonable necessary access routes over private lands. Several members of the audience commended the Nevada Cattlemen's Association for this positive position, although some ranchers questioned whether the state should ever use its condemnation powers.

First Carson City Meeting

The fourth meeting of the A.C.R. 37 subcommittee was held in Carson City on June 24, 1980. The subcommittee worked extensively on a legislative worksheet to develop final findings and recommendations. Prior to this work session, the director of the Nevada department of wildlife presented information on the Clover Valley-East Humboldt Range situation and an access program proposal from his office.

In regard to the Clover Valley issue, it was reported that a meeting was held in Reno on May 5, 1980, with representatives of the wildlife department, wildlife commission, Southern Pacific Land Company, Taylor Ranches, and the chairman of the A.C.R. 37 subcommittee, Assemblyman Rhoads. After that meeting, as part of a regular wildlife commission meeting in Elko County, representatives of the commission and the department toured the area in question and the existing Weeks access road. Prior to that tour, however, Taylor Ranches had decided to allow access in the area for a fee. Residents of the Wells area will be allowed to

hunt on this private land and allowed to drive over it to reach public lands for a yearly fee of \$20 or a daily fee of \$10. Residents of Clover Valley would be issued permits for hunting, fishing, hiking or other access at no charge in return for helping out on the reporting of persons observed trespassing. Hunters from outside the Wells and Clover Valley area will be allowed hunting access for \$100 per season or \$25 per day. Hiking and fishing permits will be issued upon request for \$3. Taylor Ranches will patrol the property and enforce this program rather than enter into a cooperative wildlife management agreement with the department of wildlife at this time. This program will be reevaluated by Taylor Ranches at the conclusion of the 1980 deer season.

The wildlife director also reported on the status of the Weeks access road from Clover Valley into the East Humboldt Range. It was reported that this access road needs improvement and that the U.S. Forest Service will soon be making improvements in both this area and the Angel Lake area.

Persons in attendance at this meeting supported the concept of lateral roads and trails extending into the public lands from points of public access. Because of the rough terrain in many mountainous areas, public land managers should be encouraged to do a better job of distributing persons on the public lands once basic access is provided.

A proposed Nevada access program was then presented by the wildlife department director to the subcommittee, with such document considered by the subcommittee during its later deliberations and subsequent findings and recommendations (appendix D).

Second Carson City Meeting

The final meeting of the A.C.R. 37 subcommittee was held on July 24, 1980, in Carson City. This meeting served as a wrap-up session for the subcommittee, with final findings and recommendations adopted at that time.

II. FINDINGS AND RECOMMENDATIONS

The problem of access to public lands over privately owned lands is generally unique to Nevada. The three basic findings of the A.C.R. 37 subcommittee are as follows:

- A. Unlike most other states in which access is an issue, the major problem in Nevada involves lack of adequate access over privately owned lands to reach public lands. In the other states reviewed, including several other western states with significant amounts of public land, the major problem involves lack of adequate access to privately owned lands which possess significant values for hunting, fishing and other recreation.
- B. Although A.C.R. 37 only mentions the problems of access to public land over privately owned land relating to sportsmen, it has been found that many other public land users are also affected. These include hikers, off-road vehicle enthusiasts, backpackers, prospectors, photographers, birdwatchers and "rock hounds," to list but a few.
- C. Nevada's unique situation may be traced to several distinctive features as discussed in the general background section of this report on pages 1 and 2. These distinct and interrelated features include the state's geography, climate, physiography, land ownership patterns, and location of public roads. The combination of these features in Elko County has produced the most concentrated occurrences of access problems in the state, although access problems do occur in many other areas.

From these basic findings three primary issues have been identified. These issues are:

- A. Some Nevadans fear that state management of public lands will result in the selling of vast tracts of public land to private individuals. It is feared that these private parties will erect fences, lock gates, and otherwise deny public access to remaining public lands. Note: This matter was also discussed by the Nevada Legislature's Select Committee on Public Lands, but the A.C.R. 37 subcommittee was felt to be the most appropriate entity to develop legislative recommendations regarding the issue.

- B. Sportsmen and other members of the general public who use the public lands report that it is becoming increasingly difficult to obtain access over private land to reach public lands. Corridors over which public access is prohibited or restricted contributes to a reduction in the public's opportunity to visit, hunt, fish, or otherwise use certain public land areas in Nevada.
- C. Some private landowners are becoming increasingly reluctant to provide open public access across their land to reach public lands because of instances of property damage, vandalism, illegal use of firearms, and the fear of personal liability.

For each of the three major issues identified, several possible approaches were suggested, researched and discussed by the subcommittee. Public testimony and discussion helped bring out additional ideas for consideration. A major consideration of the subcommittee in its deliberations was fiscal responsibility and how the state could get the most from any recommended expenditures. The final recommendations of the subcommittee which follow are listed under the three major issues identified, with accompanying discussion regarding reasons for the selection of such recommendations:

Access and the Sagebrush Rebellion

Issue: Some Nevadans fear that state management of public lands will result in the selling of vast tracts of public land to private individuals. It is feared that these private parties will erect fences, lock gates, and otherwise deny public access to remaining public lands.

Recommendation:

The A.C.R. 37 subcommittee considered both statutory and constitutional amendments. After deliberations, the subcommittee is recommending changes to only the Nevada statutes to require the state land registrar, in any future land sales by the state, to reserve rights-of-way necessary to public access to public land. (BDR 26-88)

Discussion:

The allegation that Nevada would sell significant amounts of public land should the Sagebrush Rebellion be successful, with accompanying "lock-ups" of these areas from public access is one of the more frequently heard criticisms of the Sagebrush Rebellion. The Nevada Legislature's Select Committee on Public Lands is proposing an amendment to the Nevada constitution to preclude future public land sales by the state with the exception of lands needed for community expansion, agricultural development, and recreation and public purposes. Additionally, the legislature could allow reasonable exchanges of public and private land in the "checkerboard" area of northern Nevada and in other areas where the existence of small isolated tracts of public land make public land management impractical. These exceptions would have to be reviewed on a case-by-case basis by the legislature with prior approval by affected local governments, the state engineer for water supply, and the department of agriculture for agricultural suitability.

The A.C.R. 37 subcommittee was asked to develop a proposal to address the access issue on any future public land sales by the state. After considerable subcommittee discussion on the merits of constitutional versus statutory amendments to address this particular access issue, it was recommended to treat this matter only in the statutes. It was felt the basic concern of Nevadans fearing wholesale land disposals by the state is adequately remedied by the select committee's proposed constitutional amendment. Rather than add another element to that constitutional amendment, and thus risk confusing the basic issue of restricting future land sales, it was decided that an amendment to Nevada's laws governing state owned lands (NRS 321) would be more appropriate and effective.

The proposed revision to the law requires that the state land registrar (administrator of the Nevada division of state lands) reserve necessary rights-of-way over any state lands sold to preserve access to remaining public lands. Public safeguards are written into this proposal to provide for consultation with the state multiple use advisory committee on public lands. This committee (NRS

232.151-232.157) is appointed by the governor from various public and private entities representing the multiple use interests of the public lands. These include mining, grazing, cities, agriculture, wildlife, conservation, environment, land use planning, state parks, counties, railroads and utilities, sportsmen, and off road vehicle enthusiasts. Other provisions are made to allow state abandonment or release of access routes only after consultation with the state multiple use advisory committee on federal lands, the state department of transportation, public notice and possible public hearings.

Lack of Access to Public Lands

Issue: Sportsmen and other members of the general public who use the public lands report that it is becoming increasingly difficult to obtain access over private lands to reach public lands. Corridors over which public access is prohibited or restricted contributes to a reduction in the public's opportunity to visit, hunt, fish, or otherwise use certain public land areas in Nevada.

Recommendation:

- A. The division of state lands is requested to develop a listing of up to 10 of the top-priority private access corridors. These are to be considered for acquisition by the state. The division of state lands, in consultation and coordination with other state agencies, should estimate costs of acquisition and develop a priority ranking for state acquisition. This listing and report should be submitted to the A.C.R. 37 subcommittee chairman before the 1981 legislative session for possible legislative action. (BDR S-114)
- B. The division of state lands is requested to prepare a comprehensive study to be submitted to the 1983 legislature. This study should inventory, identify, prioritize, coordinate, negotiate and outline funding sources for state acquisition of

key access corridors around the state. The subcommittee recommends that the 1981 legislature approve the necessary budget request of the division of state lands to accomplish such a study.

The division of state lands is to have the lead responsible for this study, and should coordinate and consult with other state agencies, local governments, federal agencies, and the state multiple use advisory committee on federal lands. The division of state lands should consider, but not be limited to, the following guidelines for the study.

1. Priority should be given to access corridors which will allow access to important and otherwise isolated public lands with hunting, fishing, scenic or other multiple use values.
2. The study should evaluate the environmental sensitivity of the areas identified and projected numbers of visitors if access was provided.
3. Initial priority should be given to those access corridors which can be obtained for a reasonable cost.
4. The division of state lands should also make initial contacts with the affected private landowners to get a general idea of their willingness to sell, lease, donate or otherwise convey an access corridor to the State of Nevada in those key areas identified. The division of state lands should also be prepared to identify the other various advantages available to private landowners in such a program, including the tax credit which is available for the conveyance of easements or rights-of-way to a governmental entity.

5. Condemnation should not be advocated by the state.
- C. The A.C.R. 37 subcommittee recommends that a resolution should be adopted at the 1981 legislative session requesting increased cooperation by federal land managers. In some areas access to public land is only as effective as provisions by such land managers to efficiently distribute persons over the public lands. Federal land managers and other public entities should be requested to develop programs whereby the adequate distribution of persons throughout public lands from points of access is assured. Routes and trails so developed should also be adequately maintained by the appropriate public land managers. (BDR 115)
- D. Access acquisitions, studies and other proposals should be funded entirely out of the state's general fund.

Discussion:

Concern was expressed that even with improved access over private land to reach public lands, little could be done to curtail increasing "lock-ups" and other access limitations on the federal lands themselves. While private lands constitute some 13 percent of Nevada's land area (not all of which is closed to public access), federal land managers restrict or propose to restrict public access to nearly 22 percent of Nevada's land area (appendix E).

In order that the Nevada legislature might immediately address some of the more critical access problems in the state, selected acquisitions will be proposed at the 1981 session. A 2-year comprehensive study of possible future access acquisitions is also proposed.

The Nevada division of state lands is recommended as the lead agency for these access acquisition studies for several reasons. That office serves as secretary for the state multiple use advisory committee on federal lands and maintains the broadest perspective on all uses of the public lands and not just

one or two uses thereof. The division is currently responsible by statute for various matters relating to state land acquisitions. And finally, that office contains both a state land use planning agency and a public lands inventory responsibility under the Sagebrush Rebellion Law. It is proposed that the division of state lands conduct studies in consultation and coordination with other involved state agencies, as well as local governments, federal agencies and the multiple use committee.

The proposed resolution requesting federal cooperation on better distribution of the public on federal lands once access is provided is believed to be of major significance. (See additional discussion of this topic under the first Carson City meeting portion of the introduction and background section of this report.)

Considerable discussion by the subcommittee centered on possible funding of proposed access acquisitions. Ideas discussed ranged from the addition of extra fees on hunting and fishing licenses (considered unfair by placing all funding responsibility on one user group) to the creation of a state lottery (likelihood of conflict with, and excessive competition from, existing gaming operations). It was felt that all access acquisitions, out of fairness and simplicity, should come from the state's general fund.

Protection of Private Property Rights

Issue: Some private landowners are becoming increasingly reluctant to provide open public access across their land to reach public lands because of instances of property damage, vandalism, illegal use of firearms, and the fear of personal liability.

Recommendations:

- A. Enact legislation to provide a civil remedy for victims of crime involving personal property damage. (BDR 14-71)

- B. Enact legislation to give authority to game wardens to enforce, in addition to current responsibilities, laws relating to personal property damage, illegal trespass and related matters. (BDR 45-72)
- C. Amend NRS 41.510 to specify that access to public lands is a use of private property which may be granted by a landowner without fear of personal liability. (BDR 3-70)
- D. The Nevada department of wildlife is encouraged to develop a program similar to the "Operation Game Thief Program" in the State of New Mexico. Such a program could feature a "hotline" whereby reports may be made of observed violations of fish and game laws, trespass, gates left open, and damage to private property. The subcommittee recommends that the 1981 legislature approve the necessary budget request of the department of wildlife to develop such a program.
- E. The Nevada department of wildlife is encouraged to enter into cooperative wildlife management area agreements (NRS 504.140) with private land owners when necessary to address access problems on private lands having significant wildlife values and high intensity use potential.
- F. The Nevada department of wildlife should take the lead responsibility for preparation of uniform informational signs to direct the general public to and over public access corridors. These signs should be made available to private property owners who allow public access and to other governmental agencies for posting. The subcommittee recommends that the 1981 legislature approve the necessary budget item to develop such a program.

Discussion:

Recommendations A and B were originally suggested by the Nevada department of wildlife. It is the position of the subcommittee that provisions for a civil

remedy will encourage private landowners to allow free public access over their lands to reach public lands. Recommendation B is designed to provide additional protection to the private landowner by giving game wardens the responsibility to enforce those sections of state law relating to abuse of private property. (See earlier discussion of applicable state laws under the introduction and background section of this report.)

Recommendation C was developed to specifically include access to public lands as a use of private lands from which cooperating landowners are exempt from liability charges. It was also recommended that one of the exceptions to this provision include "malicious, but not merely willful or negligent, failure to guard or warn against an unusually hazardous condition, use, structure or activity." This recommendation is consistent with 1980 Suggested State Legislation by The Council of State Governments and provides additional safeguards to private landowners over existing state law.*

The subcommittee and the Nevada department of wildlife both had developed item D as a recommendation prior to the final work session. It is hoped that this program will serve as yet another form of protection to private landowners, and also serve as an encouragement to the reopening of presently closed access routes. (See the discussion of New Mexico in the introduction and background section and appendix D of this report for additional information on the "Operation Game Thief Program.")

Relating to recommendation E, subcommittee investigations indicate that most access problems in other states involve lack of access onto, and subsequent use of, private lands. In Nevada this is the exception rather than the rule. For those

*1980 Suggested State Legislation, Volume 39, The Council of State Governments, Lexington, Kentucky, November 1979, sec. 5 of p. 108.

situations where private lands possess significant wildlife values and high intensity use potential it is recommended that the Nevada department of wildlife make greater use of cooperative wildlife management area agreements. Currently in Nevada, three such cooperative wildlife management areas exist: Fort Churchill Cooling Pond; Tracy Pond (102 Ranch); and Mason Valley Annex. Nevada law covering this subject (NRS 504.140) is quite specific and adequately provides for the establishment and management of such areas.

Recommendation F provides a service to both the private landowner and the citizen seeking access to public lands. It is envisioned that this program can be accomplished at a small cost with very positive public relations results expected. Also, the mere presence of an information sign at a point of access may significantly reduce the possibility of property damage by a frustrated hunter or recreation user.

III. APPENDICES

APPENDIX A

RECOMMENDATIONS OF FOREST SERVICE R/W ADVISORY COMMITTEE

Ackler Creek	Desirable
Soldier Creek	Desirable
Cold Creek	Should be tentatively retained as a prospective access.
Conrad & Thorpe Creeks	If the Forest Service would put a trail from Lamoille Canyon to Verdi Lake, all this country would be open to hunting and fishing. The trail could be established back above Conrad and on into Thorpe Creek.
Seitz and Hernan Creeks	It is felt that use by Spring Creek property owners will give this area adequate use at this time.
Boulder Creek	Boulder Creek access being completely closed by private ownership, we recommend that the Forest Service seek access from the west side to the Forest boundary.
Secret & Ross Creeks	We recommend that access to this area be either on the north slope of Secret Peak or in the Ross Creek drainage, north slope of Secret Peak being preferable but Ross Creek drainage acceptable.
Echo & Lee Canyons	Echo Lake, Ruby Dome are best reached by access from Echo Canyon. We recommend that the Forest Service seek legal access to public land in the Echo Canyon-Lee Canyon area.
Kleckner Creek	We recommend that access to Favre Lake be obtained through Long Canyon, and that the Forest Service actively seek legal access into Long Canyon from John Carpenter.
Rattlesnake, Cottonwood, Smith Creeks	The committee suggests the possibility of reaching Rattlesnake, Cottonwood, and Smith Creeks by an access road south of Willow Creek.
Green Mountain	We recommend that the Forest Service acquire legal access to Green Mountain, and that the road be upgraded.
Long Canyon	We recommend that another mile of road be constructed into Long Canyon.
Clover Valley	The r/w through the former Russell Weeks' place is established. We recommend a road from the Angel Lake road south across Schoer Creek, this being known as the Foothill Road.
Agee Creek	We recommend that the Forest Service road into the Agee Spring area be redirected around the land of Mr. Curtis.
Polar Star	Already in the works by Forest Service.

PREAMBLE TO RECOMMENDATIONS OF FOREST SERVICE R/W COMMITTEE DATED March 6, 1975.

A right-of-way committee was organized in 1973 to study access situations and to make recommendations to the Forest Service as to what public access is needed into the Ruby Mountains and East Humboldt range.

The committee to date has looked at existing roads and possible access routes out on the ground. Each route has been discussed in relation to existing and potential uses which exist on the mountain. Initial recommendations have been made for acquisition of some of these roads.

The Committee now has drawn up a list of recommendations and, in making these recommendations, which are attached to and made a part of this document, the committee makes the following stipulations:

- (1) We make these recommendations based upon information supplied by the representatives of the Forest Service and of the Nevada Game & Fish Department. It is understood that there may be other information from individuals living in the vicinity of the accesses which would make other options more desirable, or could nullify some of our recommendations.
- (2) In line with (1) above, it is our intention that all alternatives to our recommendations be explored when there is doubt as to their feasibility or desirability expressed by landowners in the area or other interested parties.
- (3) It is our intention that the accesses listed in our recommendations be confined to public lands rather than private, whenever possible.
- (4) It is our intention to recommend that priorities for these accesses be established based upon need, and that the rights-of-way be obtained and the roads built over a period of years in an orderly fashion.
- (5) We recommend, further, that no additional accesses be acquired without funds being available to maintain the roads projected and those already in existence.

James T. Tully
2. R. Williams
William J. H. B.
B. L. B. B. B.
F. L. B. B.
W. P. B. B.
J. L. B. B.
W. L. B. B.
W. L. B. B.
W. L. B. B.
W. L. B. B.

Jack H. H. B.
Chairman
Paul B. B. B.
Secretary

APPENDIX B



**Nevada
Department
Of Fish
And Game**

APPENDIX B

GLEN K. GRIFFITH
DIRECTOR



ROBERT LIST
GOVERNOR

1100 VALLEY ROAD • P.O. BOX 10678 • RENO, NEVADA 89520 • TELEPHONE (702) 784-6214

October 3, 1979

Mr. Bob Erickson
Legislative Council Bureau
Legislative Bldg.
Carson City, NV 89701

Dear Bob:

Attached is a copy of the major access problem area locations
as identified by our Regional Supervisors.

Very truly yours,

GLEN K. GRIFFITH, DIRECTOR

Glen C. Christensen
Chief, Game Division

GCC:pw

Attachment

PUBLIC ACCESS PROBLEM AREAS
NEVADA DEPARTMENT OF WILDLIFE
SEPTEMBER 21, 1979
REGION I

Creek or Canyon	Land Descrip. Where Access Is Impaired	Public Land Blocked
<u>Washoe and Storey County</u>		
Ft. DeFiance - Pah Rah's	Depaoli Brothers	BLM
Wilcox Ranch - Pah Rah's	Palamino Valley	BLM
Black Cny - Virginia R	LaRue	BLM
Big Cny - Virginia R	Quilici	BLM
Rodeo Cny - Fox Range	Cresola	BLM
Rock Crk - Granite R	Williams	BLM
Melody Mtn - Granite R	Spoo	BLM
Bitner-Bitner Meadow	Coops	BLM
Balley Mtn	Schalder	BLM
Colesman Crk	Schalder	BLM
Berry Brooks Rch - Holy Lake	Lennieger	BLM
Mosquito Rch-New Year's Lake	Lennieger	BLM
Smoke Crk - Buffalo Hills	Casey	BLM
Verdi Basin	Numerous private owners	USFS, BLM
Whole Area - Flowery R	Curtis Wright	BLM
<u>Douglas County</u>		
Jacks Valley - Carson R	Foot and Others	USFS
Ash Canyon - Carson R	Carson City	USFS
<u>Ormsby and Washoe County</u>		
Lake View to Mt. Rosa	Numerous private owners	USFS
<u>Douglas County</u>		
Mud Lake	Suttlmeyer	BLM
<u>Lyon County</u>		
N. Pine Nut R	Hodges Constr-Schaves Rch	BLM
<u>Douglas County</u>		
W. Pine Nut R	Indian Lands	BLM
<u>Lyon County</u>		
S. Pine Grove R	Rossaschi	BLM
<u>Humboldt County</u>		
Santa Rosa - Willow Creek	Legarza	USFS
Santa Rosa - Cottonwood	Gastanaga	USFS
Pine Forest-Cherry Creek		
Ashdown Mines	Cannon	BLM
Disaster Peak-McDermitt Crk	Zimmerman	BLM
<u>Churchill County</u>		
Desatoya Range	Van Sickla	BLM
Clan Alpine - Horse Creek	Owner unknown	BLM
<u>Pershing County</u>		
Humboldt Sink	Holland	T25N, R31E, Sec 30

REGION II

Please understand that many of the landowners involved do allow access by the public, not only to public lands, but also to their private lands. Many of them realize that harvest of game and furbearers on their lands is necessary. They realize that deer eat forage and many furbearers are also predatory.

Some landowners are less tolerant and deny any public access for public use. A change in ownership or abuse by the public could close any of the areas listed.

Ruby Mountain

- A. Starr Valley - No public access exists between Angel Lake and Secret Pass on the west slopes of the East Humboldt Range. This includes more than 20 miles of U.S. Forest Service boundary.
- B. Clover Valley - Only one legal access exists in Clover Valley. This includes 22 miles of U.S. Forest Service boundary.
- C. Secret Pass to Lamoille - No legal access in this western slope of the Ruby Mountains. There is a nearly complete access to Soldier Creek, but it is still potentially blocked by a corner of a privately owned section.
- D. Lamoille Creek to Harrison Pass - Virtually no legal access in this area. This is a distance of 25 airline miles. All roads leading to U.S. Forest Service lands cross private property. (West slopes of Ruby Mountains).
- E. Secret Pass to Ruby Guard Station - One legal access on Krenka Creek and one to Ruby Guard Station. Approximately 12 miles of U.S. Forest Service boundary. (East slope of Ruby Mountains.)
- F. Ruby Guard Station to Lutts Creek - Approximately 10 miles of U.S. Forest Service boundary with no legal public access. The local rancher leases this frontage to the American Sportsman Club. (North Ruby Valley Area).

Cherry Creek Mountains

- A. McDermitt Canyon - Large area of BLM lands blocked by private land at mouth of canyon owned by Lear Ranches. Good fishing stream and excellent deer and upland game hunting.

Jarbidge Range

- A. Bruneau River - Access to a large block of U.S. Forest Service land blocked by locked gates. (More than 20,000 acres). Gates are locked at Miller Creek, Rattlesnake Creek and Meadow Creek (all on key private lands) deny access to the public. This is an excellent fishing area as well as good big game and upland game area.

- B. Willow Creek Area (T44N, R58E) - Large area of U.S. Forest Service land north of Coyote Lake and between Marys River and the Bruneau River. Blocked off by lands owned by McCormicks. Excellent deer hunting area with quite good fishing streams.
- C. Lands Lying East of Petan Ranch - U.S. Forest Service lands on Silver Creek and Edgemont Mine area. Only one access (Wall Creek) and this one is poorly marked.

Independence Range

- A. Jack Creek to Taylor Canyon - No legal access on west side of range with more than 15 miles of U.S. Forest Service boundary.
- B. Taylor Canyon to North Fork - One legal access on east side of range with more than 20 miles of U.S. Forest Service boundary. (Gance Creek Road)

Tuscarora Range

- A. Beaver, Coyote and Little Jack Creeks and lands north of Emigrant Pass. Much private land in checkerboard pattern blocks access to small fishing streams and excellent chukar areas on BLM land. There is no legal public access.
- B. Mt. Blitzen Area - Considerable BLM land with good fishing and excellent bird and deer hunting surrounded by privately owned lands. No legal access exists.

Snake Range (Elko County)

Metropolis Reservoir, Burnt Creek, Upper Tabor Creek, Currant Creek and Antelope Peak area. Much private land and checkerboard land pattern blocks access to good hunting and fishing on BLM lands. No legal access in this area except to that portion of Tabor Creek on BLM land accessible to the County road.

Lander County

Skull Creek and Cowboy Rest Areas

Excellent fishing stream and good sage grouse and deer area on BLM lands blocked to access by private land. Legal access is badly needed.

Areas Where Access is Granted For A Fee

(There are almost certainly others where this occurs but these are the known areas).

Ackler Creek - Bob Morrow charges \$15.00 per day per individual for fishing or hunting.

Pole Canyon Creek Area - Sorensens lease the hunting rights to a Master Guide - Steve Wright - who then takes his clients inside the locked gate to hunt. Much private land is included, but also U.S. Forest Service land. The fee is reputed to be \$1,000.00 per year.

Pleasant Valley Area - Lee Miller charges an access fee to hunt on or across his lands. This was \$5.00 per man day in 1971, but is probably greater now.

North Ruby Valley - (Baxter Creek to Dry Creek)

Neff Ranches have leased hunting rights to the American Sportsman Club who in turn charge membership fees. They charge for use of the private lands, but the U.S. Forest Service lands behind the private lands then are accessible only to the members.

Marys River Ranch - Reputed to allow hunting and fishing on their private and adjacent public lands for a fee. This has not been verified.

White Pine County

With the high percentage of federal land in White Pine County, most Forest Service lands can be approached across BLM lands which makes access secure. There are a few areas of heavy mining activity - specifically in the Mount Hamilton area where some roads are posted as subject to closure for certain hours. We are not sure of the legality of this.

REGION III

Lincoln County

Mt. Wilson Range

Parsnip Wash closed to public access at mouth by private landowner, block BLM lands above.

White Rock Range

Sawmill Canyon on east side of range is denied access because of locked gate at mouth of canyon on private land belonging to Scott. Large area of BLM is effectly closed off to public use.

Clark County

Eldorado Range - Knob Hill area, public access denied on a seasonal basis during hunting season through small private land holding. BLM lands beyond.

Virgin Mountains - Key West Spring, access denied to BLM lands by closure (during the hunting season) of private lands near mouth of canyon.

Newberry Range - Christmas Tree Pass access is denied to BLM by closures of mining property to public access during the hunting season.

Access problems in Region III remains static because of the large amount of BLM land.

APPENDIX C

APPENDIX C

TOUR OF RUBY MOUNTAIN AND EAST HUMBOLDT RANGE AREA BY THE SUBCOMMITTEE TO STUDY PROBLEM OF ACCESS OF SPORTSMEN TO PUBLIC LAND OVER PRIVATE LAND (A.C.R. 37) November 19, 1979

Members of the Subcommittee to Study Problem of Access of Sportsmen to Public Land Over Private Land and other interested parties met at the Stockmen's Hotel at 8 a.m. on November 19, 1979 for the purpose of touring the Ruby Mountains and East Humboldt Range areas. The tour began at 8:20 a.m. and proceeded to the Spring Creek area. Mr. Merlin McCoin, Area Biologist for the Nevada Division of Wildlife, displayed a map of the area and pointed out areas where legal access was or was not a problem in the Ruby Mountain area.

Mr. Bob Erickson then pointed out the several sites that the group would stop to examine, generally along the west side of the Ruby Mountains and the East Humboldt Range from Lemoille to Wells. After a lunch stop in Wells, the group would proceed to an easement that had been secured by the Nevada Wildlife Department on the east side of the East Humboldt Range and return by way of Secret Pass.

The next stop was on Lemoille Canyon Road where Mr. Jerry Davis of the U.S. Forest Service spoke to the group about the checkerboard lands exchange program. He explained that exchanges were made based on dollar value for dollar value rather than acre for acre. He further told the group that they were in the process of negotiating an access route in the Secret Pass area. The difficulty, he stated, is the owners' reluctance to allow access because the public tends to wander from the access route and cause vandalism on the private property. He mentioned that all of the streams in the Humboldt River system are either historic or existing habitats for the Lahontan Cutthroat Trout, an "endangered" species. Mr. Davis added that access cannot be a condition for the exchanges. Mr. Von Sorensen a local rancher, gave an example of the problem when someone wanted to build a ski lift in the Talbot Creek area, but was prevented from doing so because in order to reach the ski lift people would have to cross the creek and disturb the trout.

The next stop was at Cold Canyon. Mr. Kurt Ballantyne, Area Biologist with the Bureau of Land Management discussed access problems from the point of view of professional guides. He said that the guides were complaining about the amount of insurance they were required to carry to cover any damage they might cause while crossing private land to reach public land. The public is not required to carry insurance to cover any damage or vandalism and it is much more likely that the public would commit such acts than a professional guide. Mr. Sorensen told the group that the gate to the property of Mr. Ken Jones at the Cold Canyon location is locked, but that he will allow access if he is asked first. He said the damage in the past had been such that he now charged \$50 for access per hunter, only in the Secret Pass area. This is to defray some of the costs of repairs, etc.

Mr. Jack Walther told the group that he was a rancher with two ranches in the Ruby Mountain area. He suggested that the committee devise a fund from which to draw to take care of damages caused by sportsmen and others on private lands.

The group then proceeded to the Soldier Creek Road access point. Photos were taken of the U.S. Forest Service sign advising where their boundary ended and private property began and which asked people not to leave the road but to respect the private property. Mr. Sorensen pointed out on the map the public lands that could be reached through this access route.

The group's next stop was in Starr Valley at Mr. Demar Dahl's ranch. Mr. Dahl told the group that he allows anyone access who asks. He said that there was a sign at the gate giving them a phone number to call to request permission to go on the land and also a map showing how to reach his ranch from that location. He said he doesn't lock the gate most of the time, nor does he take down the names of those requesting access. He does lock the gate when there is a large number of deer hunters seeking access. So far, he said, he hasn't had much trouble with vandalism. He said that he had been operating under this system since he had acquired the land in 1975 and that owners as far back as he knew had also operated with this kind of system.

It was questioned whether the Forest Service or Wildlife Department were happy with this arrangement. Mr. McColm said that it was not that they were unhappy with this system, but that in terms of long-term or future access, should the land change hands and new owners did not allow access, it would be better if the government had an easement. Mr. Dan Pence pointed out that the federal government is prohibited from expending any monies on the upkeep of a road unless there was a government easement.

Mr. Erickson asked what the incentives Mr. Dahl had for allowing access. Mr. Dahl said that he really had none - he doesn't charge a fee because he felt that may make the person so charged feel that he had a voice in how the land was maintained, etc. Mr. Dahl also stated that he felt the solution to securing more access from the ranchers was in absolving them from damage by having the agency acquiring the easement to assume responsibility for maintaining, policing it and assuming responsibility for damages and losses. Mr. Erickson asked Mr. Dahl if some of the people who come onto his land camp. Mr. Dahl replied, yes, they did, but they usually asked permission first and then cleaned up the area before they left.

The group then left for Wells where they stopped for lunch.

Following lunch, the committee members and others in the group left in a convoy for the Weeks access road in Clover Valley. When the group arrived, Mr. Rulon Brown and Mr. Peter Taylor spoke of the problems ranchers or other private landowners have experienced concerning public access, such as people leaving the road and shooting property and animals. Mr. McColm said easements assisted ranchers to move cattle across private lands to reach public lands. Mr. Brown said that he allowed them to move their cattle across his land if they gave him notice first so that he could have some of his hands escort them through. Mr. Brown said his property is fenced on each side of the access and he felt that all private lands through which access roads extend should be fenced. He further stated that the lands adjoining his lands are leased from the Southern Pacific Land Co. and there is a provision in their lease that before lessees can give permission to anyone to cross

the leased lands, they must first obtain permission in writing from the Southern Pacific Land Co.

Mr. Dave Secrist pointed out that from his viewpoint, there was no incentive for him as a rancher to permit access and that to do so was asking for the problems he had been hearing about. He said the Wildlife Department hasn't the necessary staff to police the routes, nor the budget to maintain the roads and therefore, the job would fall on the private landowner to protect his private property. Mr. Brown said that some of the experiences he has had is that people cut his fences and his cattle get out and are lost to him forever. He said that even if you catch the violators and call the sheriff, they are only fined \$25, which was no deterrent to those people repeating this.

Mr. Joe Quilici, former Mayor of Wells, and Mr. Keith Dixon, City Councilman of Wells, stated that they and the City of Wells would like to see adequate access routes through the Southern Pacific Land Co.'s leased property.

The committee and party then left the Weeks access road to proceed to the highway maintenance station in Ruby Valley. Upon arrival, Mr. John Neff told the group that he had unlocked the gates of his land when he purchased it from the previous owner in 1972 who had kept them locked because of abuses. Mr. Neff indicated on the map where his lands were, and the access routes. However, although Mr. Neff has had no cattle losses in the past he had experienced vandalism and had even been shot at.

The group was led to another gate which was locked. The gate was then unlocked and the group proceeded to Brigham's Canyon where the Neff family had several cottages and a lodge for family recreation and which they also rented to groups. During the hunting season, Mr. Neff told the group, he leases the land and camp to the American Sportsmen's Club. He said the advantage of this is that this organization polices it and carries \$1 million dollars insurance to cover any accidental or other damages that might occur while their members are there, whether they are the perpetrators or not. Mr. Neff suggested the committee recommend legislation to protect the ranchers from suffering losses caused by the public.

The group made their last stop at the guard station where Mr. Neff pointed to the U.S. Forest sign stating their boundary was reached 1/2 mile from the gate, that it was private land to that point, and to stay on the road. This gate is left open for public access. This access was acquired by the U.S. Forest Service through a condemnation action. Despite the sign, Mr. Neff said the public does leave the road and litter the stream with whiskey bottles and other debris. He explained that the Neffs had wanted to allow access, but the U.S. Forest Service condemned the land and wanted only to pay a nominal amount of money for it. The Neffs took the case to court and the judge awarded them more than the nominal amount first offered.

This completed the tour and the group returned to Elko via Secret Pass.

TOUR PARTICIPANTS

ASSEMBLYMAN DEAN A. RHOADS, CHAIRMAN, Tuscarora, Nevada
SENATOR WILBUR FAISS, V. CHAIRMAN, Las Vegas, Nevada
ASSEMBLYMAN ALAN GLOVER, MEMBER, Carson City, Nevada
ASSEMBLYMAN LOUIS BERGEVIN, MEMBER, Gardnerville, Nevada
MRS. LOUIS BERGEVIN, Gardnerville, Nevada
MR. ROBERT ERICKSON, STAFF, LCB, Carson City, Nevada
MS. JOYCE L. COLLINS, SECRETARY, LCB, Carson City, Nevada

MR. JOE QUILICI, FORMER MAYOR OF WELLS, Wells, Nevada
MR. KEITH DIXON, CITY COUNCILMAN, Wells, Nevada
MR. JAC SHAW, ADMINISTRATOR, DIV. OF STATE LANDS, Carson City, Nv.
MR. MIKE DEL GROSSO, DIV. OF STATE LANDS, Carson City, Nevada
MS. MABEL HOFFMAN, DIV. OF STATE LANDS, Carson City, Nevada
MR. DAVE SECRIST, NEVADA CATTLEMAN'S ASSN., Elko, Nevada
MR. WAYNE WILDE, BUREAU OF LAND MANAGEMENT, Elko, Nevada
MR. KURT BALLANTYNE, BUREAU OF LAND MANAGEMENT, Elko, Nevada
MR. CHET GRANDJEAN, BUREAU OF LAND MANAGEMENT, Elko, Nevada
MR. RALPH BISSETT, SOUTHERN PACIFIC LAND CO., Fresno, California
MR. JERRY DAVIS, U.S. FOREST SERVICE, Elko, Nevada
MR. DAN PENCE, U.S. FOREST SERVICE, Elko, Nevada
MR. MERLIN MC COLM, NEVADA WILDLIFE DEPARTMENT, Elko, Nevada
MR. DUANE ERICKSON, NEVADA WILDLIFE DEPARTMENT, Elko, Nevada
MR. JACK WALTHER, RANCHER, Lemville, Nevada
MR. VON L. SORENSEN, RANCHER, Clover Valley, Nevada
MR. DEVAR DAHL, RANCHER, Starr Valley, Nevada
MR. RULON BROWN, RANCHER, Clover Valley, Nevada
MR. PETER TAYLOR, RANCHER, Clover Valley, Nevada
MR. JOHN NEFF, RANCHER, Clover Valley, Nevada

APPENDIX D

APPENDIX D
NEVADA DEPARTMENT OF WILDLIFE
NEVADA ACCESS PROGRAM PROPOSAL

A. Objective:

To provide reasonable public access to public lands to insure that the public is not denied access to public lands for the following and additional uses.

1. Fishing
2. Hunting
3. Trapping (private for furbearers)
4. Predatory animal control
5. Prospecting
6. Rock hounding
7. Camping
8. Picnicking
9. Firewood cutting
10. Fence post cutting
11. Christmas tree cutting
12. Photography
13. Bird watching
14. Off-road vehicles
15. Snowmobiling
16. Skiing (cross country and downhill)
17. Wildlife inventory and management
18. Grazing and grazing management
19. Scientific collections (plant and animal)
20. Backpacking
21. Botany class field trips (high school and college level)
22. Geology classes
23. Fire control (where needed)
24. Search and Rescue (downed airplanes, etc.)
25. Fish stocking
26. Poison weed control
27. Metal detecting
28. Noxious insect control
29. Other public values - Historical, archaeological, etc.
30. Enforcement - wildlife, brand inspection, criminal, trespass, etc.

B. Legislative Subcommittee:

It may be appropriate to maintain a Legislative Subcommittee to follow through on the problem of access and to propose legislation as necessary. This Subcommittee could consist of representatives from the following Legislative Committees -

Senate

1. Natural Resources
2. Finance

Assembly

1. Environment and Public Resources
2. Ways and Means
3. Agriculture

C. Citizen Advisory Committee:

It may be appropriate to have a Citizen Advisory Committee in each county of the State to evaluate access needs. This Committee could consist of 5 + individuals, each representing one of the following groups, and be appointed by the Governor.

1. County Game Management Board
2. Livestock Organization
3. U.S. Forest Service or Bureau of Land Management
4. Division of State Lands
5. Department of Wildlife
6. Division of Forestry
7. County Commission
8. State Parks
9. Major land holder such as Southern Pacific Land Company
10. Public-At-Large

Each Citizen Advisory Committee should be responsible as follows:

1. Determine access needs for reaching public lands.
2. Determine access priority.
3. Possibly initiate negotiation with affected property owner to obtain access.
4. Report semi-annually to Legislative Subcommittee or Governor.

D. The Citizen Advisory Committee could make recommendations to the Legislative Subcommittee or Governor regarding the need for access and associated legislative needs and finances based on the following criteria:

1. Access should reach a significant block of public land.
2. The lands to be reached should have valid public values.
3. There should be a demonstrated need for access.
4. Frequency of access corridors should be influenced by the nature of values to be reached. It may be desirable to have corridors every 5 miles or less when extremely high public values are present but only every 10 - 15 miles when lesser values are involved.
5. Determinations should be made regarding classes of access needed -
 - a) Passenger car
 - b) Pickup - 4-wheel drive
 - c) Hikers - Horseback

- E. Primary State Agency responsibility for the access program could be as follows:

<u>Agency</u>	<u>Responsibility</u>
Lands	Obtain actual access corridor.
Forestry	Construct necessary fencing, bridges, culverts and gates that may be necessary.
Parks	Construct any public use facilities that may be necessary within access corridor. (USFS and BLM should construct facilities that are needed on their lands).
Prison	Construct routed wood signs to properly identify each access corridor.
Wildlife	Law enforcement including establishment of a "hotline" telephone program that would be compatible with any eventual "Operation Game Thief" program. (See attachment)
Wildlife	Purchase metal signs that would be needed to mark access corridors and place all signs associated with the program.
Wildlife and Others	Public Relations.

- F. Existing legislation seems to already cover many of the areas needed. The following are Statutes that would be particularly useful from an enforcement standpoint. (See attachment)

1. NRS 41.51 - Liability.
2. NRS 202.290 - Handling of Firearms.
3. NRS 206.015 - Damage to crops, gardens, trees, and shrubs.
4. NRS 206.040 - Trespass with intent to destroy.
5. NRS 206.060 - Damage to fences.
6. NRS 206.170 - Damage to equipment.
7. NRS 207.200 - Trespass and posting
8. NRS 207.220 - Closing gates
9. NRS 444.630 - Littering.

Additional legislation may be needed as follows:

1. To authorize Department of Wildlife personnel to enforce the above Statutes and possibly some others.
2. To attach a civil penalty (retribution to landowner) to the above Statutes. This should allow a Justice of the Peace to assess damages that the convicted individual would have to pay to a landowner to compensate the landowner for damages done to him.

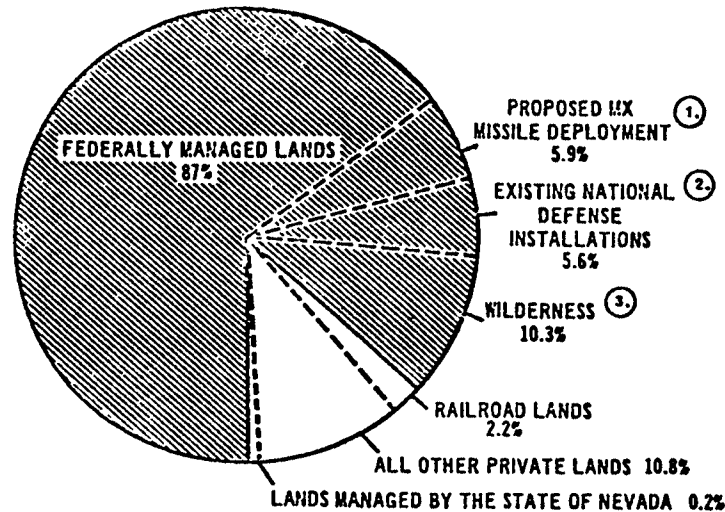
- G. Methods to obtain access corridors would include but not necessarily be limited to the following:
1. Obtain permanent easement attached to the landowners deed.
 2. Obtain long-term easement lease.
 3. Purchase land from willing landowner.
 4. Receive land through a donation from land owner.
 5. Purchase federal land through Recreation and Public Purposes Act that could be exchanged for access rights or a corridor.
 6. Encourage Federal Agencies to exchange land to obtain access corridor.
 7. As a last resort, condemnation could be used to acquire access to extremely high value public land. Obviously this would be a touchy process, but having this ability may encourage uncooperative land owners to work with the State.
 8. Retain access corridors across any land that the State may acquire through the "Sagebrush Rebellion" and later sell or exchange to private interests.

June, 1980

APPENDIX E

APPENDIX E

Selected Federal Land Withdrawals, Restrictions or Access Limitations In Nevada - 1980



- ①. Calculated using U.S. Air Force proposal of 130 separate missile sites in Nevada, and estimating each linear site to directly impact an area 25 miles long and two miles wide. Some public access restrictions are expected.
- ②. Includes existing military bases and facilities and the Nevada Test Site. Public access is restricted in these areas.
- ③. Wilderness includes existing, proposed and study areas. All of these areas are managed to prohibit uses which may endanger future wilderness designation. Vehicular travel and mining operations are restricted. Use of these areas is generally limited to hikers, backpackers and the physically fit who are able to walk for many miles.

IV. SUGGESTED LEGISLATION

BDR 3-70	Further restricts liability of land-owners to persons using their land for recreational purposes.....	51
BDR 14-71	Provides civil remedy for victims of certain crimes.....	54
BDR 26-88	Requires state land registrar to reserve from sales of state land existing routes necessary to public access to public land.....	56
BDR 45-72	Requires game wardens to enforce additional criminal statutes.....	58
BDR S-114	Makes appropriation for purchase of routes of access to public lands.....	64
BDR 115	Encourages Federal Government to build and maintain routes of access upon federal land.....	65

SUMMARY--Further restricts liability of landowners to persons using their land for recreational purposes. (BDR 3-70)
Fiscal Note: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

AN ACT relating to certain actions concerning persons; providing further restrictions on the liability of owners, lessees and occupants of premises to persons who use the premises for recreational purposes; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND
ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 41.510 is hereby amended to read as follows:

41.510 1. An owner, lessee or occupant of premises owes no duty to keep the premises safe for entry or use by others for crossing over to public land, hunting, fishing, trapping, camping, hiking, sightseeing, or for any other recreational purposes, or to give warning of any hazardous condition, activity or use of any structure on [such] the premises to persons entering for [such] those purposes, except as provided in subsection 3 . [of this section.]

2. When an owner, lessee or occupant of premises gives permission to another to cross over to public land, hunt, fish, trap, camp, hike, sightsee, or to participate in other recreational activities, upon [such] his premises:

(a) He does not thereby extend any assurance that the premises are safe for [such] that purpose, constitute the person to whom permission is granted an invitee to whom a duty of care is owed, or assume responsibility for or incur liability for any injury to person or property caused by any act of persons to whom the permission is granted, except as provided in subsection 3 . [of this section.]

(b) [Such] That person does not thereby acquire any property rights in or rights of easement to [such] the premises.

3. This section does not limit the liability which would otherwise exist for:

(a) [Willful or malicious] Malicious, but not merely willful or negligent, failure to guard, or to warn against, [a dangerous] an unusually hazardous condition, use, structure or activity.

(b) Injury suffered in any case where permission to cross over to public land, hunt, fish, trap, camp, hike, sightsee, or to participate in other recreational activities, was granted for a consideration other than the consideration, if any, paid to the landowner by the state or any subdivision thereof.

(c) Injury caused by acts of persons to whom permission to cross over to public land, hunt, fish, trap, camp, hike, sightsee, or to participate in other recreational activities was granted, to other persons as to whom the person granting permission, or the

owner, lessee or occupant of the premises, owed a duty to keep the premises safe or to warn of danger.

4. Nothing in this section creates a duty of care or ground of liability for injury to person or property.

SUMMARY--Provides civil remedy for victims of certain crimes.

(BDR 14-71)

Fiscal Note: Effect on Local Government: No.
Effect on the State or on Industrial
Insurance: No.

AN ACT relating to criminal procedure; providing a civil remedy for victims of certain crimes; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND
ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 176 of NRS is hereby amended by adding thereto a new section which shall read as follows:

1. When a defendant is convicted of violating NRS 206.015, 206.040, 206.150, 206.160, 206.310, 207.200, 207.210 to 207.225, inclusive, or 444.630, a victim of the crime may in the manner provided in this section obtain a civil judgment against the defendant for damages caused by the criminal act.

2. The victim must file a written request for a hearing with the court in which the criminal action was prosecuted. The request must be filed when judgment upon the conviction is rendered. Upon receipt of the request, the court shall schedule a separate hearing upon the matter for a time occurring as soon as possible after the adjudication.

3. The hearing must be held before the same trier of fact which heard the criminal action and be limited to issues concerning the

victim's damages. For the purposes of the hearing, the judgment of conviction is conclusive evidence of the facts tried in the criminal action.

4. Upon proof of damages by a preponderance of the evidence, the court shall render judgment for the victim for the amount of damages awarded. The court shall enter the judgment after the time allowed for appeal of the judgment of conviction has expired, if no appeal is taken, or after any pending appeal of the judgment has been concluded in favor of the state, whichever occurs first.

5. This remedy is cumulative and does not preclude any other remedy provided by law.

SUMMARY--Requires state land registrar to reserve from sales of state land existing routes necessary to public access to public land. (BDR 26-88)

Fiscal Note: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

AN ACT relating to state lands; requiring the state land registrar to reserve from sales of state land existing routes designated as necessary to public access to certain public lands; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND
ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 321 of NRS is hereby amended by adding thereto a new section which shall read as follows:

1. Before any state land may be leased, exchanged, sold or contracted for sale, the state land registrar, in consultation with the state multiple use advisory committee on federal lands, shall designate any existing routes over the land which he determines to be necessary for public access to any other land that is open to public use. If such a route is designated, the land must be conveyed with a right of way and all rights of access and abutter's rights for the route reserved in the name of the State of Nevada.

2. After the land is conveyed, if the route is determined by the state land registrar, in consultation with the department of transportation and the state multiple use advisory committee on federal lands, to be no longer necessary for public access to other land

which is open to public use, the state land registrar shall, subject to the provisions of subsections 3 and 4, release the right, title and interest of the state in and to the right of way to the purchaser or lessee of the land, his assigns or successors in interest.

3. Before releasing the state's interest in the right of way, the state land registrar shall cause to be published in some newspaper of general circulation in the county where the right of way is located a notice of intent to release that interest. The notice must be published at least 30 days before the proposed date for the release and must contain:

- (a) A description of the location of the right of way;
- (b) The date upon which the release is to be effective; and
- (c) The mailing address of the state land registrar to which persons may send protests against the proposed release.

4. The state land registrar may, or upon the receipt of a written protest against the proposed release shall, hold a public hearing. The hearing must be:

- (a) Held in the county in which the right of way is located; and
- (b) Advertised at least 30 days before the date of the hearing in a newspaper of general circulation in the county where the right of way is located.

SUMMARY--Requires game wardens to enforce additional criminal statutes. (BDR 45-72)

Fiscal Note: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

AN ACT relating to game wardens; requiring them to enforce certain criminal statutes relating to malicious mischief, trespass, the failure to close certain gates and the diversion of irrigation water; making their designation uniform; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND
ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 501.337 is hereby amended to read as follows:

501.337 The director shall:

1. Carry out the policies and regulations of the commission.
2. Direct and supervise all administrative and operational activities of the department, and all programs administered by the department as provided by law. He shall devote his entire time to the duties of his office and shall not follow any other gainful employment or occupation.
3. Within such limitations as may be provided by law, organize the department into various divisions and, from time to time, alter such organization and reassign responsibilities and duties as he may deem appropriate.
4. Appoint or remove, pursuant to the provisions of chapter 284 of NRS, such technical, clerical and operational staff as the

execution of his duties and the operation of the department may require, and all such employees are responsible to him for the proper carrying out of the duties and responsibilities of their respective positions. The director shall designate a number of such employees as [fish and] game wardens and provide for their training.

5. Submit technical and other reports to the commission as may be necessary or as may be requested, which will enable the commission to establish policy and regulations.

6. Approve the biennial budget of the department consistent with the provisions of this Title and chapter 488 of NRS.

7. Administer real property assigned to the department.

8. Maintain full control, by proper methods and inventories, of all personal property of the state acquired and held for the purposes contemplated by this Title and by chapter 488 of NRS.

9. Act as nonvoting secretary to the commission.

Sec. 2. NRS 501.339 is hereby amended to read as follows:

501.339 The director may:

1. In cases of emergency, with the prior approval of the governor, exercise the powers of the commission until such time as the commission meets or the emergency ends.

2. Designate an employee or employees of the department to act as his deputy or deputies. In the director's absence or inability to discharge the powers and duties of his office, the powers and duties devolve upon his deputy or deputies.

3. Designate persons outside the department as [fish and] game wardens if, in his opinion, the need for such designations exists and if the designations are made in accordance with the policy controlling such designations established by the commission.

Sec. 3. NRS 501.349 is hereby amended to read as follows:

501.349 [1. Those regular] Regular employees and others designated by the director as [fish and] game wardens shall [have full power and authority to enforce all provisions of this Title and of chapter 488 of NRS.

2. Such] enforce the provisions of NRS 206.015, 206.040, 206.-150, 206.160, 206.310, 207.200 and 207.210 to 207.225, inclusive. Game wardens are peace officers for the service of such legal process, including warrants and subpoenas, as may be required [in the performance of their duties] in the enforcement of [this Title and of chapter 488 of NRS.] those sections.

Sec. 4. NRS 501.375 is hereby amended to read as follows:

501.375 1. Every game warden throughout the state, and every sheriff and constable in his respective county shall enforce this Title and seize any wildlife taken or held in possession in violation of this Title. Game wardens are peace officers for the service of such legal process, including warrants and subpoenas, as may be required in the enforcement of this Title.

2. Such an officer may:

(a) With or without a warrant, conduct a reasonable search of any camp, structure, aircraft, vessel, vehicle, box, game bag or other package where he has reason to believe any wildlife taken or held in violation of any of the provisions of this Title is to be found, and, for the purpose of such a search, may detain any aircraft, vessel or vehicle for a reasonable time.

(b) Seize, and hold only for evidence, any such wildlife and any gun, ammunition, trap, snare, tackle, or other device or equipment whose presence indicates that a violation of this Title has occurred.

3. A dwelling house may be searched only in pursuance of a warrant.

Sec. 5. NRS 205.230 is hereby amended to read as follows:

205.230 1. All state, county, city and township peace and law enforcement officials, including sheriffs, their deputies, constables, their deputies and [fish and] game wardens, [are empowered and directed to] shall pursue, apprehend and arrest whenever or wherever, irrespective of county boundaries within the state, any person who [shall feloniously steal, take and carry, lead, drive or entice] feloniously steals, takes and carries, leads, drives or entices away any horse, mare, gelding, colt, cow, bull, steer, calf, mule, jack, jenny or any one or more head of cattle or horses, or any sheep, goat, hog, poultry, shoat or pig not his own property but the property of another.

2. Upon apprehension and arrest of any person in violation of NRS 205.225, the arresting officer or officers shall forthwith take the person before the nearest or most accessible magistrate without unnecessary delay, to be there dealt with according to law.

Sec. 6. NRS 444.630 is hereby amended to read as follows:

444.630 1. As used in this section, "garbage" includes [any or all of the following: Garbage,] swill, refuse, cans, bottles, paper, vegetable matter, the carcass of any [dead] animal, offal from any slaughter pen or butcher shop, trash or rubbish.

2. Every person who places, deposits or dumps, or who causes to be placed, deposited or dumped, or who causes or allows to overflow, any sewage, sludge, cesspool or septic tank effluent, or accumulation of human excreta, or any garbage, in or upon any street, alley, public highway or road in common use or upon any public park or other public property other than property designated or set aside for such purpose by the governing board or body having charge thereof, or upon any private property into or upon which the public is admitted by easement, license or otherwise, is guilty of a misdemeanor.

3. [Every state fish and game warden,] Game wardens, police officers of incorporated cities and towns, sheriffs and their deputies, and other peace officers , [of the State of Nevada,] within their respective jurisdictions, shall enforce the provisions of this section.

Sec. 7. NRS 488.355 is hereby amended to read as follows:

488.355 1. Every game warden, sheriff and other peace officer of this state and its political subdivisions shall enforce the provisions of this chapter and may stop and board any vessel subject to the provisions of this chapter. Game wardens are peace officers for the service of such legal process, including warrants and subpoenas, as may be required in the enforcement of this chapter.

2. All boats located upon waters of this state shall be subject to inspection by the department or any lawfully designated agent or inspector thereof at any time for the purpose of determining whether such boat is equipped in compliance with the provisions of this chapter.

3. All boats located upon waters of this state shall be subject to inspection by the health division of the department of human resources or any lawfully designated agent or inspector thereof at any time for the purpose of determining whether such boat is equipped in compliance with the provisions of NRS 488.315 to 488.335, inclusive.

SUMMARY--Makes appropriation for purchase of routes of access to public lands. (BDR S-114)

Fiscal Note: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Contains Appropriation.

AN ACT relating to public lands; providing in skeleton form for an appropriation for the identification and purchase of routes of access to public lands.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND
ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The state land registrar shall identify existing routes of access which lead to public lands and have the following characteristics:

1. The routes must lead to public lands which provide excellent hunting, fishing, camping, hiking, sightseeing or other recreational opportunities; and

2. The routes must themselves be accessible from existing or planned public roads or highways.

Sec. 2. There is hereby appropriated from the state general fund to the department of transportation the sum of \$..... to provide for the purchase of the routes of access designated by the state land registrar.

Sec. 3. After June 30, 1983, the unencumbered balance of the appropriation made in section 2 of this act may not be encumbered and reverts to the state general fund.

SUMMARY--Encourages Federal Government to build and maintain routes of access upon federal land. (BDR 115)

Fiscal Note: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

JOINT RESOLUTION--Encouraging the Federal Government to build and maintain routes of access upon federal land.

WHEREAS, There are numerous routes of access in the State of Nevada which cross public and private lands and which terminate at boundaries of federal land; and

WHEREAS, Persons who arrive upon federal land via these routes of access require means of reaching recreation areas and other destinations upon the federal land; and

WHEREAS, The lack of routes upon federal land to accommodate these persons often leads to congestion at points of entry to federal land and results in overuse of these areas and in an accelerated depletion of natural resources; now, therefore, be it

RESOLVED BY THE AND THE OF THE STATE OF NEVADA, JOINTLY, That the agencies which manage federal land work on a continuing basis in cooperation with the state land registrar of the State of Nevada to ascertain which points of entry present obstacles to the further access of travelers onto federal lands; and be it further

RESOLVED, That the Federal Government, acting through these agencies, should construct and maintain upon federal land any paths, trails, roads or other routes necessary for the dispersal of persons who enter the land by routes of access which originate in the State of Nevada; and be it further

RESOLVED, That copies of this resolution be immediately transmitted by the legislative counsel to the state director of the Bureau of Land Management, the state supervisor of the United States Fish and Wildlife Service, the regional director of the National Park Service, all under the United States Department of the Interior, and to the forest supervisors of Toiyabe National Forest and Humboldt National Forest, United States Forest Service, Department of Agriculture; and be it further

RESOLVED, That this resolution shall become effective upon passage and approval.