

Legislative Counsel Bureau

Legislative Committee on Public Lands



Bulletin No. 17-8

The Legislative Committee on Public Lands is an ongoing statutory committee of the Nevada Legislature whose duties are set forth in *Nevada Revised Statutes* 218E.500 through 218E.525.

January 2017

LEGISLATIVE COMMITTEE ON PUBLIC LANDS

BULLETIN NO. 17-8

JANUARY 2017

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SUMMARY OF RECOMMENDATIONS

LEGISLATIVE COMMITTEE ON PUBLIC LANDS

Nevada Revised Statutes (NRS) 218E.510

This summary presents the recommendations approved by the Legislative Committee on Public Lands during the 2015–2016 Legislative Interim at meetings held on April 15, 2016, in Winnemucca, Nevada, and on May 20, 2016, in Caliente, Nevada, and at the Committee's final meeting held on August 19, 2016, in Carson City, Nevada. The bill draft requests (BDRs) will be forwarded to the Legislative Commission for transmittal to the 79th Session of the Nevada Legislature in 2017.

RECOMMENDATIONS FOR LEGISLATION

1. Draft a legislative resolution urging Congress to enact federal legislation requiring the approval of the Nevada Congressional Delegation prior to the designation of any future monuments located in the State of Nevada. **(BDR R–333)**
2. Request the drafting of a bill to allow: (1) for the discharge of a firearm on or across a federal, State, or county road for the purpose of varmint control; and (2) carrying a loaded weapon on or along a public way in a vehicle with the intent to shoot varmint. **(BDR 45–334)**
3. Request the drafting of a bill to clarify that a properly marked barbed wire fence meets the definition of a legal fence. **(BDR 15–335)**
4. Request the drafting of a bill to prohibit the State Engineer from considering wildlife a beneficial use when perfecting a water right. **(BDR 48–336)**

RECOMMENDATIONS FOR COMMITTEE ACTION: COMMITTEE LETTERS

5. Send a letter to the Bureau of Land Management (BLM), United States Department of the Interior, expressing the Committee's support for the Nevada Association of Counties' comments concerning the proposed changes to the BLM's planning regulations found in the Planning 2.0 initiative (81 FR 9674).
6. Send a letter to the Nevada State Director of the BLM to request commencement of negotiations concerning the Albemarle Corporation's proposal to purchase stockpiled salts located at the Silver Peak Mine site in Esmeralda County.

7. Send a letter to Nevada's Congressional Delegation expressing the Committee's support for Senate Joint Resolution No. 1 (File No. 30, *Statutes of Nevada 2015*), which urges Congress to enact legislation transferring title and ownership of certain federally administered land to the State of Nevada pursuant to the plan laid out in the Nevada Land Management Task Force report (Assembly Bill 227, [Chapter 299, *Statutes of Nevada 2013*]).
8. Send a letter to the Nevada State Director of the BLM, and the Forest Supervisor of the Humboldt-Toiyabe National Forest, U.S. Forest Service (USFS), U.S. Department of Agriculture (USDA), encouraging the incorporation of annual grasses into grazing level calculations and to ensure flexibility is built into grazing permits to allow for adaptive management as issues and concerns arise.
9. Send a letter to the Governor and the Director of the State Department of Conservation and Natural Resources (SDCNR) requesting the creation of a staff position within the SDCNR to assist counties in preparing land use plans and studies that analyze the economic and environmental impacts of various federal land management agency actions.
10. Send a letter to the Governor and Attorney General (AG) requesting funding support necessary to implement Senate Bill 456 (Chapter 452, *Statutes of Nevada 2015*), which urges the AG to take a leadership role in pursuing actions on behalf of the State and counties in formalizing and finalizing title to accessory roads and public roads.
11. Send a letter to the President of the Real Estate Commission, Real Estate Division, Department of Business and Industry, urging the Commission to investigate and take appropriate action to ensure that purchasers of land are aware of the consequences and responsibilities of signing an Open Range Disclosure as required by NRS 113.065.
12. Send a letter to the Office of the State Engineer, Division of Water Resources, SDCNR, requesting that the Office review all claims for water by the BLM and other federal agencies and immediately dispose of those claims that clearly do not meet the criteria of a Public Water Reserve No. 107 or a vested right.
13. Send a letter to the Nevada State Director of the BLM, and the Forest Supervisor of the Humboldt-Toiyabe National Forest, USFS, USDA, urging each agency to manage wild horses and burros in accordance with the provisions of the Wild Free-Roaming Horses and Burro Act (WH&B) of 1971. The Act authorizes the BLM to remove excess wild horses and burros from the range to sustain the health and productivity of public lands.
14. Send a letter to the Office of the AG requesting the AG to take any legal action deemed appropriate to compel the BLM and USFS to manage wild horse and burro herds as required by federal law under the WH&B Act and subsequent amendments.

15. Send a letter to the Chair of the Senate Committee on Finance and the Chair of the Assembly Committee on Ways and Means of the 2017 Legislative Session requesting support and the necessary funding to implement an effective management program for feral and estray horses.
16. Send a letter to the BLM seeking shared revenue from the sale of horses trained in the prison industry wild horse program, to expand the program to train more wild horses, and to share revenue from the sale of horses with the State and inmates involved in the training.
17. Send a letter to the Department of Motor Vehicles seeking information regarding the cost and feasibility of creating an Internet-based off-highway vehicles (OHVs) registration system.
18. Send a letter to the Director of the Department of Tourism and Cultural Affairs requesting that any OHV promotional information created by the Department relating to public lands also contain educational information regarding the legal use of OHVs.

**RECOMMENDATIONS FOR COMMITTEE ACTION:
STATEMENTS IN THE FINAL REPORT**

19. Include a statement in the final report expressing the Committee's support of the lawsuit (*Western Exploration LLC, et. al. v. U.S. Department of the Interior, et. al.*) challenging the BLM's and USFS's land management plans regarding sage-grouse management in Nevada.

REPORT TO THE 79TH SESSION OF THE NEVADA LEGISLATURE BY THE LEGISLATIVE COMMITTEE ON PUBLIC LANDS

I. INTRODUCTION

The Legislative Committee on Public Lands is a permanent committee of the Nevada Legislature and was created in 1983. Chapter 218E (“Legislative Investigations and Hearings; Legislative Commission and Other Committees”) of *Nevada Revised Statutes* (NRS) sets forth the Committee’s authority and duties in NRS 218E.500 through 218E.525 (**Appendix A**).

The Committee is responsible for reviewing and commenting on existing and proposed laws, policies, and regulations affecting federally managed lands in Nevada—which make up over 85 percent of the State’s land area—and reviewing the activities of the Colorado River Commission (CRC) of Nevada and public water authorities, districts, and systems in Nevada. The Committee also provides a forum for the discussion of matters relating to the conservation, disposal, management, preservation, and use of the public lands with federal, State, and local officials; representatives of special interest organizations; and others.

Pursuant to NRS 218E.510, the Legislative Commission appoints the Committee members with appropriate regard for their knowledge of public lands. The appointed legislators must represent the various geographical areas of the State. The members of the Committee elect a chair and vice chair, who each serve a two-year term commencing on July 1 of every odd-numbered year.

The Committee for the 2015–2016 Interim was composed of the following members:

Senator Donald G. Gustavson, Chair
Assemblyman Ira Hansen, Vice Chair
Senator Pete Goicoechea
Senator Ben Kieckhefer
Senator David R. Parks
Assemblyman John C. Ellison
Assemblywoman Heidi Swank
Assemblywoman Robin L. Titus, M.D.
Ron Cerri, Humboldt County Commissioner

On December 21, 2015, the Legislative Commission appointed the following alternates:

Senator Kelvin D. Atkinson
Senator James A. Settelmeyer
Assemblywoman Maggie Carlton
Assemblyman Jim Wheeler

At its first meeting of the interim, on November 18, 2015, the Committee elected Senator Gustavson to serve as Chair and Assemblyman Ira Hansen to serve as Vice Chair.

The following staff from the Legislative Counsel Bureau provided staff support during the 2015–2016 Interim:

Jered M. McDonald, Senior Research Analyst, Research Division
Heidi A. Chlarson, Principal Deputy Legislative Counsel, Legal Division
Erin Roohan, Deputy Legislative Counsel, Legal Division
Natalie J. Pieretti, Senior Research Secretary, Research Division

The subject matter of the Legislative Committee on Public Lands is exceptionally broad. In recent years, the Committee has considered the following matters related to the conservation, disposal, management, preservation, and use of public lands:

- General forest and range subjects, including agricultural crops, animal pests, conservation, endangered species, fire, invasive weeds, livestock grazing, Pinyon-juniper woodlands, wild horses and burros, and wildlife;
- Resources closely associated with public lands, including air resources, archeological and cultural resources, energy resources, mineral resources and mining, recreation resources (including off-highway vehicle [OHV] recreation), and water resources;
- Subjects related to infrastructure and public services in rural Nevada, including roads, small water systems, solid waste management, and telecommunications; and
- Subjects related to oversight and management of public lands, including acquisition and disposal, conservation programs, economic development programs, land use planning and zoning, military uses, public participation, revenue sharing, special designations (e.g., wilderness areas and national monuments), and travel management plans.

In addition, since the passage of Senate Bill 216 (Chapter 408, *Statutes of Nevada*) in 2003, the Committee has reviewed the activities of the CRC and the State's water authorities, districts, entities, and systems.

The Legislature has enacted many bills recommended by the Committee. Recently, the Legislature revised provisions on energy sales between the CRC and certain eligible customers; assessments on real property located in a weed control district; grant awards to water purveyors; markers on mining claims; registration and titling of OHVs; the sale of a home or lot adjacent to open range; and State grazing boards. The Legislature also adopted resolutions on Greater Sage-grouse habitat; sharing of federal revenue generated from public lands; accessibility of public lands; encouraging a biomass industry; and other subjects.

Appendix B is a summary status report on the Committee's recommended legislation from the 2013–2014 Interim.

II. COMMITTEE ACTIVITIES

The Committee held six public meetings during the 2015–2016 Interim. Three of the six meetings were held in rural Nevada—Caliente, Elko, and Winnemucca—and the Committee also met in Carson City twice and Las Vegas once.

The Committee received and discussed reports from the following:

- The Elko, Ely, Southern Nevada, and Winnemucca District Offices, and the Nevada State Office of the Bureau of Land Management (BLM), United States Department of the Interior (DOI);
- The Humboldt-Toiyabe National Forest and its Austin-Tonopah, Carson, Elko, Ely, Jarbidge, and Santa Rosa Ranger Districts, and the Spring Mountains National Recreation Area, U.S. Forest Service (USFS), U.S. Department of Agriculture (USDA);
- The Nevada State Office of the U.S. Fish and Wildlife Service (USFWS), DOI;
- The Sheldon-Hart Mountain National Wildlife Refuge Complex, USFWS, DOI;
- The U.S. Bureau of Reclamation in the Lower Colorado River area;
- Management and planning activities on the Basin and Range National Monument;
- Carson City and Clark, Elko, Eureka, Humboldt, Lincoln, Pershing, and White Pine Counties;
- The CRC;
- The Southern Nevada Water Authority;
- The Division of Forestry; Land Use Planning Advisory Council; Division of State Lands, and the Sagebrush Ecosystem within the State Department of Conservation and Natural Resources (SDCNR);
- Nevada's State Department of Agriculture (NDA);
- Nevada's Department of Wildlife (NDOW);
- The Walker Basin Restoration Program, National Fish and Wildlife Foundation; and

- The Nevada Association of Counties (NACO).

In addition, the Committee received reports and discussed important topics affecting Nevada's public lands, including:

- Activities and programs in southern Nevada relating to the Southern Nevada Public Land Management Act of 1998;
- Laws and regulations regarding rodent control;
- Agriculture and grazing activities and related issues;
- The Eastern Nevada Landscape Coalition;
- The Nevada Drought Forum;
- Issues related to OHV activity;
- Mining activities, regulations, and policies; and
- Fire suppression programs and efforts for the 2016 Fire Season.

III. MAJOR ISSUES RESULTING IN RECOMMENDATIONS FOR LEGISLATION OR OTHER COMMITTEE ACTION

At its final meeting and work session on August 19, 2016, the Legislative Committee on Public Lands considered a total of 26 proposed actions for legislation, letters, or statements in the final report. An additional two actions were taken during meetings, one in Winnemucca on April 15, 2016, and a second in Caliente on May 20, 2016. In each instance, the Committee approved a motion to send a letter based on testimony provided at each meeting. The sources of the proposed actions included suggestions received during testimony at each Committee meeting, including a recommendation received at the final meeting prior to the work session. (See: **Appendix C, Appendix D, and Appendix E.**)

A. GENERAL PUBLIC LAND ISSUES

At the meeting in Caliente on May 20, the Committee received a presentation regarding the management and planning of the Basin and Range National Monument. Testimony also included an overview of the public process employed to seek input from local interests. Based on the testimony provided, Assemblyman Ellison recommended that the Committee consider drafting a legislative resolution calling on the President of the United States to seek public involvement from interested parties, including State and local government officials, prior to the designation of any future national monuments. Under the Antiquities Act of 1906

(34 Stat. 225, 54 U.S.C. § 320301–320303), the President may designate federally owned land a national monument if the land contains significant natural, cultural, or scientific features.

At the work session held on August 19 in Carson City, additional testimony revealed that other states, such as Alaska and Wyoming, have approval clauses in federal statute, which require approval from certain elected individuals from the state in which a monument is proposed.

Following deliberation on the recommendation, the Committee agreed to:

- **Draft a legislative resolution urging Congress to enact federal legislation requiring the approval of the Nevada Congressional Delegation prior to the designation of any future monuments located in the State of Nevada. (BDR R–333)**

At the meeting held in Winnemucca on April 15, James L. Moser, James L. Moser Farm, Orovada, Nevada, provided testimony regarding the need for the ability to shoot varmint from a car on or near a road. Testimony also provided a detailed overview of the struggle farmers in the area face in trying to control various species of varmint, namely ground squirrels. Mr. Moser indicated that other methods of control, including poisoning, are ineffective due to the inadequacy of the poisons available for purchase. According to Mr. Moser, Nevada game wardens have ticketed a number of individuals for shooting squirrels from roads in the area. Currently, under Nevada law, it is illegal to shoot from or have a loaded firearm in a car.

Following deliberation on the issue, the Committee agreed to:

- **Request the drafting of a bill to allow: (1) for the discharge of a firearm on or across a federal, State, or county road for the purpose of varmint control; and (2) carrying a loaded weapon on or along a public way in a vehicle with the intent to shoot varmint. (BDR 45–334)**

During discussions at the meeting in Winnemucca on April 15, Tyler Turnipseed, Chief Game Warden, NDOW, described a situation where a hunter harvested a deer on cultivated land within the boundary of a fenced area. While it is illegal to hunt on private property without a landowner's permission, a provision in NRS 207.200 exempts a barbed wire fence from the legal definition of a fence, meaning the hunter had not broken the law by entering private property by way of an unmarked barbed wire fence.

Following deliberation on the recommendation, the Committee agreed to:

- **Request the drafting of a bill to clarify that a properly marked barbed wire fence meets the definition of a legal fence. (BDR 15–335)**

The Committee received information at a meeting held July 28, 2016, in Elko suggesting that the BLM appears to be disregarding the provisions of NRS 533.503, which prohibits entities from obtaining stock water rights without holding a “legal or proprietary interest” in livestock.

Additionally, testimony provided to the Committee also indicated that the BLM has filed many public water reserves (PWRs) and in certain cases, vested claims based on the Treaty of Guadalupe Hidalgo of 1848. While the provisions of the statute limit ownership of stock water rights under certain circumstances, it does not appear to address instances of stock water rights obtained by entities for wildlife and other purposes.

Following deliberation on the recommendation, the Committee agreed to clarify the issue by:

- **Requesting the drafting of a bill to prohibit the State Engineer from considering wildlife a beneficial use when perfecting a water right. (BDR 48–336)**

On April 15 in Winnemucca, NACO provided an overview concerning the proposed changes to the BLM's planning regulations, found in the Planning 2.0 initiative. The presentation included a review of NACO's draft comments regarding the proposed regulations. The Committee was specifically concerned with the time allotted for counties to digest and offer comment on the proposed rule changes; how proposed changes may reduce requirements to ensure federal consistency with local policies; and the ability to conduct a meaningful assessment of the local impact of management choices designed to address multistate landscape decisions.

Following deliberation on the presentation, the Committee agreed to:

- **Send a letter to the BLM expressing the Committee's support for NACO's comments concerning the proposed changes to the BLM's planning regulations found in the Planning 2.0 initiative (81 FR 9674).**

At the Committee meeting held in Caliente on May 20, a representative with Albemarle's Silver Peak mining operation provided an overview of a proposed project to invest \$35 to \$70 million in capital infrastructure to reprocess stockpiled salts. Based on the testimony provided, the project would provide a significant economic boost to Esmeralda County with the creation of approximately 100 construction jobs and 45 long-term operational positions. However, the Committee learned that the BLM has rejected a request to begin negotiations on a proposal to purchase stockpiled salts for reprocessing due to a pending appeal before the Interior Board of Land Appeals (IBLA), DOI. Albemarle made a compelling argument to the Committee to support their view that the appeal before IBLA is irrelevant to negotiating a material sale of the stockpiled salts since the material has already been extracted from the ground.

Therefore, following a discussion at the meeting Committee agreed to:

- **Send a letter to the Nevada State Director of the BLM to request commencement of negotiations concerning the Albemarle Corporation's proposal to purchase stockpiled salts located at the Silver Peak Lithium Mine site in Esmeralda County.**

At multiple meetings during the interim, the Committee received testimony supporting provisions of Senate Joint Resolution No. 1 (File No. 30, *Statutes of Nevada 2015*), which called for a phased transfer of public lands from the federal government to the State of Nevada. At the meeting held in Winnemucca on April 15, Mike L. Baughman, Ph.D., CEcD, President, Intertech Services Corporation, recommended that the Committee submit a bill draft request containing the provisions of S.J.R. 1 for consideration by the 2017 Legislature. While the Committee expressed support for S.J.R. 1, upon further deliberation, members of the Committee suggested an alternate action for consideration.

Based on deliberation of the recommendation, the Committee agreed to:

- **Send a letter to Nevada's Congressional Delegation expressing the Committee's support for S.J.R. 1, which urges Congress to enact legislation transferring title and ownership of certain federally administered land to the State of Nevada pursuant to the plan laid out in the Nevada Land Management Task Force report (Assembly Bill 227, [Chapter 299, *Statutes of Nevada 2013*]).**

Livestock grazing is an important industry in rural Nevada and typically receives significant discussion at each Committee meeting. This interim, Committee discussion focused on methods employed to prevent the spread of invasive species as a means to prevent wild fires. At the meeting held April 15 in Winnemucca, testimony provided to the Committee by federal land managers indicated that early season cheat grass grazing is not factored into grazing permit applications. The primary reason for its exclusion relates to the nature of grazing practices where it can, at times, be difficult to move livestock to appropriate areas at the most opportune time to effectively impede the spread of cheat grass.

Based on deliberation at the work session, the Committee agreed to:

- **Send a letter to the Nevada State Director of the BLM and the Forest Supervisor of the Humboldt-Toiyabe National Forest, USFS, USDA, encouraging the incorporation of annual grasses into grazing level calculations and to ensure flexibility is built into grazing permits to allow for adaptive management as issues and concerns arise.**

At the Committee's meetings in Elko and Winnemucca, local government representatives expressed the need for assistance with natural resource and land use planning efforts. Testimony indicated that many small counties in Nevada (primarily rural counties) do not have established planning departments or the expertise to meaningfully engage the federal government with regards to proposed land use actions and amendments.

Based on additional information presented to the Committee, at any one time there are roughly 150 proposed federal actions necessitating comment from local governments. Counties have the opportunity to participate as a cooperating agency only if they provide meaningful comments on proposed actions. Participation in the federal planning process not only allows

local governments to shape the outcome of a project, it also provides standing for legal recourse if an untenable decision is reached.

Therefore, the Committee agreed to:

- **Send a letter to the Governor and the Director of the SDCNR requesting the creation of a staff position within the SDCNR to assist counties in preparing land use plans and studies that analyze the economic and environmental impacts of various federal land management agency actions.**

At the meeting held in Elko on July 28, it was brought to the Committee's attention that additional capacity may be needed to fully implement the provisions of S.B. 456 (Chapter 452, *Statutes of Nevada 2015*). Senate Bill 456 strengthened the provisions of NRS 405.204 to protect against travel restrictions and road closures. The bill urges Nevada's Attorney General (AG) to take a leadership role in pursuing actions on behalf of the State and counties in formalizing and finalizing title to accessory roads and public roads. More specifically, S.B. 456 authorizes the AG to participate as a party in a quiet title action regarding such roads in cooperation with or on behalf of the county or counties in which the road lies. According to the testimony provided, federal agencies continue to make it clear that they will not recognize current and historic rights-of-way on federal land unless these rights-of-way are adjudicated in federal court. If a solution is not pursued in Nevada, conflict over these roads will persist at the expense of continued, historic access and multiple uses of the land.

Following deliberation on the recommendation, the Committee agreed to:

- **Send a letter to the Governor and AG requesting the funding necessary to implement S.B. 456, which urges the AG to take a leadership role in pursuing actions on behalf of the State and counties in formalizing and finalizing title to accessory roads and public roads.**

During testimony provided to the Committee on August 19 in Carson City, a representative of Lyon County discussed issues related to the effectiveness and use of the Open Range Disclosure form when individuals purchase property adjacent to open range. Pursuant to NRS 113.065, the seller of property adjacent to an open range must provide a disclosure statement before the purchaser signs the sales agreement. Compliance with the disclosure requirements constitutes an affirmative defense in any action brought against the seller for any damages suffered as a result of livestock entering the property. It was brought to the Committee's attention that in some instances, purchasers of property may not fully comprehend the ramifications of owning property with: (1) adjacent public land; (2) preexisting rights-of-way; or (3) other existing easements.

Following deliberation on the issue, the Committee agreed to:

- **Send a letter to the President of the Real Estate Commission, Real Estate Division, Department of Business and Industry, urging the Commission to investigate and take appropriate action to ensure that purchasers of land are aware of the consequences and responsibilities of signing an Open Range Disclosure as required by NRS 113.065.**

At the meeting held on July 28 in Elko, representatives from Eureka County discussed their concerns regarding a practice being employed by the BLM to gain access to previously claimed water rights. Based on the testimony given, the BLM is allegedly asserting unadjudicated claims for water as “rights” and requiring certain projects to develop mitigation outside of the involvement of the Office of the State Engineer, Division of Water Resources (DWR), SDCNR. Further, the Committee learned that the BLM is asserting ownership of senior rights over other vested claims and permits on federal land precluding maintenance efforts and access to these waters. Pursuant to NRS 533.503, obtaining stock water rights is prohibited by entities that do not hold a “legal or proprietary interest” in livestock; however, Eureka County representatives indicated that the BLM has filed claims under PWR No. 107, 43 C.F.R 292.1 (1938), and in certain cases vested claims based on the Treaty of Guadalupe Hidalgo of 1848. Eureka County requested that the Committee take action to require the Office of the State Engineer to quickly address the claims that obviously do not comply with the conditions of a PWR or vested right.

Following deliberation on the recommendation, the Committee agreed to:

- **Send a letter to the Office of the State Engineer, DWR, SDCNR, requesting that the Office review all claims for water by the BLM and other federal agencies and immediately dispose of those claims that clearly do not meet the criteria of PWR No. 107 or a vested right.**

During testimony in Winnemucca on April 15, the Committee received information from a Humboldt County representative concerning a lawsuit challenging the BLM’s land management plans for sage-grouse habitat in Nevada. Several Nevada counties and some mining companies are challenging the plan based on a lack of required public involvement and statutory requirements in violation of the National Environmental Policy Act of 1969 and the Federal Land Policy and Management Act of 1976.

Following deliberation on the recommendation, the Committee agreed to:

- **Include a statement in the final report expressing the Committee’s support of the lawsuit (*Western Exploration LLC, et. al. v. U.S. Department of the Interior, et. al.*) challenging the BLM’s land management plans regarding sage-grouse management in Nevada.**

B. ESTRAY HORSES, WILD HORSES, AND BURROS

Nearly every interim, the Legislative Committee on Public Lands receives testimony regarding issues related to the management of wild horses on public lands. The Wild Free-Roaming Horses and Burro Act (WH&B) of 1971 authorizes federal agencies to remove excess wild horses and burros from the range to sustain the health and productivity of public lands. However, according to the most recent figures available, the current estimated on-range wild horse and burro population—located on Nevada land administered by the BLM (not including USFS land)—is 34,531, while the Appropriate Management Level (AML) was 12,811, meaning the current population exceeds AML by more than 20,000.

According to testimony provided this interim, current population levels are adversely affecting rangeland ecosystems throughout the State. Not only are the horses suffering due to a lack of feed and water, overabundant wild horse and burro populations are impacting wildlife, including the sage-grouse and the State's grazing producers who must compete for feed on shared ranges.

Following deliberation on the recommendation, the Committee agreed to:

- **Send a letter to the Nevada State Director of the BLM and the Forest Supervisor of the Humboldt-Toiyabe National Forest, USFS, USDA, urging each agency to manage wild horses and burros in accordance with the provisions of the WH&B Act. The Act authorizes the BLM to remove excess wild horses and burros from the range to sustain the health and productivity of public lands.**
- **Send a letter to the Office of the AG requesting the AG to take any legal action deemed appropriate to compel the BLM and USFS to manage wild horse and burro herds as required by federal law under the WH&B Act and subsequent amendments.**

This interim, the Committee received testimony regarding the status of estray and feral horses in Nevada. According to the NDA, most wild horses in Nevada fall under the jurisdiction of the BLM; however, horses that are not located on BLM land must be managed by the State of Nevada under the provisions in Chapter 569 ("Estrays and Livestock") of NRS. One area of the State located near Reno and Carson City, known as the Virginia Range, has become particularly troublesome due to a large number of horses on the range.

Left unabated, the horse populations can grow very quickly, roughly doubling in size every few years. Based on the last official census conducted in June 2014, there are roughly 2,000 estray and feral horses on and around the Virginia Range. In 2001, the NDA produced a Range Inventory report for the area, which indicated the Virginia Range can support a population of just 300 to 600 horses, meaning populations levels are at least 300 percent higher than the carrying capacity of the range. The NDA indicates that the Virginia Range feral and estray horse population can benefit from an expanded management program that proactively seeks to control the growth of horse populations.

Following deliberation on the recommendation, the Committee agreed to:

- **Send a letter to the Chair of the Senate Committee on Finance and the Chair of the Assembly Committee on Ways and Means of the 2017 Legislative Session requesting support and the necessary funding to implement an effective management program for feral and estray horses.**

The wild horse program is a cooperative effort between the BLM and Silver State Industries, Department of Corrections, to gentle and train wild horses for adoption. Based on testimony provided to the Committee, the program has seen significant success. According to Silver State Industries, about 40 to 70 wild horses are trained and adopted at the facility each year. The average sale price is about \$800 to \$1,200 per animal, with bids reaching as high as \$15,000. The program offers inmates in the Nevada correctional system the opportunity to learn a trade, while also earning an hourly wage.

Based on the information provided, the Committee agreed to:

- **Send a letter to the BLM seeking shared revenue from the sale of horses trained in the prison industry wild horse program, to expand the program to train more wild horses, and to share revenue from the sale of horses with the State and inmates involved in the training.**

C. OFF-HIGHWAY VEHICLES

At the May 20 meeting in Caliente, the Committee received testimony regarding widespread misuse of OHVs on public lands throughout the State. Nevada's program to register and title OHVs went into effect July 1, 2012, and requires nearly all OHVs greater than 70cc, and 1976 or newer, to be registered and display a registration decal in order to be operated legally in Nevada. Since its inception, the level of OHV registrations is much lower than originally estimated. In an effort to expand registration opportunities and raise compliance for OHV registration, it was recommended that the Committee request a bill draft directing the Department of Motor Vehicles (DMV) to develop a system to enable Internet registration for OHV owners. However, rather than direct the DMV through legislation, the Committee felt it would be more useful to seek information from the DMV regarding costs and potential issues associated with the development of an Internet-based OHV registration system.

Based on its deliberation at the work session, the Committee agreed to:

- **Send a letter to the DMV seeking information regarding the cost and feasibility of creating an Internet-based OHV registration system.**

At the May 20 meeting in Caliente, the Committee received testimony from interested parties regarding the illegal use of OHVs on public lands, particularly related to instances of off-trail riding and OHV trespass in wilderness areas. The testimony indicated that while most OHV

users follow the law and are subject to registration requirements in this and surrounding states, it is possible that some out-of-state OHV recreationists come to Nevada specifically because there is no registration requirement for those staying fewer than 15 days. Those testifying submitted a recommendation to address the problem through educational outreach, especially through efforts to advertise to out-of-state OHV riders.

Based on a recommendation, the Committee agreed to:

- **Send a letter to the Director of the Department of Tourism and Cultural Affairs requesting that any OHV promotional information created by the Department relating to public lands also contain educational information regarding the legal use of OHVs.**

IV. CONCLUDING REMARKS

The Legislative Committee on Public Lands examined numerous public lands topics during the 2015–2016 Legislative Interim and addressed the unique relationship between the federal, State, and local levels of government. Many of the issues considered have been in the forefront of public lands related discussions for many years, and some related concerns are not quickly or easily resolved. The forum provided by the Committee allows Nevada residents and government officials to comment on and discuss the many diverse aspects of living in a State that is over 85 percent federally managed.

The members of the Committee would like to take this opportunity to thank the elected officials; representatives from federal, State, and local government; private organizations; citizens; and all other participants in this interim's hearings. The Committee would also like to thank the entities and individuals who provided tours and facilities throughout the 2015-2016 Legislative Interim. The Committee appreciates the important assistance consistently provided by the many talented and knowledgeable people who testified at its meetings and participated in informational exchanges.

V. APPENDICES

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APPENDIX A

Nevada Revised Statutes 218E.500 Through 218E.525

Nevada Revised Statutes

NRS 218E.500 Legislative findings and declarations. 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 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 these regulations should be subjected to legislative review and comment, and judicially tested where appropriate, to protect the rights and interests of the 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.

(Added to NRS by 1979, 5; A 1983, 208) — (Substituted in revision for NRS 218.536)

NRS 218E.505 “Committee” defined. As used in NRS 218E.500 to 218E.525, inclusive, unless the context otherwise requires, “Committee” means the Legislative Committee on Public Lands.

(Added to NRS by 1979, 5; A 1983, 209; 2011, 3224; 2013, 3748) — (Substituted in revision for NRS 218.5361)

NRS 218E.510 Creation; membership; budget; officers; terms; vacancies; alternates.

1. There is hereby established a Legislative Committee on Public Lands consisting of four members of the Senate, four members of the Assembly and one elected officer 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 Legislators must be appointed to provide representation from the various geographical regions of the State.

2. The Legislative Commission shall review and approve the budget and work program for the Committee and any changes to the budget or work program.

3. The members of the Committee shall select a Chair from one House and a Vice Chair from the other House. Each Chair and Vice Chair holds office for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the office of Chair or Vice Chair, the members of the Committee shall select a replacement for the remainder of the unexpired term.

4. Any member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve after the general election until the next regular or special session convenes.

5. Vacancies on the Committee must be filled in the same manner as original appointments.

6. The Legislative Commission may appoint alternates for members of the Committee. The Chair of the Committee:

(a) May designate an alternate appointed by the Legislative Commission to serve in place of a regular member who is unable to attend a meeting; and

(b) Shall appoint an alternate who is a member of the same House and political party as the regular member to serve in place of the regular member if one is available.

(Added to NRS by 1979, 5; A 1983, 209; 1985, 589; 2009, 1150, 1561; 2011, 3224) — (Substituted in revision for NRS 218.5363)

NRS 218E.515 Meetings; rules; quorum; compensation, allowances and expenses of members.

1. Except as otherwise ordered by the Legislative Commission, the members of the Committee shall meet not earlier than November 1 of each odd-numbered year and not later than August 31 of the following even-numbered year at the times and places specified by a call of the Chair or a majority of the Committee.

2. The Research Director or the Research Director's designee shall act as the nonvoting recording Secretary.

3. The Committee shall prescribe rules for its own management and government.

4. Five members of the Committee constitute a quorum, and a quorum may exercise all the power and authority conferred on the Committee.

5. Except during a regular or special session, for each day or portion of a day during which members of the Committee who are Legislators attend a meeting of the Committee or are otherwise engaged in the business of the Committee, the members are entitled to receive:

(a) The compensation provided for a majority of the Legislators during the first 60 days of the preceding regular session;

(b) The per diem allowance provided for state officers and employees generally; and

(c) The travel expenses provided pursuant to NRS 218A.655.

6. All such compensation, per diem allowances and travel expenses must be paid from the Legislative Fund.

7. 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 or her 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 the local political subdivision.

(Added to NRS by 1979, 5; A 1981, 170; 1983, 209; 1985, 398, 1131; 1987, 1208; 1989, 426, 1217, 1222; 2009, 1151, 1561; 2011, 3225) — (Substituted in revision for NRS 218.5365)

NRS 218E.520 General powers.

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 of those policies, rules, regulations and related laws, and exercise any of the investigative powers set forth in NRS 218E.105 to 218E.140, inclusive;

(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;

(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;

(g) Enter into a contract for consulting services for land planning and any other related activities, including, but not limited to:

(1) Advising the Committee and the State Land Use Planning Agency concerning the revision of the plans pursuant to NRS 321.7355;

(2) Assisting local governments in the identification of lands administered by the Federal Government in this State which are needed for residential or economic development or any other purpose; and

(3) Assisting local governments in the acquisition of federal lands in this State;

(h) Apply for any available grants and accept any gifts, grants or donations to assist the Committee in carrying out its duties; and

(i) Review and comment on any other matter relating to the preservation, conservation, use, management or disposal of public lands deemed appropriate by the Chair of the Committee or by a majority of the members of the Committee.

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; 1989, 1674; 2005, 1041; 2013, 3748) —
(Substituted in revision for NRS 218.5367)

NRS 218E.525 Additional powers and duties.

1. The Committee shall:

(a) 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.

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

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

2. The Committee:

(a) Shall review the programs and activities of:

(1) The Colorado River Commission of Nevada;

(2) All public water authorities, districts and systems in the State of Nevada, including, without limitation, the Southern Nevada Water Authority, the Truckee Meadows Water Authority, the Virgin Valley Water District, the Carson Water Subconservancy District, the Humboldt River Basin Water Authority and the Truckee-Carson Irrigation District; and

(3) All other public or private entities with which any county in the State has an agreement regarding the planning, development or distribution of water resources, or any combination thereof;

(b) Shall, on or before January 15 of each odd-numbered year, submit to the Director for transmittal to the Legislature a report concerning the review conducted pursuant to paragraph (a); and

(c) May review and comment on other issues relating to water resources in this State, including, without limitation:

(1) The laws, regulations and policies regulating the use, allocation and management of water in this State; and

(2) The status of existing information and studies relating to water use, surface water resources and groundwater resources in this State.

(Added to NRS by 1983, 208; A 2003, 2506; 2007, 672; 2011, 3226) — (Substituted in revision for NRS 218.5368)

APPENDIX B

Summary Status Report of Recommended Legislation From the 2013–2014 Interim

**SELECT NATURAL RESOURCES AND PUBLIC LANDS
LEGISLATION APPROVED BY THE
2015 LEGISLATURE**

Recommended by the Legislative Committee on Public Lands During the 2013–2014 Legislative Interim¹

S.J.R. 5 (File No. 33)

Senate Joint Resolution No. 5 expresses the Nevada Legislature's support of the 2014 Nevada Greater Sage-Grouse Conservation Plan prepared by the Sagebrush Ecosystem Council and confirms the Legislature's confidence in the ability of the State of Nevada to effectively conserve the Greater Sage-grouse and the sagebrush ecosystem.

The resolution requests the Bureau of Land Management (BLM), United States Department of the Interior (DOI), and the U.S. Forest Service (USFS), U.S. Department of Agriculture (USDA), to adopt the Conservation Plan as the preferred management alternative for Greater Sage-grouse in Nevada. Moreover, the resolution urges Congress to intervene if the BLM and USFS do not follow the guidance of the resolution and, if so, urges Congress to enact legislation to extend, for a period of ten years, a decision on a sage-grouse listing to allow the implementation of the Conservation Plan. Finally, S.J.R. 5 urges the U.S. Fish and Wildlife Service (USFWS) to not list the Greater Sage-grouse as endangered or threatened under the Endangered Species Act of 1973.

General Public Lands

A.B. 144 (Chapter 99)

Assembly Bill 144 sets forth the legislative intent that members of the Executive Council of the State Land Use Planning Advisory Council (SLUPAC) should be representative of the geographic areas of the State. The bill also transfers responsibility for making recommendations and adopting proposed regulations for land use planning involving areas of critical environmental concern from the Executive Council to the SLUPAC.

A.B. 202 (Chapter 73)

Assembly Bill 202 authorizes a board of county commissioners to apply for and accept grants of rights-of-way, permits, leases, and patents over, upon, under, or through any land or interest in land owned by the United States pursuant to any applicable federal law or regulation. The bill also authorizes the State Land Registrar to transfer property that was formerly the site of the National Guard Armory in Hawthorne to Mineral County, without consideration, and requires Mineral County to pay the costs relating to the transfer.

¹ Five measures were recommended by the Legislative Commission on Public Lands during the 2013–2014 Legislative Interim (A.B. 455, S.B. 102, S.B. 173, S.B. 423 and S.J.R. 5). Only one of the recommended measures, S.J.R. 5, was approved by the 2015 Nevada Legislature.

S.B. 456 (Chapter 452)

Senate Bill 456 urges the Attorney General to take a leadership role in pursuing actions on behalf of the State and counties in formalizing and finalizing title to accessory roads and public roads. The bill authorizes the Attorney General to participate as a party in a quiet title action regarding such roads under certain circumstances and in cooperation with or on behalf of the county or counties in which the road lies.

In addition, the Attorney General, the SLUPAC, and the Nevada Association of Counties must work together to develop and implement a legal protocol that a county may use to perfect its rights and finalize title to an accessory or public road.

S.J.R. 1 (File No. 30)

Senate Joint Resolution No. 1 urges Congress to enact legislation transferring title to certain public lands to the State of Nevada in accordance with the report prepared by the Nevada Land Management Task Force. Lands requested to be transferred include: (1) federal lands administered by the BLM previously identified as being suitable for disposal or currently in the process of being disposed; (2) BLM lands under an existing lease pursuant to the Recreation and Public Purposes Act of 1954; (3) certain BLM rights-of-way authorized for use by the State of Nevada or its political subdivisions; (4) geothermal areas leased by the BLM; (5) BLM lands within the “checkerboard” lands of the original Central Pacific Railroad corridor; and (6) BLM lands that have already been authorized for disposal in enacted and introduced federal land legislation.

The resolution further requests that such legislation exclude from the transfer wilderness lands, designated National Conservation Areas, and lands designated by the BLM as Areas of Critical Environmental Concern established to protect the desert tortoise. In addition, lands administered by the U.S. Departments of Energy and Defense and certain agencies of the DOI are requested to be excluded from such a transfer. Finally, the resolution notes that any transferred land must become State public land and that any revenue generated from the management of such lands must be deposited into a permanent trust and held for the benefit of education, mental health services, senior and veteran services, and other public programs.

S.J.R. 2 (File No. 31)

Senate Joint Resolution No. 2 urges Congress to enact legislation requiring the sharing of federal receipts from all commercial activity occurring on Nevada’s public lands with the State and its counties.

Agriculture

A.B. 77 (Chapter 526)

Assembly Bill 77 makes various changes related to Nevada's State Department of Agriculture (NDA). Among other things, the bill:

- Revises provisions governing the composition of district boards of agriculture;
- Authorizes the NDA to operate a State fair or regional fair in the State;
- Renames the Nevada Fair of Mineral Industries as the Nevada Mineral Exhibition and eliminates the requirement that this exhibition be held in Ely;
- Authorizes the NDA to control the apiary industry in the State;
- Requires sellers of certain farm products to register with the NDA as produce vendors;
- Authorizes the State Sealer of Consumer Equitability to, without charging and collecting a fee, conduct random tests of point-of-sale systems and cash registers to determine the accuracy of prices;
- Authorizes the NDA to issue licenses for the sale of antifreeze in the State; and
- Replaces criminal penalties related to the control of weeds and the use of pesticides with civil penalties.

A.B. 79 (Chapter 97)

Assembly Bill 79 deletes obsolete provisions related to State grazing boards and revises the procedures for determining the compensation of owners of animals destroyed due to infection or exposure to dangerous diseases. The bill also provides for the deposit of administrative fines for violation of statutes relating to the control of diseases in animals into a loan program for persons 21 years of age or younger who are engaged in agriculture and into the Account for the Control of Weeds. The measure also revises the exclusions from the definition of "food establishment." With respect to statutes affecting agricultural products and seeds, the bill adds civil penalty provisions for the violation of such statutes and repeals the criminal penalties. Finally, A.B. 79 repeals criminal penalties applicable to the regulation of garlic and onions and to the regulation of commercial livestock feed.

S.B. 155 (Chapter 235)

Senate Bill 155 allows a farmer or rancher to claim a refund of 80 percent of the taxes paid on bulk purchases of 50 gallons or more of special fuel that is not placed directly into the tank of a motor vehicle. The bill redefines “implements of husbandry” to include farm equipment, tractors, and similar agricultural equipment.

A person who operates or transports a motorized implement of husbandry designed to operate at a speed of 25 miles per hour or less on the highways in the State must obtain and display either a farm license plate from Nevada’s Department of Motor Vehicles (DMV) or a reflective placard for slow-moving vehicles approved by the U.S. Department of Transportation.

The bill revises the fee for a farm license plate to provide that the fee is \$100 for a permanent farm plate rather than the existing annual fee of \$20.50. The DMV may suspend or revoke a farm license plate if the applicant fails to maintain liability insurance coverage of at least \$300,000 per accident for bodily injury and property damage caused by the agricultural user while operating the implement of husbandry on the highways of this State.

S.B. 305 (Chapter 349)

Senate Bill 305 authorizes an institution of higher education or the NDA to grow or cultivate industrial hemp under an agricultural pilot program or for other agricultural or academic research and requires that each site used to grow industrial hemp be certified and registered with the NDA. The bill also authorizes the NDA to adopt regulations to carry out the provisions of the bill, including, if necessary, regulations relating to cannabidiol. Finally, S.B. 305 excludes industrial hemp, which is grown or cultivated pursuant to the provisions of the bill, from certain crimes relating to marijuana.

S.B. 441 (Chapter 259)

Senate Bill 441 exempts a craft food operation from inspection and enforcement by certain health authorities. The measure specifies the requirements for a craft food operation and authorizes the production of acidified foods. A person who produces acidified foods must comply with certain requirements, including:

- Required training;
- Successful completion of an examination;
- pH testing of the foods;
- Documentation of certain information about the foods produced; and
- Registration with the NDA.

The NDA is authorized to charge a reasonable fee for such training, examinations, and registration and may inspect the premises of a producer of acidified foods under certain circumstances.

S.B. 488 (Chapter 430)

Senate Bill 488 authorizes the NDA to establish by regulation a program to implement federal requirements concerning animal remedy, veterinary biologic, and veterinary pharmaceutical products. The bill also requires a person who manufactures, distributes, or acts as a guarantor of commercial animal feed to purchase a license from the NDA for an annual fee not to exceed \$75. Senate Bill 488 also establishes commercial animal feed labeling requirements and prohibits misbranding, adulteration, and reuse of packaging. Finally, the bill authorizes the NDA to perform certain inspections related to commercial animal feed, creates the Commercial Feed Account for deposit of licensing fee revenue, and provides that funds in the account may only be expended by the NDA for certain costs of administration, including costs of inspection, sampling, and analysis of commercial animal feed.

Wildlife

A.B. 78 (Chapter 202)

Assembly Bill 78 requires the Board of Wildlife Commissioners, in establishing wildlife management policies and regulations, to consider the recommendations of Nevada's Department of Wildlife (NDOW), county advisory boards to manage wildlife, and other persons who present their views at an open meeting of the Commission. If the Commission decides to reject the recommendations of a county advisory board with regard to the length of seasons for hunting, fishing, trapping, or bag or possession limits, it must provide an explanation for its decision at the meeting and provide a written explanation as soon as practicable after the meeting.

The bill revises the allowable uses of the existing \$3 fee charged by NDOW for processing game tag applications to include developing and implementing an annual program for the management and control of predatory wildlife. In developing such a wildlife management program, NDOW must first consider the recommendations of the Commission and the State Predatory Animal and Rodent Committee (PARC) and may not adopt a program for the management and control of predatory wildlife unless it provides for the expenditure of at least 80 percent of the yearly game tag application fees for the purpose of lethal management and control of predatory wildlife.

Finally, A.B. 78 increases the membership of the PARC by adding a licensed sportsman and a licensed master guide, and it limits the Chair and Vice Chair of the Committee to no more than two consecutive terms.

A.B. 82 (Chapter 24)

Assembly Bill 82 revises the names of existing financial accounts used by NDOW to be consistent with name changes to other accounts in the State General Fund. The Wildlife Fund Account is renamed the Wildlife Account and the Wildlife Heritage Trust Account is renamed the Wildlife Heritage Account. The bill reinstates statutes that were repealed in 2011 providing for the deposit and expenditure of money received from the sale of trout stamps. The bill also makes language on permissible uses of wildlife accounts consistent within Title 45 (“Wildlife”) of *Nevada Revised Statutes* (NRS).

A.B. 136 (Chapter 206)

Assembly Bill 136 allows a person to carry a handgun for self-defense when hunting with archery equipment or a muzzle-loading firearm. The handgun may not have a barrel length greater than eight inches or a telescopic sight and may not be used to hunt wildlife. The bill also requires NDOW to provide reasonable accommodations for persons with disabilities taking hunter education courses. Finally, A.B. 136 requires the Board of Wildlife Commissioners to adopt regulations prescribing the circumstances under which a person may assist a licensed hunter with certain disabilities in the killing and retrieval of a big game mammal.

A.J.R. 2 (File No. 22)

Assembly Joint Resolution No. 2, in recognition that common ravens pose a threat to sage-grouse and Mojave desert tortoises due to egg depredation, urges the U.S. Congress to amend the Migratory Bird Treaty Act of 1918 to remove the common raven from the list of protected species or take other action to accomplish this goal. The resolution also urges the USFWS to adopt regulations and work with NDOW to manage the population of common ravens and reduce their numbers in Nevada.

S.B. 4 (Chapter 500)

Senate Bill 4 removes requirements for the registration of traps with NDOW and makes registration optional. The bill excludes from registration any trap, snare, or similar device if the device is used:

- Exclusively on private property by the owner or occupant of the property or with his or her permission if that property is posted or fenced in accordance with Nevada law;
- For the control of rodents by an institution of the Nevada System of Higher Education;
- By any governmental agency; or
- For the taking of wild mammals for scientific or educational purposes under a permit issued by NDOW.

The bill also removes the requirement that a property owner or occupant obtain a permit from NDOW prior to taking or killing a fur-bearing mammal injuring that property.

S.B. 41 (Chapter 20)

Senate Bill 41 provides an exception, as authorized by federal law, to the requirement that a person carry a physical federal migratory bird hunting stamp at the time of hunting. The exception allows a person hunting migratory waterfowl to carry the receipt verifying purchase of an electronic stamp if the State is authorized under federal law to sell electronic stamps.

S.B. 417 (Chapter 34)

Senate Bill 417 prohibits the use of information obtained from a radio signal or transmitting device to harass or take a game mammal, bird, or other wildlife, or for any other purpose, without written authorization from NDOW. The bill also prohibits the use of location information obtained from NDOW records within one year after collection to harass or take any game mammal, bird, or other wildlife.

S.J.R 11 (File No. 20)

Senate Joint Resolution No. 11 proposes to amend the *Nevada Constitution* by adding a new section that preserves the right to hunt, trap, and fish and provides that these activities are integral components of wildlife management. The measure further provides that the right to hunt, trap, and fish does not: (1) create a right to trespass on private property; (2) affect existing rights to water management or use; (3) diminish any other private right; (4) diminish the authority of a local government to regulate the use of real property it owns, occupies, or leases; or (5) prohibit the enactment or enforcement of any statute or regulation that requires a person to obtain a hunting, trapping, or fishing license or requires its revocation or suspension. If approved in identical form during the 2017 Legislative Session, the proposal will be submitted to the voters for final approval or disapproval at the 2018 General Election.

Water Resources**A.B. 198 (Chapter 338)**

Assembly Bill 198 requires the Legislative Committee on Public Lands to conduct a study of water conservation and alternative sources of water for Nevada communities. The measure sets out the scope of the study, which includes a review of issues relating to water resources and water use and the apportionment of groundwater. In addition to its other duties, the Committee must submit its findings and recommendations to the next session of the Legislature.

A.B. 415 (Chapter 74)

Assembly Bill 415 revises the definition of “farm” with regard to the use of water to include two or more tracts of land that are owned or leased by the same person within a federal reclamation project and primarily used for agricultural purposes, regardless of whether the tracts are contiguous to one another.

S.B. 271 (Chapter 93)

Senate Bill 271 provides that: (1) the Virgin Valley Water District may issue a letter that commits the District to supply water service to a particular property subject to any condition precedent set forth in the letter; and (2) such a letter must be renewed on an annual basis,

subject to a reasonable fee, or the letter will expire. The District will not refund any fees paid by, return any water rights dedicated to, or pay any expenses of the holder associated with the construction and dedication of any infrastructure if the holder of such a letter fails to meet any condition precedent included in the letter or if the letter expires. The bill makes the requirement for the renewal of such letters apply retroactively to any letter issued before July 1, 2015. Further, the bill deletes a provision in current law prohibiting the District from requiring the holder of such a letter to pay an annual renewal fee or be subject to any other condition unless the fee or condition is expressly stated in the letter.

Conservation and Fire Districts

A.B. 34 (Chapter 398)

Assembly Bill 34 repeals provisions related to the State Forester Firewarden and enacts them in Chapter 472 (“State Forester Firewarden”) of NRS, relating to fire protection districts, to coincide with the transfer of certain functions to local government entities. The measure authorizes the State Land Registrar to transfer title to certain real property owned by the State, with certain restrictions, to certain local fire protection districts and counties. The bill also clarifies that if the State Forester Firewarden determines that a fire is the result of an unavoidable accident, then he or she shall not charge the entity that caused the fire with the expenses incurred in extinguishing it.

A.B. 163 (Chapter 357)

Assembly Bill 163 authorizes a board of county commissioners, board of directors of a county fire protection district, or board of fire commissioners of certain other districts to approve a petition submitted by certain persons or business entities within the county or district to create a rangeland fire protection association if the petitioners meet certain requirements. Additionally, the bill provides for the routine evaluation of rangeland fire protection districts during the term of a cooperative agreement based on certain criteria and requires the State Forester Firewarden to adopt regulations relating to the formation, operation, and training of the members of such an association.

S.B. 45 (Chapter 21)

Senate Bill 45 provides that the State Conservation Commission may distribute grants to conservation districts in unequal amounts if: (1) the grants are for a specific competitive grant program for which the Legislature expressly appropriated money; and (2) the competitive grant program is governed by regulations, specifically adopted to govern the program, that expressly state that grants may be distributed in unequal amounts.

S.B. 476 (Chapter 353)

Senate Bill 476 provides a legislative declaration that conservation districts have special expertise which makes them suited to serve as cooperating agencies for federal laws regarding land management. The bill also requires a board of county commissioners to impose an annual fee, not to exceed \$25, on each parcel in a conservation district, upon voter approval at a general, special, or primary election, or an election conducted by mail. Any money collected from the fee may be used only for purposes of a conservation district. The bill also provides

that the Legislature will strive to provide appropriations to conservation districts at a level comparable to those provided to similar districts in other western states. Finally, S.B. 476 authorizes a board of county commissioners and the supervisors of a conservation district to enter into an agreement under which the supervisors of the conservation district serve as the directors of a weed control district that lies entirely within the conservation district and county boundaries.

Public Health and Environmental Quality

S.B. 89 (Chapter 418)

Senate Bill 89 increases from \$250,000 per year to \$2 million per fiscal year the limitation on expenditures by the Division of Environmental Protection, State Department of Conservation and Natural Resources (SDCNR), from the Fund for Cleaning Up Discharges of Petroleum. The bill also broadens the authority of the Division to use the Fund for the cleanup of discharges of petrochemicals.

S.B. 324 (Chapter 377)

Senate Bill 324 prohibits a person from discharging a pollutant onto any State highway, right-of-way, or drainage unless the person has a valid permit. In the event of unpermitted discharge, the person must, upon receipt of an order of compliance, either abate, remove, or remediate the discharge in a timely manner. If a person fails to comply, S.B. 324 provides various enforcement powers to the Director of Nevada's Department of Transportation (NDOT). Specifically, the Director may: (1) enter and inspect premises to investigate the source of a discharge; (2) issue orders for compliance to enforce discharge laws; (3) seek injunctive relief to remedy unpermitted discharge; (4) impose administrative and civil penalties; and (5) request criminal prosecution by the Attorney General for violations.

Senate Bill 324 also authorizes the Director to appoint a third Deputy Director to implement, oversee, and enforce NDOT's environmental programs. The Deputy Director must coordinate the implementation of the storm water program with appropriate personnel at the SDCNR. The bill also removes provisions requiring the Director of NDOT to be a licensed professional engineer in the State of Nevada.

Finally, S.B. 324 creates the Advisory Committee on Transportation Storm Water Management to work with the Division of Environmental Protection, SDCNR, regarding the implementation of the storm water program. The Committee must report at least quarterly to NDOT regarding its activities, and NDOT must report at least quarterly to the Interim Finance Committee on the status of the implementation of the storm water program.

Mines and Minerals

S.B. 44 (Chapter 36)

Senate Bill 44 revises the statutory limit on the fees prescribed by the Commission on Mineral Resources for permits to drill a well in search of oil and natural gas to \$2,000 for a

well not intended to be hydraulically fractured and \$5,000 for a well that is intended to be hydraulically fractured. The bill also establishes a fee limit of \$400 for a request to change the terms of an existing oil or gas permit. Finally, S.B. 44 raises the statutory limit on the fee assessed against a producer of oil or natural gas to 30 cents for each barrel of oil or each 50,000 cubic feet of natural gas.

Historical and Cultural Resources

A.B. 15 (Chapter 157)

Assembly Bill 15 creates the Account for the Protection and Rehabilitation of the Stewart Indian School in the State General Fund. The Account is to be administered by the Director of the SDCNR for the purposes of repairing and maintaining the historic State buildings and grounds of the Stewart Indian School. The bill authorizes the Administrator of the Division of State Lands, SDCNR, to make a direct sale of two parcels of State land for the purpose of funding the Account.

A.B. 194 (Chapter 72)

Assembly Bill 194 revises the definition of the term “historic” to mean the period from the middle of the eighteenth century to 50 years before the current year as that term is used in the context of the protection of prehistoric and historic sites on federal and State lands.

A.B. 377 (Chapter 182)

Assembly Bill 377 implements the recommendations made pursuant to A.B. 356 (Chapter 28, *Statutes of Nevada*) of the 2013 Session on the preservation of the Nevada State Prison for historical, educational, and cultural purposes. The bill requires the State Land Registrar, upon notice from Nevada’s Department of Corrections (NDOC) that operational activities at the Nevada State Prison in Carson City have ceased, to assign structures appropriate for administration as historical, cultural, educational, and scientific resources to the appropriate State agency and to assign the structures appropriate for continued administration by NDOC to the Silver State Industries Division within the Department. The bill creates three funds and sets forth their allowable uses and responsibilities for administration. Those funds are:

- The Endowment Fund for the Historic Preservation of the Nevada State Prison;
- The Silver State Industries Endowment Fund; and
- A dedicated trust fund established by the Board of Museums and History.

Finally, the bill allows NDOC, and any other State agency that is assigned administration of historic properties within the Prison, to grant special use permits to, or enter into agreements with, the Nevada State Prison Preservation Society for the purpose of giving tours or engaging in other commercial and tourist activities relating to the historic portions of the Prison.

S.B. 20 (Chapter 18)

Senate Bill 20 removes the Commission for Cultural Affairs from the Department of Tourism and Cultural Affairs and reestablishes the Commission as an advisory board of the SDCNR. This bill also changes the name of the Commission for Cultural Affairs to the Commission for Cultural Centers and Historic Preservation.

S.B. 27 (Chapter 29)

Senate Bill 27 revises provisions governing the funding of administrative services required by the Commission for Cultural Affairs. Instead of relying solely on money derived from interest earned on the money in the Fund for the Preservation and Promotion of Cultural Resources to pay for those services each fiscal year, this bill authorizes the Commission to use not more than 5 percent of the proceeds from any particular bond issue to pay for those services.

S.B. 63 (Chapter 65)

Senate Bill 63 designates the Nevada Indian Commission as the coordinating agency for discussions among the Commission, State agencies, and local governmental entities regarding activities and uses of the former Stewart Indian School. The bill creates the Nevada Indian Commission's Gift Fund, a special revenue fund that is a continuing fund without reversion to the State General Fund. All gifts, grants of money, or other property the Commission is authorized to accept must be accounted for in the Nevada Indian Commission's Gift Fund unless specifically accounted for in another fund. Any gifts of property, other than money, may be sold or exchanged when deemed by the Commission to be in its best interest, but the sale price must not be less than 90 percent of the value determined by a qualified appraiser appointed by the Commission.

Miscellaneous**A.B. 35 (Chapter 9)**

Assembly Bill 35 requires the Board of Wildlife Commissioners to adopt regulations establishing a process for the issuance and verification of State hull numbers that comply with the requirements for hull numbers prescribed by the U.S. Coast Guard. The Department of Wildlife must assign State hull numbers in compliance with those requirements. Finally, in connection with an application for a duplicate certificate of ownership, the Department is authorized to require an inspection of the vessel.

A.J.R. 3 (File No. 10)

Assembly Joint Resolution No. 3 urges the U.S. Congress to facilitate the payment of contractors who completed work on hazardous fuels treatment projects in the Lake Tahoe Basin in connection with contracts with the Nevada Fire Safe Council.

S.B. 261 (Chapter 323)

Senate Bill 261 requires a research facility that intends to euthanize a dog or cat to instead offer the animal for adoption through a program of the facility or through an agreement with an animal shelter or animal rescue organization, if the dog or cat is appropriate for adoption.

The bill also provides that the research facility and any officer, director, employee, or agent of the facility is immune from civil liability for any act or omission relating to the adoption of the dog or cat.

Prepared by:

Legislative Counsel Bureau
Research Division
November 12, 2015

APPENDIX C

Committee Letters

STATE OF NEVADA
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Rick Combs, *Director, Secretary*

INTERIM FINANCE COMMITTEE (775) 684-6821
PAUL ANDERSON, *Assemblyman, Chairman*
Cindy Jones, *Fiscal Analyst*
Mark Krmpotic, *Fiscal Analyst*

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SUSAN E. SCHOLLEY, *Research Director* (775) 684-6825

May 24, 2016

The Honorable Neil Kornze
Director (630)
Bureau of Land Management
United States Department of the Interior
1849 C Street, N.W., Room 2134LM
Washington, D.C. 20240
Electronic mail: oira_submission@omb.eop.gov

Attention: 1004-AE39

Re: Comments on Bureau of Land Management Planning 2.0 (81 FR 9674)

Dear Director Kornze,

The Nevada Legislative Committee on Public Lands travels throughout Nevada during the 18 months between legislative sessions to listen to citizens' concerns about public lands issues and to review federal and State land management policies with local elected officials, agency personnel, interest groups, and private organizations.

At a meeting recently held in Winnemucca, Nevada on April 15, 2016, the Committee received a presentation from the Nevada Association of Counties (NACO) concerning the proposed changes to the Bureau of Land Management's (BLM) planning regulations found in the Planning 2.0 initiative. This letter provides support for NACO's comments regarding proposed changes in planning.

More specifically, the Committee supports the following comments suggested by NACO concerning the proposed changes in Planning 2.0. The BLM:

- Has not provided sufficient time for counties to digest and offer comment on the proposed rule changes;

- Has proposed changes that will reduce requirements to ensure federal consistency with local policies; and
- Seeks to implement a multistate landscape level of analysis that could diminish its ability to assess the local impacts of management decisions meaningfully.

The BLM has not provided sufficient time for counties to digest and offer comment on the proposed rule change.

The Legislative Committee on Public Lands remains concerned that the BLM has not provided sufficient time for counties to fully analyze and comment on the proposed rule. As land managers, counties are very willing to share their local expertise to help guide BLM's land-use planning process. The local voice must play a substantial role in guiding the development of Planning 2.0.

County governments are as diverse as the American landscape itself. Because counties across the nation have a significant interest in the BLM's proposed Planning 2.0 rule, our goal is to ensure local government involvement is at the forefront in crafting BLM's resource management planning process. Unfortunately, Nevada's counties have not been afforded the time necessary to analyze the implications of the substantive regulatory changes presented in Planning 2.0.

Given the significant local impacts of the proposed rule, the volume of information involved and the staffing and budgetary realities facing many small counties, we are concerned that the current 90-day comment period, which closes May 25, 2016, does not provide adequate time for counties to respond to the BLM's request for comment. The Legislative Committee on Public Lands urges you to extend the public comment period so that affected counties may provide substantive comments.

By allowing sufficient time for counties to offer input and suggest changes to the proposed regulation, we believe counties can help the BLM identify and mitigate any unintended consequences and challenges posed by the proposed rule.

The BLM has proposed changes that will reduce requirements to ensure federal consistency with local policies.

Like NACO, the Legislative Committee on Public Lands is concerned that the BLM has proposed changes to current planning rules that will reduce local governments' ability to ensure federal consistency with local master plans and policies. The Federal Land Policy and Management Act (FLPMA) of 1976 charges the BLM to "...provide for meaningful public involvement of State and local government officials, both elected and appointed, in the development of... land use regulations... ." Counties provide essential law enforcement, search and rescue, public health, transportation infrastructure and many more services on

federal public lands and FLPMA makes it clear that local governments are not just another member of the public.

Counties possess a wealth of practical, on-the-ground knowledge that should be actively sought out by federal agencies to inform their decision making. As intergovernmental partners with the federal government, county officials must have a seat at the table and an opportunity to help shape management decisions in partnership with land managers.

Close coordination of and consistency between federal and local plans is so important that Congress memorialized this relationship in Section 1712 of FLPMA mandating as a part of the federal land use planning process that federal land managers will:

...coordinate the land use inventory, planning, and management activities of or for such lands with the land use planning and management programs of ... local governments within which the lands are located...In implementing this directive, the Secretary shall, to the extent he finds practical, keep apprised of State, local, and tribal land use plans; assure that consideration is given to those State, local, and tribal plans that are germane in the development of land use plans for public lands; assist in resolving, to the extent practical, inconsistencies between Federal and non-Federal Government plans, and shall provide for meaningful public involvement of State and local government officials, both elected and appointed, in the development of land use programs, land use regulations, and land use decisions for public lands, including early public notice of proposed decisions which may have a significant impact on non-Federal lands...Land use plans of the Secretary under this section shall be consistent with State and local plans to the maximum extent he finds consistent with Federal law and the purposes of this Act.

However, changes offered in the proposed Planning 2.0 rule appear to direct BLM to recognize only county plans that have been fully adopted before the planning process begins. For example, proposed Section 1610.3-2 revises planning language to require consistency with only “officially approved or adopted land use plans.” This narrowly defined language disregards many actions of county government prepared in accordance with federal, state, or local legislative authority as well as those local actions that may be underway at the time a Resource Management Plan (RMP) is initiated. Along with NACO, the Legislative Committee on Public Lands encourages the BLM to revise Planning 2.0 to clarify that consistency requirements apply to all land use and resource related planning and management programs, or in their absence, with policies and programs, subject to the qualifications of local government, such as local transportation, water and wildlife plans, and policies implemented by our county commissioners and officers, to name a few.

Additionally, Section 1610.1 of the proposed rule seeks to distinguish between “plan components,” which can only be changed by amending or revising an RMP and coordinating

with local government, and an “implementation strategy,” which guides future actions the BLM may take on the land and can be revised at any time without triggering a requirement for coordination with local counties and cooperating agencies. This change falls short of properly recognizing that how a plan is implemented can have as significant an impact as the components of the plan itself.

The BLM’s analysis of proposed Section 1610.1 includes examples such as resource protection and access development as items that could be enacted as implementation strategies without a requirement for interagency coordination. As you know, most counties in Nevada are comprised largely of federally owned lands. These counties rely on access to, and active management of, federal lands in their communities to drive thriving resource and tourism based economies. By failing to consult and cooperate with local governments on implementation strategies, the BLM will not benefit from valuable local insights and may take actions with significant negative impacts on local communities that could have been avoided.

Due to the impacts implementation strategies can have on local communities, the proposed Planning 2.0 rule should be changed to clarify that the modification of implementation strategies and plan components require full interagency coordination as described in Sections 1610.2 and 1610.3 of the rule as amended in our attached comments. Mirroring the opinion of NACO, the Legislative Committee on Public Lands firmly believes that the BLM must be required to engage local governments at all stages of RMP development and implementation.

The BLM seeks to implement a multistate landscape level of analysis that could diminish its ability to assess the local impacts of management decisions meaningfully.

Planning 2.0 proposes a fundamental shift in the BLM’s default RMP planning area. The BLM’s analysis of Section 1601.0-4 of the proposed rule acknowledges the significant change in policy by stating its intent to no longer rely on the field office area as the default resource management plan boundary. Instead, the BLM Director would be empowered to unilaterally determine a planning area that crosses local and State jurisdictions.

Rather than strengthening current policy, which emphasizes a local focus and utilizes local BLM field office boundaries as the default planning area, the proposed rule shifts BLM’s planning focus to a regional, “30,000 foot level.” This expansion of BLM’s default planning area will significantly impact the Bureau’s ability to meaningfully assess the local impacts of decisions. There is great concern that this change will dilute counties’ voice in resource management planning and create confusion and unnecessary complications in coordinating federal, State, and local plans in attempts to implement a one size fits all plan that cannot be effectively coordinated across elements of local, State, and federal government.

Sustainably managing our federal public lands for this and future generations requires land managers to balance many factors. The ecosystem, continued economic viability, historical

May 24, 2016

uses, cultural significances, potential impacts on local communities and many other factors must all be considered. To this end, local county governments can be invaluable allies to federal land managers. Local governments can provide a real-time, on the ground perspective to help craft management strategies that can be effectively implemented by local officials. While recognizing the need for flexibility and scalability in resource planning, the Committee is concerned that establishing a default boundary that does not begin at the local level will only serve to reduce the local voice in the planning process. Accordingly, the Committee encourages the BLM to revise the proposed Planning 2.0 rule to ensure the local BLM field office level continues to serve as the default level of analysis for BLM resource management planning activities.

CONCLUSION

The multiple-use management mission of the BLM is spelled out in FLPMA. Echoing this mission, counties support a land management philosophy that allows for a diversity of activities on public lands and in local economies. Resource, environmental and socioeconomic values of our federal lands must be balanced as coequal land management objectives. In lock step with Nevada's counties, the Committee understands the careful balance that must be struck between sustainably utilizing our nation's natural resources today and conserving them to ensure they are available for future generations.

The Committee urges the BLM to continue to work with Nevada's counties to implement a Planning 2.0 rule that benefits from significant county input, guarantees consistency with local plans, ensures robust local cooperation at all phases of the planning process and encourages multiple use that is sustainable on the landscape and in communities. As partners with federal land managers, counties seek a practical federal policy that works at the local level.

On behalf of Legislative Committee on Public Lands, we greatly appreciate your consideration of our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Gustavson", written over a horizontal line.

Donald "Don" Gustavson, Chair
Nevada Legislative Committee on Public Lands

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June 15, 2016

John Ruhs, Nevada State Director
Bureau of Land Management
United States Department of the Interior
1340 Financial Boulevard
Reno, Nevada 89502

Re: Silver Peak Lithium Mine

Dear Mr. Ruhs:

As you know, the Nevada Legislative Committee on Public Lands travels throughout Nevada during the 18 months between legislative sessions to listen to citizens' concerns about public lands issues and to review federal and state land management policies with local elected officials, agency personnel, interest groups, and private organizations. At a public meeting recently held in Caliente, the Committee received a presentation regarding the Nevada lithium operations of Albemarle Corporation in Silver Peak, Nevada.

Based on the presentation, it is the Committee's understanding that the Bureau of Land Management (BLM) has rejected a request to begin negotiations on a proposal to purchase stockpiled salts for reprocessing due to a pending appeal before the Interior Board of Land Appeals (IBLA). The appeal seeks to overturn the BLM's decision to deny certain applications for prospecting permits for potassium on Albemarle's land; however, no rights to the stockpiled salts can be conferred by a prospecting permit, which can only confer rights to deposits (i.e., a mineral in place in the ground). As the stockpiled salts have been severed from the land, they are not deposits; nor did the appellant ever seek a prospecting permit for the stockpiled salts. Even if an appeal were successful, the contesting party would only have priority on the potassium in the brine and sediments after Albemarle ceases its lithium operations. Albemarle made a compelling argument to the Committee to support their view that the appeal before the IBLA is irrelevant to negotiating a material sale of the stockpiled salts.

Albemarle is seeking to invest \$35 to \$70 million in capital infrastructure at the Silver Peak site. The project would be a significant economic boost to Esmeralda County with the creation




of approximately 100 construction jobs and 45 long-term operational positions. Based on testimony at the Committee meeting, annual wages and benefits currently for jobs at Albemarle's Silver Peak facility is approximately \$91,333, significantly higher than the statewide average wage. This investment could have a large impact on one of Nevada's smallest and economically depressed counties.

The Legislature is committed to diversifying Nevada's economy, and is specifically invested in lithium battery technology. Since lithium is a critical element crucial to the development of battery manufacturing, the suspension imposed by the BLM not only delays Albemarle's ability to begin capital investment in the Silver Peak site, it also impedes the State's goal to maximize mineral resources for the benefit of its citizens.

Based on the set of facts presented, the Committee respectfully requests that the BLM begin negotiations on the terms of a material sales agreement for the orderly and economic development of the public's mineral resources.

Thank you for your consideration of this matter. If you have any questions or need additional information, please do not hesitate to contact me or Jered McDonald, Committee Policy Analyst (telephone: 775/684-6825; e-mail: jered.mcdonald@lcb.state.nv.us).

Sincerely,

A handwritten signature in black ink, appearing to read "Don Gustavson", with a large, stylized initial "D" and "G".

Donald "Don" Gustavson, Chair
Nevada Legislative Committee on Public Lands

DON GUSTAVSON

SENATOR

District No. 14



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State of Nevada Senate

Seventy-Eighth Session

September 16, 2016

The Honorable Harry Reid
United States Senate
522 Hart Senate Office Building
Washington, DC 20510

The Honorable Mark Amodei
United States House of Representatives
332 Cannon House Office Building
Washington, DC 20515

The Honorable Dean Heller
United States Senate
324 Hart Senate Office Building
Washington, DC 20510

The Honorable Joe Heck
United States House of Representatives
132 Cannon House Office Building
Washington, DC 20515

The Honorable Dina Titus
United States House of Representatives
401 Cannon House Office Building
Washington, DC 20515

The Honorable Crescent Hardy
United States House of Representatives
430 Cannon House Office Building
Washington, DC 20515

Re: Support the Honor the Nevada Enabling Act of 1864 Act (House of Representatives Bill 1484 [H.R. 1484], 114th Congress)

Dear Senators and Members of Congress:

As you know, the Nevada Legislative Committee on Public Lands travels throughout Nevada during the 18 months between legislative sessions to listen to citizens' concerns about public lands issues and to review federal and State land management policies with local elected officials, agency personnel, interest groups, and private organizations.

Based on overwhelming support from the public and local elected officials this legislative interim, the Legislative Committee on Public Lands voted to send this letter urging your support of H.R. 1484 which implements the provisions of Senate Joint Resolution (S.J.R.) No. 1 (File No. 30, *Statutes of Nevada 2015*). If you will recall, S.J.R. 1 urges Congress to enact legislation transferring title and ownership of select federal lands to the State of Nevada in a phased approach beginning with "checkerboard" lands and land deemed disposable by the Bureau of Land Management, among other lands. Based on information presented to the

Committee in Elko on July 28, 2016, H.R. 1484, sponsored by Representative Amodei, closely reflects the intent of S.J.R. 1.

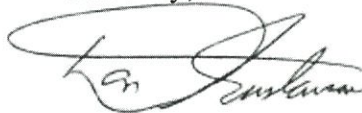
In 2013, the Nevada Legislature approved Assembly Bill 227 creating the Nevada Land Management Task Force. The Task Force, comprised of bipartisan elected representatives from each of Nevada's 17 counties: (1) conducted an economic analysis of the costs and revenues associated with transferring federal lands to the State; (2) proposed a plan for the administration and management of any lands transferred; and (3) identified lands for potential transfer. Based on the findings of the study, the Task Force voted unanimously to support the report's findings and subsequent legislative resolution.

Under the provisions of S.J.R. 1, as embodied in H.R. 1484, any federal land transferred to the State will remain public and will be managed in accordance with State and local plans and for multiple uses, as well as ongoing net revenue generation and environmental health, function, productivity, and sustainability. The transferred lands will be held by the State of Nevada in trust for the following beneficiaries: (1) public K-12 education; (2) public higher education; (3) public specialized education; (4) public mental and medical health services; (5) social, senior, and veteran services; (6) public programs for candidate and listed threatened or endangered species recovery plan development and implementation; and (7) local governments to pay for services and infrastructure required on these lands which would otherwise be financed through property tax or other revenues available to local government.

Considering that over 85 percent of the land in Nevada is owned by the federal government, this issue is of the utmost importance to the livelihood and wellbeing of the State and its citizens. The Legislative Committee on Public Lands respectfully requests your support of H. R. 1484 or any federal legislation that conforms with the intent of S.J.R. 1.

Thank you for your consideration of this matter. Please do not hesitate to contact me or Jered McDonald, Committee Policy Analyst (telephone: 775/684-6825; e-mail: jered.mcdonald@lcb.state.nv.us) if you have any questions or need additional information.

Sincerely,



Donald G. Gustavson
Chair, Legislative Committee on Public Lands
2015-2016 Legislative Interim

DON GUSTAVSON

SENATOR

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Transportation

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Education

State of Nevada Senate

Seventy-Eighth Session

October 26, 2016

John Ruhs, Nevada State Director
Bureau of Land Management
United States Department of Agriculture
1340 Financial Boulevard
Reno, Nevada 89502

William "Bill" Dunkelberger, Forest Supervisor
Humboldt-Toiyabe National Forest
United States Forest Service
United States Department of Agriculture
1200 Franklin Way
Sparks, Nevada 89431

Re: Flexibility in Livestock Grazing on Public Land

Dear Messrs. Ruhs and Dunkelberger:

Nevada's Legislative Committee on Public Lands writes regarding livestock grazing on public lands. This interim, the Committee voted unanimously to send a letter encouraging your agencies to ensure flexibility is built into the grazing application permit process to allow for adaptive management as issues and concerns arise. Working with livestock grazing permittees, federal land managers should seek to adapt to changing conditions on the ground and cooperate with users to manage fuel loads, conserve wildlife habitat, and make additional adaptations to the benefit of all involved.

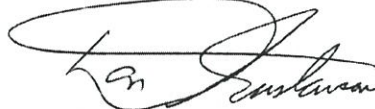
The Committee understands the difficulty of adjusting management strategies in quickly changing conditions, however, a cooperative approach to grazing will benefit the range by reducing the threat of wildfire and assist efforts to control the spread of annual grasses such as cheat grass. It is well established that grazing, if properly permitted and monitored, can be a useful tool in maintaining and improving our public

Page 2
October 26, 2016

rangelands. Suppression of cheat grass and the management of fuels is just one of the benefits that can be gained by prudent grazing practices.

Thank you for your consideration of this letter. Please do not hesitate to contact me or the Committee staff if we can be of any assistance to you.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Gustavson", with a large, stylized initial "D" and "G".

Donald G. Gustavson
Chair, Legislative Committee on Public Lands
2015-2016 Legislative Interim

DG/njp:W163109

DON GUSTAVSON

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Seventy-Eighth Session

August 30, 2016

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The Honorable Brian Sandoval
Governor of the State of Nevada
101 North Carson Street, Suite 1
Carson City, Nevada 89701

Leo M. Drozdoff, P.E., Director
Office of the Director
State Department of Conservation and Natural Resources
Richard H. Bryan Building
901 South Stewart Street, Suite 1003
Carson City, Nevada 89701

Re: Request for a Staff Position in the State Department of Conservation and Natural Resources

Dear Governor Sandoval and Director Drozdoff:

As you know, the Nevada Legislative Committee on Public Lands travels throughout Nevada during the 18 months between legislative sessions to listen to citizens' concerns about public lands issues and to review federal and state land management policies with local elected officials, agency personnel, interest groups, and private organizations.

At the Committee's meetings in Elko and Winnemucca, local government representatives expressed the need for assistance with natural resource and land use planning efforts. Testimony indicated that many small counties in Nevada (primarily rural counties) do not have established planning departments or the expertise to meaningfully engage the federal government with regards to proposed land use actions and amendments.

Based on information presented to the Committee, at any one time there are roughly 150 proposed federal actions necessitating comment from local governments. Counties have the opportunity to participate as a cooperating agency only if they provide meaningful comments on proposed actions. Participation in the federal planning process not only allows local governments to shape the outcome of a project, it also provides standing for legal recourse if an untenable decision is reached.

The Committee respectfully requests the creation of a new Land Use Planner II (Grade 36) position in the State Department of Conservation and Natural Resources, to assist counties in preparing land use plans and studies that analyze the economic and environmental impacts of various federal land management agency actions.

Thank you for your consideration of this matter. Please do not hesitate to contact me or Jered McDonald, Committee Policy Analyst (telephone: 775/684-6825; e-mail: jered.mcdonald@lcb.state.nv.us) if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Gustavson", with a large, stylized flourish at the end.

Donald G. Gustavson
Chair, Legislative Committee on Public Lands
2015–2016 Legislative Interim

DGG/njp:W163110

DON GUSTAVSON

SENATOR

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Seventy-Eighth Session

September 1, 2016

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The Honorable Brian Sandoval
Governor of the State of Nevada
101 North Carson Street, Suite 1
Carson City, Nevada 89701

Adam Paul Laxalt, Attorney General
Office of the Attorney General
100 North Carson Street
Carson City, Nevada 89701

Re: Funding to Support RS2477

Dear Governor Sandoval and Attorney General Laxalt:

As you know, the Nevada Legislative Committee on Public Lands travels throughout Nevada during the 18 months between legislative sessions to listen to citizens' concerns about public lands issues and to review federal and state land management policies with local elected officials, agency personnel, interest groups, and private organizations.

According to testimony received this interim, federal agencies continue to make it clear that they will not recognize current and historic rights-of-way on federal land unless these rights-of-way are adjudicated in federal court. If a solution is not pursued in Nevada, conflict over these roads will persist at the expense of continued, historic access and multiple uses.

If you will recall, Senate Bill (S.B.) 456 (Chapter 452, *Statutes of Nevada 2015*), strengthened the provisions of *Nevada Revised Statute* 405.204 to protect against travel restrictions and road closures. The bill urges the Attorney General (AG) to take a leadership role in pursuing actions on behalf of the State and counties in formalizing and finalizing title to accessory roads and public roads. The bill authorizes the AG to participate as a party in a quiet title action regarding such roads under certain circumstances and in cooperation with or on behalf of the county or counties in which the road lies.

In addition, the AG, the Land Use Planning Advisory Council, Division of State Lands, State Department of Conservation and Natural Resources, and the Nevada Association of Counties must work together to develop and implement a legal protocol that a county may use to perfect its rights and finalize title to an accessory or public road.

Based on information received this interim, it has come to the Committee's attention that additional capacity may be needed to fully implement the provisions of S.B. 456. Accordingly, the Committee respectfully requests an appropriation of funding necessary to support the AG's office in its efforts to carry out the provisions of S.B. 456. It is in the best interest of the State and its local governments to formalize and finalize title to accessory roads and public roads to protect proper authority over, continued access to, and multiple uses on federally administered lands.

Thank you for your consideration of this matter. Please do not hesitate to contact me or Jered McDonald, Committee Policy Analyst (telephone: 775/684-6825; e-mail: jered.mcdonald@lcb.state.nv.us) if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Gustavson", with a large, stylized loop at the beginning.

Donald G. Gustavson
Chair, Legislative Committee on Public Lands
2015-2016 Legislative Interim

DG/njp:W163111

DON GUSTAVSON

SENATOR

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State of Nevada Senate

Seventy-Eighth Session

September 21, 2016

Neil Schwartz, President
Nevada Real Estate Commission
Nevada Real Estate Division
2501 East Sahara Avenue, Suite 102
Las Vegas, Nevada 89104

Re: Open Range Disclosure Form

Dear President Schwartz:

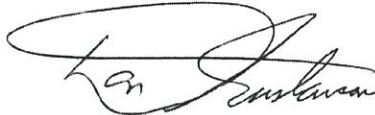
The Nevada Legislative Committee on Public Lands travels throughout Nevada during the 18 months between legislative sessions to listen to citizens' concerns about public lands issues and to review federal and state land management policies with local elected officials, agency personnel, interest groups, and private organizations.

This interim, the Committee received testimony regarding potential issues related to the effectiveness and use of the Open Range Disclosure form. It was brought to the Committee's attention that in some instances, purchasers of property do not fully comprehend the ramifications of owning property with: (1) adjacent public land; (2) preexisting RS 2477 right-of-ways; or (3) other existing easements. Based on the concerns raised, the Committee voted to send a letter urging the Commission to investigate and take appropriate action to ensure that purchasers of land are aware of the consequences and responsibilities of signing an Open Range Disclosure form, and to ensure open range forms are being provided to purchasers of property as required by law.

Page 2
September 21, 2016

Thank you for your consideration of this matter. Please do not hesitate to contact me or Jered McDonald, Committee Policy Analyst (telephone: 775/684-6825; e-mail: jered.mcdonald@lcb.state.nv.us) if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Gustavson", with a large, stylized loop at the beginning.

Donald G. Gustavson
Chair, Legislative Committee on Public Lands
2015-2016 Legislative Interim

DG/njp:W163112

DON GUSTAVSON

SENATOR

District No. 14



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COMMITTEES:

Chairman

Natural Resources

Vice-Chairman

Transportation

Member

Education

State of Nevada Senate

Seventy-Eighth Session

October 19, 2016

Jason King, P.E., State Engineer
Office of the State Engineer
Division of Water Resources
State Department of Conservation and Natural Resources
901 South Stewart Street, Suite 2002
Carson City, Nevada 89701

Re: Federal Water Claims on Public Land

Dear Mr. King:

As you know, the Nevada Legislative Committee on Public Lands travels throughout Nevada during the 18 months between legislative sessions to listen to citizens' concerns about all matters related to public lands. In addition, the Committee reviews and comments on issues relating to water resources in this State, including the laws, regulations, and policies regulating the use, allocation, and management of water in Nevada and the status of information and studies relating to water use, surface water resources, and groundwater issues.


Based on testimony provided this interim, the Committee voted unanimously to send a letter requesting the Office of the State Engineer to review all claims for water by the Bureau of Land Management (BLM), United States Department of the Interior, and other federal agencies and immediately dispose of those claims that clearly do not meet the criteria of a Public Water Reserve (PWR) No. 107 or a vested right. The Committee received information at a meeting held July 28 in Elko suggesting that the BLM is asserting unadjudicated claims as "rights" and requiring certain projects to develop mitigation outside of the involvement of the State Engineer. Further, the Committee learned that the BLM is asserting seniority over other vested claims and permits on federal land precluding maintenance efforts and access to the these waters.

Page 2
October 19, 2016

Pursuant to *Nevada Revised Statute* 533.503, obtaining stock water rights is prohibited by entities that do not hold a "legal or proprietary interest" in livestock; however, it is the Committee's understanding that the BLM has filed many PWRs and in certain cases vested claims based on the Treaty of Guadalupe Hidalgo of 1848. The Committee strongly encourages the Office of the State Engineer to adjudicate these types of claims to ensure that federal agencies are not encroaching on the rights of other water right holders and permittees.

Thank you for your consideration of this matter. Please do not hesitate to contact me or Jered McDonald, Committee Policy Analyst (telephone: 775/684-6825; e-mail: jered.mcdonald@lcb.state.nv.us) if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Gustavson", written over a horizontal line.

Donald G. Gustavson
Chair, Legislative Committee on Public Lands
2015-2016 Legislative Interim

DG/njp:W163113

DON GUSTAVSON

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State of Nevada Senate

Seventy-Eighth Session

November 3, 2016

John Ruhs, Nevada State Director
Bureau of Land Management
United States Department of Agriculture
1340 Financial Boulevard
Reno, Nevada 89502

William "Bill" Dunkelberger, Forest Supervisor
Humboldt-Toiyabe National Forest
United States Forest Services
United States Department of Agriculture
1200 Franklin Way
Sparks, Nevada 89431

Re: Wild Horse Management

Dear Messrs. Ruhs and Dunkelberger:

The Nevada Legislative Committee on Public Lands writes to urge your agencies to make every effort to manage wild horses and burros in accordance with the provisions of the Wild Free-Roaming Horses and Burro Act of 1971. As you know, the Act authorizes federal agencies to remove excess wild horses and burros from the range to sustain the health and productivity of public lands. However, according to the most recent figures available, the current estimated on-range wild horse and burro population located on Nevada land administered by the Bureau of Land Management (not including forest service land) was 34,531, while the Appropriate Management Level (AML) was 12,811, meaning the current population exceeds the AML by more than 20,000.

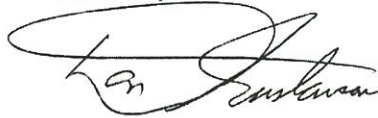
According to testimony provided during this interim, current population levels are adversely affecting rangeland ecosystems throughout the State. Not only are the horses suffering due to a lack of feed and water, over abundant wild horse and burro populations are impacting wildlife, including the sage-grouse and the State's grazing producers who must compete for

feed on shared ranges. As you can imagine, the Committee is quite frustrated by the failure of the federal government to enforce its own laws and provide the resources required for the proper management and care of wild horses.

The Nevada Legislative Committee on Public Lands specifically requests your agencies to seek: (1) the resources required to set the AML on all herd management areas throughout the State; (2) the removal of animals in overpopulated areas as determined by the AML; (3) expanded holding facilities and adoption efforts; and (4) expanded research of population growth suppression methods including contraception and permanent sterilization.

Thank you for your consideration of this matter. Please do not hesitate to contact me or Jered McDonald, Committee Policy Analyst (telephone: 775/684-6825; e-mail: jered.mcdonald@lcb.state.nv.us) if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Gustavson", written over a horizontal line.

Donald G. Gustavson
Chair, Legislative Committee on Public Lands
2015-2016 Legislative Interim

DG/njp:W163114

cc: Harry Reid, United States Senate
Dean Heller, U.S. Senate
Dina Titus, U.S. House of Representatives
Joe Heck, U.S. House of Representatives
Mark Amodei, U.S. House of Representatives
Cresent Hardy, U.S. House of Representatives

DON GUSTAVSON

SENATOR

District No. 14



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COMMITTEES:

Chairman

Natural Resources

Vice-Chairman

Transportation

Member

Education

State of Nevada Senate

Seventy-Eighth Session

October 10, 2016

The Honorable Adam Paul Laxalt
Attorney General of the State of Nevada
Office of the Attorney General
100 North Carson Street
Carson City, Nevada 89701

Re: Wild Horse and Burros Lawsuit

Dear Attorney General Laxalt:

The Nevada Legislative Committee on Public Lands writes to urge your office to seek any legal action deemed appropriate to compel the Bureau of Land Management (BLM) and the United States Forest Service to manage wild horse and burro herds as required by federal law under the Wild Free-Roaming Horse and Burros (WH&B) Act of 1971 and subsequent amendments. For years, the Legislative Committee on Public Lands has engaged federal land managers in attempt to encourage a more responsive and humane approach to wild horse and burro management in this State; however, these efforts have been largely ignored.

Once again, this interim, the Committee received testimony regarding the neglectful management practices employed by the federal government with respect to wild horse and burro management. As of March 1, 2016, the current estimated on-range wild horse and burro population located on BLM land was 34,531, while the Appropriate Management Level (AML) was 12,811, meaning the current population exceeds AML by more than 20,000. According to testimony, current population levels are devastating rangeland ecosystems throughout the State. Not only are the horses suffering due to a lack of feed, over abundant wild horse and burro populations are adversely affecting wildlife, including sage-grouse and severely impacting the State's grazing producers who must compete for feed on shared ranges.

The Committee also learned that to date, due to financial and other reasons, AMLs have never been set on numerous herd management areas throughout the State, despite the requirement set forth 45 years ago in the WH&B Act to do so. As you can imagine, the Committee is quite

frustrated by the failure of the federal government to enforce its own laws and provide necessary resources for proper management. The lack of financial resources devoted for the care and management of wild horses is exacerbated by the fact that horse populations are doubling every four years. The Director of the BLM, Neil Kornze, estimates the agency needs \$1 billion to effectively manage wild horse populations in the West. If left unchecked, the cost to effectively manage wild horses and burro herds will continue to grow, as will the adverse impacts placed on rangeland ecosystems and local economies that have traditionally relied on public lands for resources and jobs.

For the reasons outlined, the Committee voted unanimously to send a letter requesting action on the part of your office to seek any legal remedies available to force the federal government to manage wild horses according to the laws set forth in the WH&B Act.

Thank you for your consideration of this matter. Please do not hesitate to contact me or Jered McDonald, Committee Policy Analyst (telephone: 775/684-6825; e-mail: jered.mcdonald@lcb.state.nv.us) if you have any questions or need additional information.

Sincerely,

Donald G. Gustavson
Chair, Legislative Committee on Public Lands
2015-2016 Legislative Interim

DG:njp/W163115

cc: Brian Sandoval, Governor, State of Nevada
Harry Reid, U.S. Senate
Dean Heller, U.S. Senate
Dina Titus, U.S. House of Representatives
Joe Heck, U.S. House of Representatives
Mark Amodei, U.S. House of Representatives
Crescent Hardy, U.S. House of Representatives

DON GUSTAVSON
SENATOR
District No. 14



State of Nevada
Senate
Seventy-Eighth Session

COMMITTEES:

Chairman
Natural Resources

Vice-Chairman
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Member
Education

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www.leg.state.nv.us

November 22, 2016

Senator Joyce Woodhouse, Chair
Senate Committee on Finance
Nevada State Legislature
401 South Carson Street
Carson City, Nevada 89701

Assemblywoman Maggie Carlton, Chair
Assembly Committee on Ways and Means
Nevada State Legislature
401 South Carson Street
Carson City, Nevada 89701

Re: State Management of Estray/Feral Horses

Dear Senator Woodhouse and Assemblywoman Carlton:

As you know, the Nevada Legislative Committee on Public Lands travels throughout Nevada during the 18 months between legislative sessions to listen to citizens' concerns about public lands issues and to review federal and State land management policies with local elected officials, agency personnel, interest groups, and private organizations.

During a work session held on August 19, 2016, in Carson City, the Committee voted unanimously to send a letter to the Senate Committee on Finance and the Assembly Committee on Ways and Means of the 2017 Legislative Session to request increased funding for the necessary resources required to implement an effective management program for feral and estray horses.

According to Nevada's State Department of Agriculture (NDA), most wild horses in Nevada fall under the jurisdiction of the Bureau of Land Management (BLM), United States

Department of the Interior. However, management of horses that are not located on BLM land must be managed by the State of Nevada under the provisions of Chapter 569 ("Estray and Livestock") of the *Nevada Revised Statutes*. One area of the State located near Reno and Carson City, known as the Virginia Range, has become particularly troublesome. The BLM declared the Virginia Range a "wild horse free area" through a land planning process in 1986, and as a result of this declaration, horses now located on the Virginia Range have been designated as estray/feral livestock because they are not within a BLM herd management area.

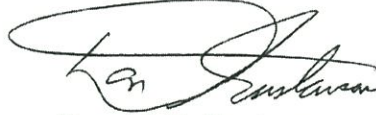
Over time, large numbers of horses have migrated or been "turned out" by owners onto the Virginia range. Left unabated, the horse population in the area grew quickly, roughly doubling in size every few years. Based on the last official census conducted in June 2014, there are roughly 2,000 estray/feral horses on and around the Virginia Range. In 2001, the NDA produced a Range Inventory report for the area, which indicated the Virginia Range can support a population of just 300 to 600 horses, meaning populations levels are at least 300 percent higher than the carrying capacity of the range.

The NDA indicates that the Virginia Range feral and estray horse population can benefit from an expanded management program that proactively seeks to control the growth of horse populations. Currently, the NDA is managing feral livestock within existing legal and fiscal authorities which primarily focus on protecting public safety, such as removing horses from open range areas located near highways. Notwithstanding these efforts, horses versus car collisions have been increasing in recent years on highways bordering the Virginia Range.

Currently, there are no general fund dollars allocated to the NDA for the management of feral or estray livestock. Activities associated with the management of estray and feral horses are funded through fees paid by Nevada livestock producers. In light of this information, the Nevada Legislative Committee on Public Lands requests increased funding to implement effective management practices including among other efforts: (1) an expanded adoption program; (2) research for population growth suppression methods including contraception and permanent sterilization; (3) fencing along roadways; and (4) the removal of animals in overpopulated areas when deemed necessary.

Thank you for your consideration of this matter. Please do not hesitate to contact me or Jered McDonald, Committee Policy Analyst (telephone: 775/684-6825; e-mail: jered.mcdonald@lcb.state.nv.us) if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Gustavson", with a large, stylized loop at the end.

Donald G. Gustavson
Chair, Legislative Committee on Public Lands
2015-2016 Legislative Interim

DG/njp:W163116

DON GUSTAVSON

SENATOR

District No. 14



State of Nevada Senate

Seventy-Eighth Session

October 26, 2016

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COMMITTEES:

Chairman

Natural Resources

Vice-Chairman

Transportation

Member

Education

John Ruhs, Nevada State Director
Bureau of Land Management
United States Department of Agriculture
1340 Financial Boulevard
Reno, Nevada 89502

Re: Prison Industry Wild Horse Program

Dear Director Ruhs:

The Nevada Legislative Committee on Public Lands writes regarding the Wild Horse Program, a partnership between the Bureau of Land Management (BLM) and the Nevada Department of Corrections, Silver State Industries. The Committee would like to commend both the BLM and Silver State Industries on the success of the program and its efforts to gentle and train wild horses for adoption. In light of its success, the Committee voted unanimously to send a letter encouraging the BLM to seek an expansion of the program in order to offer this valuable opportunity to additional inmates and to make more horses available to the public.

The Committee also approved a recommendation encouraging the BLM to share the revenue generated through horse auctions with the State of Nevada and the inmate-trainers working with the horses. It is the Committee's understanding that the financial benefit from the sale of horses is in some cases rather significant. In addition to the hourly wage currently provided, inmates should benefit financially from their hard work. By further incentivizing the program, it is the Committee's hope that additional inmates will be able to take advantage of this outstanding program.

Thank you for your consideration of this matter. Please do not hesitate to contact me or Jered McDonald, Committee Policy Analyst (telephone: 775/684-6825; e-mail: jered.mcdonald@lcb.state.nv.us) if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Gustavson", with a large, sweeping loop at the beginning.

Donald G. Gustavson
Chair, Legislative Committee on Public Lands
2015–2016 Legislative Interim

DG/njp:W163117

DON GUSTAVSON

SENATOR

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COMMITTEES:

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Natural Resources

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Transportation

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Education

State of Nevada Senate

Seventy-Eighth Session

October 10, 2016

Terri L. Albertson, C.P.M., Director
Nevada Department of Motor Vehicles
555 Wright Way
Carson City, Nevada 89701

Re: Internet Based Off-Highway Vehicle (OHV) Registration System Request For Information

Dear Director Albertson:

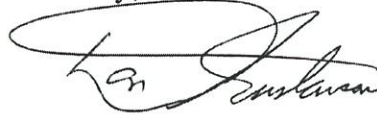
The Nevada Legislative Committee on Public Lands travels throughout Nevada during the 18 months between legislative sessions to listen to citizens' concerns about public lands issues and to review federal and State land management policies with local elected officials, agency personnel, interest groups, and private organizations.

As I am sure you are aware, the level of OHV registrations have come in much lower than originally estimated. In an effort to expand registration opportunities and raise compliance for OHV registration, it was recommended that the Committee request a bill draft directing the Department of Motor Vehicles (DMV) to develop a system to enable internet registration for OHV owners. However, rather than direct the DMV do so through legislation, the Committee felt it would be more useful to first seek your input on the recommendation. For that reason, the Committee voted to send a letter seeking information on estimated costs and potential issues associated with the development of an internet based OHV registration system as a standalone application or within existing DMV administered applications.

Page 2
October 10, 2016

Thank you for your consideration of this matter. Please do not hesitate to contact me or Jered McDonald, Committee Policy Analyst (telephone: 775/684-6825; e-mail: jered.mcdonald@lcb.state.nv.us) if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Gustavson", with a large, stylized initial "D" and "G".

Donald G. Gustavson
Chair, Legislative Committee on Public Lands
2015-2016 Legislative Interim

DG/njp:W163118

DON GUSTAVSON

SENATOR

District No. 14



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Vice-Chairman

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www.leg.state.nv.us

State of Nevada Senate

Seventy-Eighth Session

September 27, 2016

Claudia Vecchio, Director
Department of Tourism and Cultural Affairs
401 North Carson Street
Carson City, Nevada 89701

Re: Off-Highway Vehicle Promotional Information

Dear Director Vecchio:

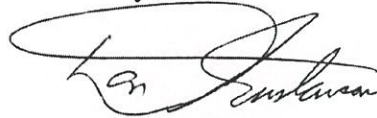
The Nevada Legislative Committee on Public Lands travels throughout Nevada during the 18 months between legislative sessions to listen to citizens' concerns about public lands issues and to review federal and State land management policies with local elected officials, agency personnel, interest groups, and private organizations.

This interim, the Committee received testimony regarding the illegal use of off-highway vehicles (OHVs) on public lands, particularly related to instances of off-trail riding and OHV trespass in wilderness areas. While most OHV users follow the law and are subject to registration requirements in this and surrounding states, it is possible that some out-of-state OHV recreationists come to Nevada specifically because there is no registration requirement for those staying less than 15 days. Rather than expand registration requirements to short-term visitors, the Committee believes it is more appropriate to attempt to educate out-of-state OHV users who plan to visit Nevada.

For these reasons, at its work session held on August 19, 2016, the Committee voted to send a letter requesting that any OHV promotional information created by the Department of Tourism and Cultural Affairs relating to public lands also contain educational information regarding the legal use of OHVs in Nevada.

Thank you for your consideration of this matter. Please do not hesitate to contact me or Jered McDonald, Committee Policy Analyst (telephone: 775/684-6825; e-mail: jered.mcdonald@lcb.state.nv.us) if you have any questions or need additional information.

Sincerely,

A handwritten signature in dark ink, appearing to read "Don Gustavson", with a large, sweeping loop at the end.

Donald G. Gustavson
Chair, Legislative Committee on Public Lands
2015-2016 Legislative Interim

DG/njp:W163119

APPENDIX D

Responses to Committee Letters



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Nevada State Office
1340 Financial Boulevard
Reno, Nevada 89502-7147
<http://www.blm.gov/nv>

JUL 14 2016

In Reply Refer To:
3500 (NV920)

Donald "Don" Gustavson, Chairman
Nevada Legislative Committee on Public Lands
401 S. Carson St.
Carson City, Nevada 89701-4747

Dear Mr. Gustavson:

This is in response to your letter of June 15, 2016, regarding Silver Peak Lithium Mine. Your letter requests that the Bureau of Land Management (BLM) begin negotiations on the terms of a material sales agreement with Albemarle Corporation (Albemarle) for the stockpiled salts at Rockwood Lithium Inc.'s (Rockwood) Silver Peak site.

Currently, an appeal of the BLM decision denying certain applications for prospecting permit applications filed by Paul Barnes for the Silver Peak site is before the Interior Board of Land Appeals (IBLA). You have stated the Nevada Legislative Committee on Public Lands' position is that the pending appeal should not delay the negotiations for the material sale. You stated that "no rights to the stockpiled salts can be conferred by a prospecting permit, which can only confer rights to deposits (i.e., a mineral in place in the ground)." You also stated that because the stockpiled salts have been severed from the land, they are not deposits, and the appellant did not ever seek a prospecting permit for the stockpiled salts. You also take the position that even if the appeal is successful, the appellant would only have priority on the potassium in the brine and sediments after Albemarle ceases its lithium operations. Thus, you believe that the appeal before the IBLA is irrelevant to negotiating a material sale of the stockpiled salts.

While the BLM has concluded that it could sell the stockpiled salts non-competitively because the minerals have been severed from the ground and stockpiled by the United States for its future use and that competition is impossible (43 C.F.R. § 3602.31), our legal counsel has advised us not to do so until Mr. Barnes' pending IBLA appeal is resolved. Assuming the IBLA affirms the BLM's decision rejecting Mr. Barnes' prospecting permit applications, the BLM would then be in a position to determine whether any application from Albemarle/Rockwood for a non-competitive sale of the stockpiled minerals would be in the public interest. Until that time, there is nothing stopping Albemarle/Rockwood from submitting an application for a non-competitive purchase of stockpiled minerals.

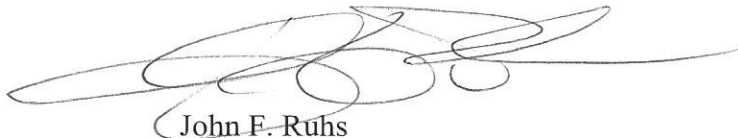
In rejecting the prospecting permit applications filed by Paul Barnes, the BLM took the position that Mr. Barnes could not obtain prospecting permits for the potassium at this site because the

potassium deposits are known valuable mineral deposits. The BLM did not base its decision on the assertion that Mr. Barnes intended his prospecting permit applications to apply only to the brine solution. We do not want to take any action that might be viewed as being inconsistent with our decision. Consequently, we will wait until an IBLA decision has been issued before considering any non-competitive sale of the potassium.

In summary, the BLM may accept an application from Albemarle/Rockwood for a non-competitive sale of the stockpiled minerals, thus allowing BLM to begin processing the application as soon as possible, but only in the event that the IBLA issues a decision favorable to the BLM. In the meantime, the BLM will not process any such application until the IBLA issues a favorable decision.

If you have any further concerns or questions, please contact Brian Amme, Deputy State Director, Division of Minerals Management at 775-861-6585 or email at bamme@blm.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'John F. Ruhs', with a long horizontal line extending to the right.

John F. Ruhs
State Director



NEVADA
DEPARTMENT OF
TOURISM AND
CULTURAL AFFAIRS

October 5, 2016

Governor
Brian Sandoval

Lieutenant Governor
& Commission Chair
Mark Hutchison

Director
Claudia Vecchio

401 North Carson St.
Carson City, NV 89701

775.687.4322
800.237.0774

Fax
775.687.6779

555 E. Washington Ave.
Suite 5600
Las Vegas, NV 89101

702.486.2426

Fax
702.486.2789

TravelNevada.com
TravelNevada.biz
NevadaCulture.org

Senator Don Gustavson
P.O. Box 51601
Sparks, Nevada 89435

Dear Senator Gustavson,

Thank you for your letter regarding the issues surrounding the legal use of OHVs in Nevada. I must admit, we have not provided any guidance for off-highway vehicle riders in regard to the rules and regulations of using these vehicles as part of a visit to the state. At the same time, we certainly do feature this experience in our ads.

I will commit to you that the Division of Tourism (TravelNevada) will do a more thorough job of conveying the regulations along with the recreational value of participating in OHV activities while a visitor in Nevada.

Thank you again for bringing this issue to my attention.

All the best,


Claudia Vecchio

BRIAN SANDOVAL
Governor

STATE OF NEVADA



BRUCE H. BRESLOW
Director

SHARATH CHANDRA
Administrator

DEPARTMENT OF BUSINESS AND INDUSTRY
REAL ESTATE DIVISION

www.red.nv.gov

October 12, 2016

Senator Donald G. Gustavson
Nevada Legislative Committee on Public Land
401 S. Carson Street
Carson City, Nevada 89701

Re: Open Range Disclosure Form

Dear Senator Gustavson,

This letter is to follow up on your letter sent to Neil Schwartz, President of the Nevada Real Estate Commission dated September 21, 2016 regarding the use of the Open Range Disclosure form pursuant to NRS 113.

The Real Estate Division will review the testimony your Commission received and other concerns related to the use of the Open Range disclosure form. An agenda item will be placed on the Real Estate Commission's December 5-7, 2016 meeting for the Commission to review and discuss how the Commission can effectively help ensure that purchasers are provided all the right information and made aware of their responsibilities.

Please do not hesitate to contact me or Teralyn Thompson, Administration Section Manager at (702) 486-4036 or tlthompson@red.nv.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Sharath Chandra".

Sharath Chandra
Real Estate Division Administrator
702-486-4034
schandra@red.nv.gov



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

100 North Carson Street
Carson City, Nevada 89701-4717

ADAM PAUL LAXALT
Attorney General

WESLEY K. DUNCAN
First Assistant Attorney General

NICHOLAS A. TRUTANICH
First Assistant Attorney General

November 16, 2016

The Honorable Donald G. Gustavson
Nevada State Senator
Chair, Legislative Committee on Public Lands
Post Office Box 51601
Sparks, Nevada 89435-1601

Dear Senator Gustavson:

Many thanks for your letter dated October 10, 2016, urging legal action with respect to the wild horse issue. I am glad to learn, in particular, that you share my concern that the federal government's approach to this decades-long issue is becoming increasingly intolerable.

My office, as you know, is proudly committed to defending the interests of Nevada against federal overreach. Indeed, my Solicitor General's office has litigated against the federal government in the environmental area, among other cases, over sage grouse and the Environmental Protection Agency's over burdensome water rules. Further, my Solicitor General's Office dedicated significant resources to the successful defense of SB 302, Nevada's landmark Educational Saving Accounts. Those experiences have been instructive in emphasizing the imperative of proceeding in the right way at the right time, with the appropriate litigation resources. This approach is especially prudent given that the 2015 legislature rejected my budget neutral proposal to increase the litigation capacity of the Solicitor General's office by adding a Deputy Solicitor General.

Currently, my Solicitor General's Office, to which I would assign litigation over wild horses, is now fully engaged in representing Nevada, joined by nearly half the states, against a new U.S. Department of Labor rule, which directly threatens our state

The Honorable Donald G. Gustavson
November 16, 2016
Page 2

budget and Nevada's tourism economy, and is playing a crucial role in a new lawsuit over the Bi-State Sage Grouse, in order to preserve our authority over this and other wildlife in the state. We have been spread quite thin in these important efforts.

Nevertheless, we remain committed to carefully reviewing the wild horse issue as it continues to develop. In September, for instance, the National Wild Horse and Burro Advisory Board, after meeting in Elko, made important new recommendations to the Bureau of Land Management to help reduce the overpopulation of the mustangs. The BLM has not had time to provide a comprehensive response. I want to assure you that we are monitoring this situation and will act if necessary at the appropriate time.

Sincerely,

A handwritten signature in black ink, appearing to read "Ad. Laxalt", with a stylized flourish at the end.

ADAM PAUL LAXALT
Attorney General



File Code: 2200

Date: NOV 22 2016

The Honorable Don Gustavson
Chair, Legislative Committee on Public Lands
401 S. Carson Street
Carson City, NV 89701-4747

Dear Senator Gustavson,

Thank you for your letter dated October 26, 2016 and for your interest in the management of National Forest System lands. I agree that increased management flexibility and continued collaborative efforts are necessary in order for us to effectively manage our rangelands in the face of ever-changing conditions.

As we complete environmental analyses for grazing authorizations on our allotments, we work closely with our permittees and other interested parties to identify management options that increase our ability to adapt to changing conditions. We try to incorporate adaptive management concepts and identify actions that we can take when a change in management is needed to address a new concern.

Implementation of our Sage-grouse Forest Plan Amendments will require further collaborative efforts with our permittees, state and federal agency partners, and others to identify and implement appropriate management actions to benefit sage-grouse as well as provide for livestock grazing and other uses of our rangelands.

In regards to fuels management, we have been successfully using sheep and goat grazing along the Sierra Front in an effort to manage fuel loads and reduce the threat of wildfire. We understand the value of using livestock grazing as a fuels management tool and we intend to explore all of our options as we continue to combat the spread of invasive annual grasses on our rangelands.

Thank you for letter and feel free to contact me with any questions.

Sincerely,

WILLIAM A. DUNKELBERGER
Forest Supervisor





**DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF WATER RESOURCES**

901 South Stewart Street, Suite 2002

Carson City, Nevada 89701-5250

(775) 684-2800 • Fax (775) 684-2811

<http://water.nv.gov>

December 15, 2016

Senator Don Gustavson, Chairman
Legislative Committee on Public Lands
2015-2016 Legislative Interim
Legislative Building
401 S. Carson Street
Carson City, Nevada 89701

Re: Federal Water Claims on Public Lands

Dear Senator Gustavson:

I am in receipt of your letter dated October 19, 2016, pursuant to which you request that the Office of the State Engineer review all claims for water by the Bureau of Land Management (BLM) and other federal agencies and immediately dispose of those claims that clearly do not meet the criteria of a Public Water Reserve No. 107 (PWR 107) or a vested right. You further indicate that pursuant to NRS § 533.503, "obtaining stockwater rights is prohibited by entities that do not hold a "legal or proprietary interest" in livestock; however, it is the Committee's understanding that the BLM has filed many PWRs and in certain cases vested claims based on the Treaty of Guadalupe Hidalgo of 1848." Your letter indicates that the Committee strongly encourages the Office of the State Engineer to adjudicate these types of claims to ensure that the federal agencies are not encroaching on the rights of other water right holders and permittees.

As I will explain below, our office cannot do what the Committee has requested without performing comprehensive McCarran Amendment adjudications in every basin where such a claim has been filed. As much as our office would like to adjudicate PWR 107 claims and ALL water resources in the state, our office has never had the staffing or funding allocated to perform this work.

First, I must note that NRS § 533.503 has no relevance regarding PWR 107 claims or pre-statutory vested water right claims for stock water as those claims are not based on an application for a water right. Rather, those claims are based on the doctrine of implied federal reserved water rights or

the law that pre-dates the statutory appropriation process. Claims of implied federal reserved water rights have no connection to the standards for appropriating water under Nevada's water law. They are measured under standards established through federal case law, and state court interpretation of the relevant case law, and they are determined/quantified through the statutory adjudication process provided for in NRS § 533.090 through 533.320. NRS § 533.503 only applies to applications for permits under the statutory process for appropriating stock water and the certification of those permitted rights.

When the BLM asserts a water right claim based on a PWR 107 for the water rights in springs and waterholes on the public domain, it is basing its claim on the doctrine of federal implied reservation of water rights, alleging that the right was established when the surrounding land was withdrawn by the Executive Order of April 17, 1926, Public Water Reserve No. 107. Thus, any PWR 107 claim found to be valid has a priority date of April 17, 1926.

The Nevada State Engineer analyzed PWR 107 in depth in State Engineer's Ruling No. 5729, dated April 27, 2007, a copy of which I have attached for your information. As far as I know, this is the most in-depth analysis any Western state has taken regarding PWR 107 claims. In that ruling, the State Engineer found that the precise federal purpose to be served under a PWR 107 claim is stock watering and human consumption by grazing permittees and the federal purpose would be frustrated without the water. However, PWR 107 claims cannot be immediately disposed as requested in your letter. Resolution of PWR 107 claims, *i.e.*, quantification and determination of those claims is only accomplished through the formal statutory adjudication process, and inclusion of the United States is only possible due to the waiver of sovereign immunity under what is known as the McCarran Amendment. 43 U.S.C. § 666 (1952). The McCarran Amendment specifically waives the United States' sovereign immunity **in suits** concerning ownership or management of water rights, as long as they might be affected by the result of the suit. It gives others the right to join in such a suit as a defendant. Prior to the Amendment, sovereign immunity kept the United States from being joined in any suits. Prior to enactment of this legislation, federal water rights could only be adjudicated in actions filed (or not opposed) by the United States because there was otherwise no waiver of sovereign immunity providing for the involuntary joinder of the United States in water rights adjudications.

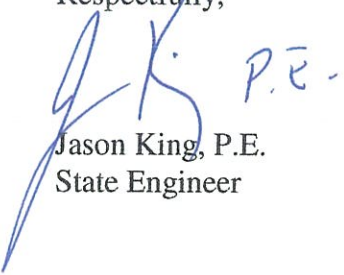
Over the next several decades after enactment of the McCarran Amendment, the United States Supreme Court issued a series of opinions that clarified the scope of the waiver and the procedural requirements that apply to such proceedings. For instance, the Supreme Court in such cases as *Dugan v. Rank*, 372 U.S. 609, 618-19 (1963), and *Colorado River Water Conservation Dist. v. United States*, 424 U.S. 800 (1976), ruled that the McCarran Amendment only provides a limited waiver of sovereign immunity for purposes of joinder to **comprehensive, general stream adjudications** in which the rights of all competing claimants are adjudicated. The waiver does not subject the United States to private suits to decide priorities between the United States and a particular claimant. The Court in *United States v. District Court in and for Eagle County*, 401 U.S. 520 (1971), ruled that the waiver of sovereign immunity under McCarran includes a waiver for the adjudication of federal reserved water rights. This ruling opened the door to much

litigation over the existence and quantity of federal reserved water rights held for national parks, national forests, national wildlife refuges, and other federally reserved lands.

Thus, the Office of the State Engineer is unable to immediately analyze or dispose of PWR 107 claims or for that matter claims of vested right by federal agencies as they also are determined through the statutory adjudication process, which is a long and complicated process with both an administrative and judicial phase. While I would like to be able to quickly adjudicate all the pre-statutory vested right claims and reserved right claims statewide, because of our staffing and funding levels, we are faced with adjudicating basins incrementally based on priority.

If you would like to discuss this further, please contact me at (775) 684-2861.

Respectfully,



Jason King, P.E.
State Engineer

Cc: Jered McDonald
Legislative Counsel Bureau
401 S. Carson Street
Carson City, Nevada 89701
Attachment



File Code: 2260

Date:

DEC 21 2016

The Honorable Don Gustavson
Chair, Legislative Committee on Public Lands
401 S. Carson Street
Carson City, NV 89701-4747

Dear Senator Gustavson:

Thank you for your letter dated November 3, 2016 and for your interest in the management of National Forest System lands. I understand your frustration with the issues caused by wild horse and burro populations on the Humboldt-Toiyabe National Forest. The overpopulation of horses and burros is contributing to degradation of our rangelands and wildlife habitats and impacting our livestock permittees' operations.

I recognize the severity of the issue and regularly communicate our need for additional resources and support to higher levels in our agency, and will continue to do so. The Forest is working to complete environmental analyses and set AML on four wild horse and burro territories. Until then, we are not able to conduct gathers or contraceptive treatments. Once we are able to complete our environmental analyses and set AML, we will work to bring populations down to AML through a combination of gathers and contraceptive treatments.

Thank you for your letter and feel free to contact me with any questions.

Sincerely,

WILLIAM A. DUNKELBERGER
Forest Supervisor



BRIAN SANDOVAL
Governor

STATE OF NEVADA



BRUCE H. BRESLOW
Director

SHARATH CHANDRA
Administrator

DEPARTMENT OF BUSINESS AND INDUSTRY
REAL ESTATE DIVISION

www.red.nv.gov

January 4, 2017

Senator Donald G. Gustavson
Nevada Legislative Committee on Public Land
401 S. Carson Street
Carson City, Nevada 89701

Re: Follow up to letter sent to Committee dated October 12, 2016 regarding the Open Range Disclosure Form

Dear Senator Gustavson,

The Real Estate Commission ("Commission") held a public meeting on December 5-7, 2016 in which there was an agenda item to discuss the Open Range Disclosure form pursuant to NRS 113.120. The Commission was given a summary of the testimony submitted to the Legislative Committee on Public Land and the Committee's request for the Commission to take appropriate action.

Since the format and content of the Open Range Disclosure form is regulated by the Real Estate Division ("Division") and the contents of the form adequately addressed the NRS requirements, the Commission discussed ways to increase the awareness among Relators and those involved in the Real Estate business on the Open Range Disclosure form, its relevance and use.

As a result of the Commission discussion, the Division on December 22, 2016 issued Information Bulletin #32 regarding open range disclosures which is included in this correspondence. Information Bulletin #32 can also be found on the Division's website by clicking the following link:
http://red.nv.gov/uploadedFiles/rednv.gov/Content/Publications/Bulletins/IB32_OPENRANGE122216.pdf.

In addition, the Open Range Disclosure is a topic in the Nevada Real Estate Division Residential Disclosure Guide which is distributed to licensees pursuant to NAC 645.075. The disclosure guide can be found on the Division's website by clicking the following link:
<http://red.nv.gov/Content/Publications/RDG/>

Please do not hesitate to contact me or Teralyn Thompson, Administration Section Manager at (702) 486-4036 or tlthompson@red.nv.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Sharath Chandra".

Sharath Chandra
Real Estate Division Administrator
702-486-4034
schandra@red.nv.gov

DEPARTMENT OF BUSINESS AND INDUSTRY
REAL ESTATE DIVISION

realest@red.nv.gov

red.nv.gov

OPEN RANGE DISCLOSURE

Open Range Disclosure – Form 551

The Open Range disclosure informs the buyer of property adjacent to open land that livestock grazing on the adjacent land may be permitted to enter the property. The disclosure also informs the buyer that the property may be subject to county or State rights of way. NRS 113.065.

When Is the Open Range Disclosure Required?

When improved or unimproved property for sale is adjacent to:

- a) public lands;
- b) pre-existing R.S. 2477 rights of ways;
- c) existing easements that may be unrecorded, undocumented or unsurveyed.

Who must provide the Disclosure?

The seller of the property adjacent to open range must provide the disclosure to the prospective buyer of the property.

NRS 113.065 requires the seller to:

- Disclose to the purchaser information regarding grazing on open range;
- Retain a copy of the disclosure document signed by the purchaser acknowledging the date of receipt by the purchaser of the original document;
- Provide a copy of the signed disclosure document to the purchaser; and
- Record, in the office of the county recorder in the county where the property is located, the original disclosure document that has been signed by the purchaser.

When must the Disclosure be provided?

The prospective buyer must receive and sign the disclosure form acknowledging the original date of receipt of the disclosure **before the sales agreement is signed**.

What should the licensee do?

The listing agent of a property that has open range or unimproved land adjacent to the listed property should be alerted to investigate county or State records for information about the

adjoining land, or advise the seller to do so.

If records do not reveal any easements or rights of way, the licensee should counsel the seller to exercise caution by disclosing the possibility that roaming livestock, rights of way or easements could exist that would affect the prospective buyer's use and enjoyment of the property. The Open Range disclosure is recommended regardless of whether the adjoining land is fenced off or unfenced.

12/22/16

IB#32 : Open Range Disclosure

Page 2 of 2

APPENDIX E

Suggested Legislation

APPENDIX E

Suggested Legislation

The following bill draft requests (BDRs) will be available during the 2017 Legislative Session, or can be accessed after “Introduction” at the following website: <http://www.leg.state.nv.us/Session/79th2017/BDRList/page.cfm?showAll=1>.

BDR R-333 _JR: Urges Congress to enact federal legislation relating to national monuments.

BDR 45-334 Revises provisions relating to pest control.

BDR 15-335 Revises provisions relating to fences.

BDR 48-336 Makes various changes relating to water.