

FEDERAL REGULATIONS REVIEW



Bulletin No. 83-10

LEGISLATIVE COUNSEL BUREAU
STATE OF NEVADA

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STATE OF NEVADA

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LEGISLATIVE REVIEW OF FEDERAL REGULATIONS

218.536 Legislative findings, declaration. The legislature finds and declares that the State of Nevada and its citizens are subjected to federal regulations which sometimes are unreasonable, arbitrary, beyond the intent of the Congress or the scope of the authority of the agency adopting them and that as a result certain federal regulations should be subjected to legislative review and comment, and judicially tested where appropriate, to protect the rights and interests of the State of Nevada and its citizens.

(Added to NRS by 1979, 5)

218.5361 "Committee" defined. As used in NRS 218.5361 to 218.5371, inclusive, "committee" means the legislative committee for the review of federal regulations.

(Added to NRS by 1979, 5)

218.5363 Legislative committee for the review of federal regulations: Establishment; membership; chairman; vacancies.

1. There is hereby established a legislative committee for the review of federal regulations consisting of four members. The chairman of the legislative commission shall designate two senators and two assemblymen as members of the committee.

2. The members of the committee shall elect a chairman who shall be an assemblyman in odd-numbered years and a senator in even-numbered years. If a vacancy occurs on the committee, the chairman of the legislative commission shall appoint a new member from the same house as the committee member whose position is vacant.

(Added to NRS by 1979, 5)

218.5365 Meetings, secretary, regulations of committee; quorum; salary, per diem allowance, travel expenses of members.

1. The members of the committee shall meet throughout each year at such times and at such places as shall be specified by a call of the chairman or a majority of the committee. The director of the legislative counsel bureau shall act as the nonvoting recording secretary. The committee shall prescribe regulations for its own management and government. Three members of the committee constitute a quorum, and a quorum may exercise all the power and authority conferred on the committee.

2. The members of the committee are entitled to receive a salary of \$80 and the subsistence allowances and travel expenses provided by law for each day of attendance at a meeting of the committee and while engaged in the business of the committee.

(Added to NRS by 1979, 5; A 1981, 170)

218.5367 Powers of committee.

1. The committee may:

(a) Review and comment on any administrative policy, rule or regulation of the:

(1) Secretary of the Interior which pertains to policy concerning or management of public lands under the control of the Federal Government; and

(2) Secretary of Agriculture which pertains to policy concerning or management of national forests;

(b) Conduct investigations and hold hearings in connection with its review, including but not limited to investigating the effect on the

state, its citizens, political subdivisions, businesses and industries or such policies, rules, regulations and related laws;

(c) Consult with and advise the state land use planning agency on matters concerning federal land use, policies and activities in this state.

(d) Direct the legislative counsel bureau to assist in its research, investigations, review and comment;

(e) Recommend to the legislature as a result of its review any appropriate state legislation or corrective federal legislation; and

(f) Advise the attorney general if it believes that any federal policy, rule or regulation which it has reviewed encroaches on the sovereignty respecting land or water or their use which has been reserved to the state pursuant to the Constitution of the United States.

2. Any reference in this section to federal policies, rules, regulations and related federal laws includes those which are proposed as well as those which are enacted or adopted.

(Added to NRS by 1979, 5; A 1981, 170)

218.5369 Oaths; depositions; subpoenas.

1. In conducting the investigations and hearings of the committee:

(a) The secretary of the committee, or in his absence any member of the committee, may administer oaths.

(b) The secretary or chairman of the committee may cause the deposition of witnesses, residing either within or without the state, to be taken in the manner prescribed by rule of court for taking depositions in civil actions in the district courts.

(c) The secretary or chairman of the committee may issue subpoenas to compel the attendance of witnesses and the production of books and papers.

2. If any witness refuses to attend or testify or produce any books and papers as required by the subpoena, the secretary or chairman of the committee may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) The witness has been subpoenaed by the committee pursuant to this section; and

(c) The witness has failed or refused to attend or produce the books and papers required by the subpoena before the committee which is named in the subpoena, or has refused to answer questions propounded to him,

and asking for an order of the court compelling the witness to attend and testify or produce the books and papers before the committee.

3. Upon such petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days from the date of the order, and then and there show cause why he has not attended or testified or produced the books or papers before the committee. A certified copy of the order shall be served upon the witness.

4. If it appears to the court that the subpoena was regularly issued by the committee the court shall enter an order that the witness appear before the committee at the time and place fixed in the order and testify or produce the required books or papers, and upon failure to obey the order the witness shall be dealt with as for contempt of court.

(Added to NRS by 1979, 6)

218.5371 Fees and mileage for witnesses. Each witness who appears before the committee by its order, except a state officer or employee, is entitled to receive for his attendance the fees and mileage provided for witnesses in civil cases in the courts of record of this state. The fees and mileage shall be audited and paid upon the presentation of proper claims sworn to by the witness and approved by the secretary and chairman of the committee.

(Added to NRS by 1979, 6)

REPORT OF THE LEGISLATIVE COMMITTEE FOR THE
REVIEW OF FEDERAL REGULATIONS

To the Members of the 62nd Session of the Nevada Legislature:

This report is transmitted to the members of the 1983 legislature for their information and appropriate action. It is designed to describe the activities of the legislative committee for the review of federal regulations since its last report, Legislative Counsel Bureau Bulletin No. 81-23, and to outline future direction.

This committee was established to primarily review and make comments on proposed regulations and policies by the United States Department of the Interior and the U.S. Forest Service which affect Nevada's public lands. Since the end of the 61st Session, the committee met seven times. These meetings were usually in conjunction with the select committee on public lands because all four members of the federal regulations review committee are also members of the select committee. It is the consensus of the members of the federal regulations review committee that it is performing a most valuable function concerning Nevada's oversight of federal activities on our public lands.

Respectfully submitted,

Legislative Committee for the
Review of Federal Regulations
State of Nevada

January, 1983 .

COMMITTEE MEMBERS

Senator Norman D. Glaser, Chairman, 1982
Assemblyman Karen W. Hayes, Chairman, 1981
Senator Don W. Ashworth
Assemblyman Dean A. Rhoads

SUMMARY OF RECOMMENDATIONS

The legislative committee for the review of federal regulations (federal regulations review committee) recommends for the consideration of the 62nd session of the Nevada legislature:

1. That a permanent committee of the legislature be established to address public lands matters in the state. By combining the federal regulations review committee with the select committee on public lands (established by resolution) greater efficiency and continuity of efforts can be expected. The progress and accomplishments of the federal regulations review committee, as outlined on pages 8 through 12 of this report, as well as the fact that 87 percent of Nevada's land area is controlled by the Federal Government, necessitate an ongoing commitment by the legislature to the resolution of public lands matters affecting the sovereignty of the state. (BDR 17-22, see appendix A.)
2. The federal regulations review committee recommends that the legislature pass a resolution along the lines of A.J.R. 45 of the 61st session, urging the President of the United States to rescind the 1926 Executive Order entitled "Order of Withdrawal, Public Water Reserve No. 107." (See appendix B.) Not only has this order become unnecessary because of more recent federal laws and regulations relating to this issue, but the Executive Order could also potentially be used by the Federal Government to claim control over vast amounts of water in Nevada. The 1926 Executive Order should be rescinded. Assembly Joint Resolution 45 died in the assembly committee on economic development and natural resources during the 61st session. (See appendix C.)

REPORT TO THE 62ND SESSION OF THE NEVADA LEGISLATURE
FROM THE LEGISLATIVE COMMITTEE FOR THE REVIEW
OF FEDERAL REGULATIONS

I. INTRODUCTION AND BACKGROUND

Introduction

The legislative committee for the review of federal regulations was established in statute by the 1979 Nevada legislature. Assembly Bill 653, introduced and passed by the 1977 legislature to establish this committee, was subsequently vetoed by the governor in 1977. That veto was overridden by action of the 1979 legislature.

This committee was established to, among other things, review and make comments on regulations and policies by the United States Department of the Interior and U.S. Forest Service affecting Nevada's public lands. The committee adopted internal management regulations in 1979 to provide for the selection and duties of a vice chairman. Since the end of the 61st session, the committee met seven times, usually in conjunction with the legislature's select committee on public lands. For 1981 and 1982, the members of the federal regulations committee were: Senator Norman D. Glaser, chairman in 1982; Senator Don W. Ashworth; Assemblyman Karen W. Hayes, chairman in 1981; and Assemblyman Dean A. Rhoads.

The veto of A.B. 653 in 1977 by Governor Mike O'Callaghan was based on a belief that a federal regulations review committee would duplicate the efforts of Nevada's state multiple use advisory committee on federal lands (Nevada Revised Statutes 232.151 through 232.157). However, since establishment of the federal regulations review committee in 1979, there have been no observed duplications between these two committees. In fact, the work of the two committees has proven to be complementary. The state multiple use advisory committee primarily reviews problems in ongoing federal land programs and is advisory by nature, while the federal regulations review committee reviews specific proposed actions, policies and regulations and is authorized to make comments of policy on behalf of the legislature. The federal regulations review committee, as part of each meeting agenda, reviews recommendations from the state multiple use advisory committee for possible legislative action or other support.

Background

The federal regulations review committee is directed by law to review and comment on any administrative policy, rule or regulation of the Secretary of the Interior or U.S. Forest Service which pertains to policy concerning, or management of, public lands or national forests under the control of the Federal Government. The committee is also authorized to "conduct investigations and hold hearings in connection with its review * * *," consult with and advise the state land use planning agency (division of state lands, department of conservation and natural resources), and make recommendations to the legislature on "appropriate state legislation or corrective federal legislation." The research division of the legislative counsel bureau has provided continuing staff support to this committee as specified in the state law.

Research staff of the committee keeps up-to-date on the various federal proposals in three primary ways:

1. Review of the Federal Register on a regular basis. The Federal Register is a daily Federal Government publication which provides a uniform system for making available to the public regulations and legal notices issued by federal agencies.
2. The research division of the legislative counsel bureau has been placed on the permanent mailing list of several federal agencies for announcements, meeting notices, and proposed policies and actions. The Nevada office of the Bureau of Land Management (BLM) has been particularly cooperative in this respect. Other federal agencies which have been contacted for information include the: (a) Susanville, California, BLM district office (administers 1,433,000 acres in Nevada), (b) Bureau of Indian Affairs, (c) National Park Service, (d) Fish and Wildlife Service, (e) Reclamation Bureau and (f) U.S. Forest Service.
3. The research division is also on the permanent mailing list of Nevada's state clearinghouse which is currently located in the state office of community services. The state clearinghouse will occasionally receive federal

proposals which have not been listed in the Federal Register and for which direct notice by the responsible federal agency was not made to the research division. The state clearinghouse has been most cooperative in this respect, as well as in the involvement of the legislative branch of Nevada government in federal briefings and meetings designed for the agencies in Nevada's executive branch.

II. MEETINGS OF THE COMMITTEE, PUBLIC HEARING IN FALLON, AND MEETINGS IN WASHINGTON, D.C.

Initially, the committee thought that meetings should be held approximately once every 2 months in order to keep up-to-date on the various federal proposals. It was later decided to conduct meetings in conjunction with meetings of the select committee on public lands because all four members of the federal regulations review committee are also members of the select committee. Additionally, as an alternative emergency measure for federal proposals needing an immediate response, a telephone polling procedure of members has been established.

The legislative committee for the review of federal regulations met seven times since the end of the 61st legislative session. Following is a listing of those meetings and a brief summary of each.

Meetings of Nevada's Legislative Committee for the Review of Federal Regulations

Date and Location

Meeting Summary

July 23, 1981
Reno, Nevada

Committee receives report by representatives of the U.S. Forest Service. That agency and its activities now fall under the review of this committee as a result of a bill passed by the 1981 state legislature. Committee receives testimony on, and prepares recommendations concerning, High Rock Canyon area of northern Washoe County, under the jurisdiction of the Susanville, California, district office of the Bureau of Land Management.

Meetings of Nevada's Legislative Committee for the
Review of Federal Regulations
(continued)

Date and Location

Meeting Summary

September 27, 1981
Reno, Nevada

Committee sends letter to U.S. Secretary of the Interior James Watt concerning his actions since taking office. Committee reviews task force report on national range land policy and sends recommendations to national director of BLM. Committee reviews and makes recommendations concerning better coordination of issues involving the use and protective fencing of riparian areas located on the public lands.

December 5, 1981
Elko, Nevada

Committee reviews materials from Regulatory Improvement Committee of National Conference of State Legislatures (NCSL), and regulatory reform program in State of Louisiana. Committee commended for its efforts which helped resolve conflicts between livestock and wildlife interests in riparian areas of Nevada.

March 4, 1982
Las Vegas, Nevada

Committee receives testimony by Robert Wall, director of the Louisiana Legislature's Joint Commission on Intergovernmental Relations. Mr. Wall described "Priorities for the Future," a program in that state to minimize unnecessary federal regulations. The associated "Dialogue With Congress" program helps insure that state and local concerns are properly addressed by the Federal Government. Nevada Cattlemen's Association presents information on range stewardship program on Nevada's public lands.

Meetings of Nevada's Legislative Committee for the
Review of Federal Regulations
(continued)

Date and Location

Meeting Summary

June 4, 1982
Reno, Nevada

Committee receives testimony from various public lands user groups protesting massive water rights filings in Nevada by the BLM. Committee receives testimony on a proposed senior citizens' mobile home park in Las Vegas which was awaiting land transfer from BLM. Committee urges involved agencies to expedite this matter. Several proposed federal rules and regulations reviewed by committee with comments authorized.

September 16, 1982
Reno, Nevada

Committee receives public input from residents of central Nevada (Fallon, Dixie Valley, Austin, Reese River Valley and Gabbs) requesting committee to hold a public hearing in Fallon regarding proposals by the U.S. Navy which affect public lands and public lands users. Review of 1926 Presidential Executive Order withdrawing public land surrounding springs and waterholes, and adoption of committee resolution asking that this order be rescinded. Testimony received concerning application of the National Historic Preservation Act to the public lands of Nevada.

October 18, 1982
Fallon, Nevada

Committee conducts public hearing to receive comments by citizens and groups from central Nevada affected by proposals of the U.S. Navy to designate some 3.65 million acres of airspace in central Nevada as a supersonic operations area (SOA)

Meetings of Nevada's Legislative Committee for the
Review of Federal Regulations
(continued)

Date and Location

Meeting Summary

and to withdraw some 181,000 acres of public land to serve as buffer zones for current U.S. Navy operations. Over 150 persons were in attendance.

Fallon Public Hearing

At its regular meeting held in Reno on September 16, 1982, residents from various portions of central Nevada (Fallon, Dixie Valley, Austin, Reese River Valley and Gabbs) described a proposal by the U.S. Navy which would significantly affect this part of the state, its public lands and public lands users. Based on this testimony and a supplemental report by the state planning coordinator, the committee decided to hold a public hearing in Fallon on October 18, 1982, to receive a report by representatives of the U.S. Navy and input from citizens affected by the Navy proposals.

At the October 18, 1982, hearing, over 150 persons were in attendance, with approximately 35 making official testimony. Representatives of the U.S. Navy described their proposals to designate approximately 3.65 million acres of airspace over central Nevada as a supersonic operations area. Additionally, some 181,000 surface acres of public BLM land were proposed for withdrawal to serve as a buffer area around current Navy operations for reasons of public safety.

The federal regulations review committee is only authorized to review proposals of the U.S. Department of the Interior and the U.S. Forest Service which affect Nevada's public lands. However, the committee believed it had a responsibility to represent the interests of the citizens living in this area on this matter. This was particularly important since no other official arm of the state, except for the state planning coordinator, had taken an aggressive role in this matter.

On October 25, 1982, the committee sent its official recommendations on this matter to the U.S. Navy. These recommendations were primarily based on public input and testimony

received at the Fallon hearing. Because of the concerns outlined in this letter (appendix D), the U.S. Navy will be performing additional research to mitigate the potential adverse impacts of these proposals. The draft environmental impact statement (EIS) on the SOA proposal was originally scheduled for release in January 1983. After reviewing the recommendations of this committee, however, that date has been changed to May 1983. Likewise, the draft EIS for the land withdrawal was originally scheduled for release in June 1983, and now release is not expected until at least August 1983. It is believed that the U.S. Navy is using this additional time to better research and mitigate any adverse effects of these proposals.

The intent of the committee concerning this matter was primarily one of allowing the general public an opportunity to express its concerns before a draft EIS was prepared. A public workshop sponsored by the U.S. Navy on September 22, 1982, was inadequate for this purpose because it was reportedly "attendance by invitation only." Also, all public input was requested 2 working days in advance, in writing, to U.S. Navy Headquarters in San Bruno, California.

It is the opinion of this committee that when the draft environmental statements are released, the State of Nevada, including its legislative branch, must review and comment on these documents in order to represent the best interests of the state and its citizens.

Meetings in Washington, D.C.

On October 4 through 6, 1982, two members of the legislature's select committee on public lands, Assemblymen Alan Glover and Karen Hayes, travelled to Washington, D.C., to represent the interests of the state on various public lands issues. Assemblyman Hayes also represented the federal regulations review committee on several matters. Of particular value were meetings with the Director of the Bureau of Land Management, the Chief of the Bureau of Reclamation and the Deputy Assistant Secretary of the Interior for Land and Water Resources. A common theme of the presentations by Assemblyman Hayes was the need for a strong state role in all matters pertaining to federal lands, and the requirement that federal land use plans be made consistent with state and local land use planning.

III. ACTIONS OF THE COMMITTEE

Since the establishment of the legislative committee for the review of federal regulations, most formal recommendations have been made in the form of a letter to the appropriate federal agency. Following is a listing of those matters on which the committee has made specific recommendations since January 1, 1981. For information on the final disposition of any of these issues, please contact the research division of the legislative counsel bureau in Carson City.

ACTIONS OF THE COMMITTEE-1981 AND 1982

<u>Date of Letter</u>	<u>Issue</u>
01/30/81	Letter to Gene Nodine, District Manager, Bureau of Land Management, Battle Mountain, regarding reduced grazing and increased numbers of wild horses in Bald Mountain wild horse area.
02/02/81	Letter to Director of BLM, Washington, D.C., regarding proposed rulemaking to amend portions of BLM's land use planning regulations. Questioned deletion of "criticalness" and "protectability" on criteria for consideration of areas of critical environmental concern.
02/11/81	Letter to Rod Harris, BLM District Manager, Elko, recommending that a rifle range at Little Jack Creek Canyon or another location in Elko be established.
02/12/81	Copies of all previous comments sent to Secretary of the Interior Watt asking his consideration of those not acted upon.
02/17/81	Comments to Secretary of the Interior Watt on reduced grazing and increased numbers of wild horses in Bald Mountain wild horse area.
05/07/81	Comments on draft environmental impact statement for grazing in Paradise-Denio area sent to District Manager of BLM, Winnemucca District.

ACTIONS OF THE COMMITTEE-1981 AND 1982

<u>Date of Letter</u>	<u>Issue</u>
05/07/81	Letters to Secretary of the Interior Watt, U.S. Senators Cannon and Laxalt and Congressman Santini regarding federal laws preventing orderly planned development of our natural resources.
05/07/81	Comments to Interior Secretary Watt on Warm Springs pupfish matter.
09/28/81	Letter to President Reagan commending Interior Secretary Watt.
10/06/81	Remarks to Rex Cleary, BLM, Susanville, California, regarding High Rock Canyon area which confirmed his agreement to restudy the area before making a decision to keep cattle from grazing on the land.
10/08/81	Letters to Ed Spang, State Director, BLM, and Frank Ferrarelli, Supervisor, Toiyabe National Forest, regarding fencing riparian areas on public lands.
10/08/81	Request to Julian C. Smith, chairman, state multiple use advisory committee on federal lands to place fencing of riparian areas on their next meeting agenda.
12/02/81	Remarks to Director, BLM, Washington, D.C., commenting on proposed rulemaking regarding national scenic trails.
12/30/81	Committee comments on proposed Death Valley National Monument Plan and environmental impact statement to George Von der Lippe, Superintendent, Death Valley, California.

ACTIONS OF THE COMMITTEE-1981 AND 1982

<u>Date of Letter</u>	<u>Issue</u>
01/13/82	Letter to BLM Director on proposed changes in land use planning regulations.
02/03/82	Comments to BLM Director regarding proposed method for rating the favorability of the geologic environment of wilderness study areas to contain mineral and energy resources.
02/08/82	Response to proposal to amend portions of the grazing regulations administered by the Bureau of Land Management.
03/16/82	Letters to Nevada BLM Director, Supervisor of Toiyabe National Forest, and Julian C. Smith, Jr., state multiple use advisory committee on federal lands, regarding the fencing of riparian areas on public lands.
06/15/82	Letter to Dee Ennis, state director, Las Vegas Jaycees, expressing support for the Jaycee's efforts to establish a mobile home park for senior citizens in Clark County.
06/25/82	Letter to Nevada BLM Director concerning wilderness recommendations for BLM's Tonopah Resource Area.
06/25/83	Letter to BLM Director regarding mining claims and related topics.
06/25/83	Letter to BLM Director regarding geothermal leasing.
09/16/82	Resolution adopted by the federal regulations review committee regarding the withdrawal of public land surrounding springs or waterholes.

ACTIONS OF THE COMMITTEE-1981 AND 1982

<u>Date of Letter</u>	<u>Issue</u>
09/21/82	Letter to BLM Director concerning the proposed rulemaking to amend a portion of 43 CFR Part 4700 (wild horses and burros).
09/22/82	Letter to the Department of the Navy, Western Division, Naval Facilities Engineering Command, San Bruno, California, inviting it to participate in Fallon hearing on the proposed supersonic operations area and related land withdrawal in central Nevada on October 18, 1982.
09/28/82	Letters to James F. Bryant, Real Estate Division, and M. Pearson, Director, Installations and Planning Division for the Commanding Officer, Western Division, Naval Facilities Engineering Command, San Bruno, California, inviting them to participate in October 18, 1982, hearing in Fallon.
10/04/82	Letter to President Ronald Reagan urging him to rescind the 1926 Executive Order entitled "Order of Withdrawal, Public Water Reserve No. 107."
10/25/82	Letter to Commanding Officer, Western Division, Naval Facilities Engineering Command, San Bruno, California, transmitting a list of concerns and questions that should be addressed by the Navy in its EIS regarding the supersonic operations area and related land withdrawal. (See appendix D.)

ACTIONS OF THE COMMITTEE-1981 AND 1982

<u>Date of Letter</u>	<u>Issue</u>
11/19/82	Letter to BLM Director concerning proposed rulemaking to clarify and simplify the land exchange process.
11/23/82	Letter to BLM Director regarding the proposed rulemaking to facilitate the acquisition of public lands by states and local governments through the Recreation and Public Purposes Act.

IV. CONCLUSIONS AND RECOMMENDATIONS OF THE COMMITTEE

Conclusions

Federal rules and regulations, whether most Americans realize it or not, play a significant role in our day to day lives. Also, implementation of such regulations by the Federal Government usually requires additional costs by affected industry and economic activities. Ultimately, all of these additional costs are borne by the American taxpayers and consumers.

A study entitled The Cost of Federal Regulation of Economic Activity¹ showed that the cost imposed on the American economy by Federal regulatory activities in 1976 totaled \$66.1 billion. This amount represented 4 percent of the gross national product, or \$307 per person living in the United States. Of this total, some \$8.2 billion was the cost of federal regulations for various types of environmental programs.

The members of the legislative committee for the review of federal regulations are committed to the wise use of our public lands, conservation of natural resources, and protection of the environment. However, most of the committee comments to date have been directed at examples of costly and unnecessary over-regulation, over-protection and over-control by the Federal Government.

¹The Cost of Federal Regulation of Economic Activity, Murray L. Weidenbaum and Robert DeFina, American Enterprise Institute for Public Policy Research, Washington, D.C., May 1978.

In conclusion, the committee believes that it has provided a valuable service to the state and that the majority of its comments and recommendations are effective in making a difference in federal decisionmaking. The committee and its modest budget should be continued in the future.

Recommendations

For the 1983 legislative session, two recommendations are being made:

1. The federal regulations review committee recommends that a permanent committee of the legislature be established to continue the functions of the review committee and to also assume the responsibilities of the select committee on public lands. Reasons for this recommendation include:
 - (a) With 87 percent of Nevada's land area controlled by the Federal Government, the sovereignty of the state will continue to be impacted by federal proposals concerning the use and disposition of these lands.
 - (b) Nevada should continue its efforts to reduce the amount of land currently under federal jurisdiction.
 - (c) A committee composed of elected officials has more "clout" and influence than appointed advisory committees or agency administrators, and can also be expected to more consistently represent the prevailing interests of the state and its citizens.
 - (d) By combining the federal regulations review committee with the select committee on public lands, money can be saved. This proposal is particularly appropriate because in the past there has been overlapping membership on these two committees.
 - (e) By establishing a legislative committee on public lands by statute, continuity of efforts from session to session will be assured.

- (f) A legislative committee on public lands should work closely with the state multiple use advisory committee on federal lands (NRS 232.151 through 232.157) to insure complementary efforts and to avoid duplications of effort.

The proposed legislation is contained in BDR 17-22 (see appendix A).

2. The federal regulations review committee recommends that the legislature pass a resolution urging that the President of the United States rescind the 1926 Executive Order entitled "Order of Withdrawal, Public Water Reserve No. 107" (see appendix B).

The committee believes that the purpose of the 1926 Executive Order in withdrawing from settlement, location, sale or entry of lands around springs and water-holes has been served. Prior to the Taylor Grazing Act of 1934, the withdrawal had the beneficial effect of preventing a few individuals from controlling vast acreages of arid public lands by locating stock raising homesteads on isolated tracts very often containing the only source of water for many miles. The Stock Raising Homestead Act of 1916 specified the public uses for which such withdrawn lands were reserved. However, the 1916 Act, as well as many other public land laws, were repealed with the enactment of the more comprehensive Federal Land Policy and Management Act of 1976 (FLPMA). Therefore, no useful purpose can be served by continuing Public Water Reserve No. 107.

Additionally, some legal experts in Nevada and other western states believe that the Executive Order of 1926 could be used by the Federal Government at some future date to claim ownership and control of vast amounts of water now under state jurisdiction. If the State of Nevada loses control over these waters to the Federal Government, it would represent a major setback to the state and its attempts to gain greater sovereignty over the use of federally controlled lands and resources within its borders.

The committee recommends that the legislature pass a resolution along the lines of A.J.R. 45 of the 61st session (appendix C), urging the President to rescind the 1926 Executive Order.

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APPENDIX A

SUMMARY--Revises provisions governing legislative committee for review of federal regulations. (BDR 17-22)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

AN ACT relating to the state legislature; revising provisions governing the legislative committee for the review of federal regulations; renaming the committee; expanding its membership; adding to its powers and duties; 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 218 of NRS is hereby amended by adding thereto a new section which shall read as follows:

The committee shall:

1. Actively support the efforts of state and local governments in the western states regarding public lands and state sovereignty as impaired by federal ownership of land.

2. Advance knowledge and understanding in local, regional and national forums of Nevada's unique situation with respect to public lands.

3. Support legislation that will enhance state and local roles in the management of public lands and will increase the disposal of public lands.

Sec. 2. NRS 218.536 is hereby amended to read as follows:

218.536 The legislature finds and declares that :

1. Policies and issues relating to public lands and state sovereignty as impaired by federal ownership of land are matters of continuing concern to this state.

2. This concern necessarily includes an awareness that all federal statutes, policies and regulations which affect the management of public lands are likely to have extensive effects within the state and must not be ignored or automatically dismissed as beyond the reach of the state's policymakers.

3. Experience with federal regulations relating to public lands has demonstrated that the State of Nevada and its citizens are subjected to [federal] regulations which sometimes are unreasonable, arbitrary, beyond the intent of the Congress or the scope of the authority of the agency adopting them and that as a result [certain federal] these regulations should be subjected to legislative review and comment, and judicially tested where appropriate, to protect the rights and interests of the [State of Nevada] state and its citizens.

4. Other western states where public lands comprise a large proportion of the total area have shown an interest in matters relating to public lands and those states, along with Nevada, have been actively participating in cooperative efforts to acquire, evaluate and share information and promote greater understanding of the issues. Since Nevada can both contribute to and benefit from such interstate activities, it is appropriate that a committee on matters relating to public lands be assigned primary responsibility for participating in them.

Sec. 3. NRS 218.5361 is hereby amended to read as follows:

218.5361 As used in NRS 218.5361 to 218.5371, inclusive, and section 1 of this act, "committee" means the legislative committee [for the review of federal regulations.] on public lands.

Sec. 4. NRS 218.5363 is hereby amended to read as follows:

218.5363 1. There is hereby established a legislative committee [for the review of federal regulations] on public lands consisting of [four members. The chairman of the legislative commission shall designate two senators and two assemblymen as members of the committee.] three members of the senate, three members of the assembly and one elected official representing the governing body of a local political subdivision, appointed by the legislative commission with appropriate regard for their experience with and knowledge of matters relating to public lands. The members who are state legislators must be appointed to provide representation from the various geographical regions of the state.

2. The members of the committee shall [elect] select a chairman [who shall be an assemblyman in odd-numbered years and a senator in even-numbered years. If a vacancy occurs on the committee, the chairman of the legislative commission shall appoint a new member from the same house as the committee member whose position is vacant.] from one house of the legislature and a vice chairman from the other. After the initial selection of a chairman and a vice chairman, each such officer shall hold office for a term of 2 years commencing on July 1 of each odd-numbered

year. If a vacancy occurs in the chairmanship or vice chairmanship, the members of the committee shall select a replacement for the remainder of the unexpired term.

3. Vacancies on the committee must be filled in the same manner as original appointments.

Sec. 5. NRS 218.5365 is hereby amended to read as follows:

218.5365 1. The members of the committee shall meet throughout each year at [such] the times and [at such] places [as shall be] specified by a call of the chairman or a majority of the committee. The director of the legislative counsel bureau shall act as the nonvoting recording secretary. The committee shall prescribe regulations for its own management and government. [Three] Four members of the committee constitute a quorum, and a quorum may exercise all the power and authority conferred on the committee.

2. The members of the committee who are state legislators are entitled to receive a salary of \$80 and the subsistence allowances and travel expenses provided by law for each day of attendance at a meeting of the committee and while engaged in the business of the committee.

3. The member of the committee who represents a local political subdivision is entitled to receive the subsistence allowances and travel expenses provided by law for his position for each day of attendance at a meeting of the committee and while engaged in the business of the committee, to be paid by his local political subdivision.

Sec. 6. NRS 232.151 is hereby amended to read as follows:

232.151 1. The state multiple use advisory committee on federal lands, consisting of members appointed by the governor, is hereby created within the division of state lands of the department.

2. The committee shall:

(a) Consult with and solicit the advice of public and private users of land within this state which is under the jurisdiction of the Federal Government.

(b) Advise agencies of this state and of the Federal Government of the effect of the agencies' programs or regulations on the users of the land.

(c) Cooperate with the state land use planning advisory council to determine problems of the users of the land.

(d) Advise the legislative committee on public lands of its activities and those matters which may require consideration by that committee.

Sec. 7. The persons initially selected as chairman and vice chairman of the legislative committee on public lands shall serve terms commencing on the date of their selection and ending June 30, 1985.

Sec. 8. This act shall become effective upon passage and approval.

APPENDIX B

Public Water Reserve No. 107

ORDER OF WITHDRAWAL

PUBLIC WATER RESERVE NO. 107

Under and pursuant to the provisions of the act of Congress approved June 25, 1910 (36 Stat., 847), entitled "An act to authorize the President of the United States to make withdrawals of public lands in certain cases", as amended by act of Congress approved August 24, 1912 (37 Stat., 497), it is hereby ordered that every smallest legal subdivision of the public land surveys which is vacant unappropriated unreserved public land and contains a spring or water hole, and all land within one quarter of a mile of every spring or water hole located on unsurveyed public land be, and the same is hereby, withdrawn from settlement, location, sale, or entry, and reserved for public use in accordance with the provisions of Sec. 10 of the act of December 29, 1916 (39 Stat., 862), and in aid of pending legislation.

(Sgd.) CALVIN COOLIDGE

President.

April 17, 1926.

A. J. R. 45

ASSEMBLY JOINT RESOLUTION NO. 45—COMMITTEE ON
ECONOMIC DEVELOPMENT AND NATURAL RESOURCES

MAY 14, 1981

Referred to Committee on Economic Development
and Natural Resources

SUMMARY—Urges President of the United States to rescind withdrawal of public
land surrounding spring or waterhole. (BDR 1884)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.



EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

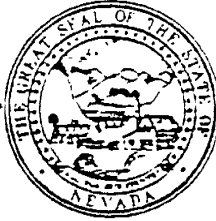
ASSEMBLY JOINT RESOLUTION—Urging the President of the United States
to rescind the withdrawal of public land surrounding a spring or waterhole
from settlement, location, sale or entry.

- 1 WHEREAS, In 1926, President Coolidge ordered the withdrawal of pub-
2 lic land surrounding a spring or waterhole from settlement, location, sale
3 or entry and reserved this land for public use; and
4 WHEREAS, There is growing support for alternatives to federal manage-
5 ment of public lands and the reduction of the amount of land in federal
6 ownership; and
7 WHEREAS, There is a need to enhance the role of the state in the man-
8 agement of public lands; and
9 WHEREAS, The public lands surrounding springs or waterholes in this
10 state would contribute to the future economic health and self-sufficiency
11 of this state; now, therefore, be it
12 *Resolved by the Assembly and Senate of the State of Nevada, jointly,*
13 That this legislaure hereby urges the President of the United States to
14 rescind the executive order calling for the withdrawal of public lands sur-
15 rounding springs and waterholes (Order of Withdrawal, Public Water
16 Reserve Number 107); and be it further
17 *Resolved,* That a copy of this resolution be transmitted forthwith by
18 the legislative counsel to the President of the United States, to each mem-
19 ber of the Nevada congressional delegation and to the Secretary of the
20 Interior of the United States; and be it further
21 *Resolved,* That this resolution shall become effective upon passage and
22 approval.

APPENDIX D

NEVADA LEGISLATURE
FEDERAL REGULATION REVIEW COMMITTEE
LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710

SENATOR DON W. ASHWORTH
SENATOR NORMAN D. GLASER
ASSEMBLYMAN KAREN W. HAYES
ASSEMBLYMAN DEAN A. RHODES



STAFF DIRECTOR: ROBERT E. ERICKSON (702) 8

October 25, 1982

Commanding Officer
Western Division
Naval Facilities Engineering Command
P.O. Box 727
San Bruno, California 94066

Attention: Code 20E

Dear Sir:

The Nevada Legislature's Federal Regulations Review Committee was established by state law in 1979 to provide oversight and recommendations concerning federal regulations, policies and actions affecting the public lands.

On September 16, 1982, this committee received testimony from several concerned citizens regarding your proposals to withdraw certain public lands and establish a supersonic operations area near the Fallon, Nevada, Naval Air Station. Based on this testimony, we felt it would be beneficial to all concerned to conduct a public hearing in Fallon to identify issues and citizen concerns before the required environmental impact statements were prepared. Subsequently, this hearing was held on October 18, 1982, with over 150 persons in attendance.

As a result of the public input received by our committee on both September 16 and October 18, we have developed a listing of concerns and questions that should be addressed by the Navy in the upcoming environmental impact statements. That listing follows and includes references to those pieces of testimony (attached) which relate to each of the topics listed.

ISSUES AND CONCERNS WHICH NEED TO BE ADDRESSED IN
ENVIRONMENTAL IMPACT STATEMENTS - 1982-1983
DEPARTMENT OF THE NAVY PROPOSALS
FALLON NAVAL AIR STATION, NEVADA

I. Proposed 181,000 Acre Land Withdrawal

- A. Potential loss of livestock grazing privileges in areas to be withdrawn - economic impact on affected ranchers.
- B. Potential closure of area to mineral exploration and entry.
- C. Potential closure of waterholes critical to livestock, wildlife and other multiple use activities.
- D. Potential adverse impacts on the planning and location of public utilities (Sierra Pacific Power Company).
- E. Potential conflicts with Indian tribes claiming ownership of these lands, a matter currently under litigation.
- F. Potential for greater restrictions on land use activities and structures on nearby private lands.
- G. Recommendation that for every federal land withdrawal of this type, an equal number of acres should be transferred from the Federal Government to state, local or private entities.

II. PROPOSED DESIGNATION OF SOME 3.65 MILLION ACRES OF
AIRSPACE AS A SUPERSONIC OPERATIONS AREA (SOA) AND
RELATED EFFECTS OF SUPERSONIC BOOMS

- A. Potential adverse effects on human health.
 - 1. Physiological.
 - 2. Psychological.
- B. Potential damage to private structures and property.

- C. Potential adverse impacts on wildlife.
 - 1. Habitat.
 - 2. Reproduction.
 - 3. Endangered species.
- D. Potential damage and hazards to mining operations.
- E. Potential damage to the quality of life, including the loss of the area's peace, quiet and serenity.
- F. Potential lowering of private property values - "inverse condemnation."
- G. Potential restrictions on general aviation activities and associated adverse effects.
- H. Potential loss of medical services to remote areas now served by "flying doctors."
- I. Potential conflicts with proposed wilderness areas.
- J. Potential liability problems for the Navy when accidents on the ground are related to supersonic booms.
- K. Potential for the SOA designation to lead to greater restrictions on public activities in the area.
- L. Potential for areas outside the SOA boundary to also experience the adverse effects of supersonic booms.
- M. Potential for Navy pilots to occasionally violate established flight rules and either stray out of the area or "buzz" areas at low altitudes.

III. GENERAL OBSERVATIONS AND RECOMMENDATIONS

Nevada currently has more land area and more air space set aside for military and defense purposes than any other state in the Union. Because of this fact, and the previously listed issues and comments, it is recommended that the Department of the Navy investigate alternate sites for these proposals, including, but not limited to, the Nellis Air Force Gunnery Range, Nevada Test Site, ocean areas, salt flats and uninhabited areas.

In closing, I would like to express our thanks to your office for the excellent cooperation we have received. We also appreciate your willingness to listen to the concerns of the people living in central Nevada. Please do not hesitate to contact us if you should have any questions.

Sincerely,

Senator Norman D. Glaser
Chairman

NDG/11p
Enc.