

Legislative Committee on Public Lands

(Nevada Revised Statutes 218E.510)

WORK SESSION DOCUMENT



July 30, 2010

Prepared by the Research Division
Legislative Counsel Bureau



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The following “Work Session Document” has been prepared by the Chair and staff of the Legislative Committee on Public Lands and is designed to assist the Committee in determining which legislative measures will be requested for the 2011 Session of the Nevada Legislature and what other actions the Committee will endorse.

The members of the Committee may vote to send as many Committee statements or letters as they choose; however, pursuant to *Nevada Revised Statutes* (NRS) 218D.160, the Committee is limited to ten legislative measures, which include both bill draft requests (BDRs) and requests for the drafting of resolutions.

The inclusion of proposed actions in this “Work Session Document” does not imply the support or opposition of the Committee. Rather, these possible actions are compiled so the members may review them to decide if they should be adopted, changed, rejected, or further considered. Each item in this document may be the subject of further discussion, refinement, or action. For purposes of this “Work Session Document,” the proposals have been grouped by topic and by possible Committee action but are not preferentially ordered.

Although possible actions have been identified for each recommendation, the Committee may modify the possible action and select one of the following actions: (1) draft a bill or resolution; (2) send a letter; or (3) include a statement in the final report. To the extent the Committee urges or suggests action by public officials, it is understood that any such actions would be subject to the limits of that official’s existing authority and all applicable laws.

As set forth in NRS 218E.515, five members of the Committee constitute a quorum and a quorum may exercise all the powers of the Committee.

The source of each proposed action is noted in parentheses, along with the date of the Committee meeting at which the proposal was made, as applicable. Some proposed actions were received between meetings via e-mail or by letter. It should be noted that a proposed action may have been modified during the preparation of the “Work Session Document” for a variety of reasons, such as: (1) by combining it with similar proposals; (2) by proposing a different type of action; or (3) by adding details needed for drafting.

As in the past, the Committee members may use a consent calendar to approve proposals that need no further consideration or clarification beyond what is set forth in the “Work Session Document.” Items on the consent calendar primarily include Committee letters and statements in the final report. Any Committee member may request that one or more items on the consent calendar be removed for further discussion and consideration.

To the extent that a proposed action may contain unquantified or unknown fiscal impacts, Legislative Counsel Bureau staff will coordinate with the interested parties to obtain fiscal estimates, if needed, for inclusion in the final report. Also, some proposals may include references to specific chapters or statutes in the NRS, but as part of the legislative process, amendments to other related chapters or sections of the NRS may be added to fully implement the requested legislation.

Finally, please note that in the fall of 2010 during the legislative drafting process, specific details of Committee-requested legislation or other Committee action may be further clarified in consultation with the Chair of the Committee or others, as directed or as appropriate.

PROPOSED ACTIONS RELATING TO FEDERAL PLANNING AND OTHER FEDERAL ACTIVITIES

1. **Adopt a resolution** expressing the Committee’s strong opposition to agreements, such as the one entered into by El Paso Corporation and the Western Watersheds Project, that seek to permanently retire grazing permits and eliminate grazing on public lands. Further, the resolution would urge Nevada’s Congressional Delegation to not support federal legislation to allow or facilitate in any way the permanent retirement of grazing permits on public lands and to not support any federal endorsement of such a policy.

This item will be the subject of one or more presentations at the July 30, 2010, meeting in Ely.

2. **Adopt a resolution** urging the federal government to enact legislation enabling the sharing of at least a portion of the revenue generated by activities on public lands with the State and local governments, including without limitation, the reinstatement and continuation of the federal laws and policies whereby local governments receive

appropriate rents and royalties for geothermal activity on federal land. (Wes Henderson, Nevada Association of Counties [NACO], via e-mail; and Central Nevada Regional Water Authority [CNRWA], May 2010 meeting.)

An example is legislation recently introduced by United States Senator Harry Reid (D-Nevada) and U.S. Representative Dean Heller (R-Nevada) that would establish a leasing program for wind and solar projects on federal lands and provide for payments of 25 percent of the revenue to both the host state and counties. However, the scope of the proposed resolution would not be limited to energy and would include a wide array of activities that occur on public lands. With respect to the geothermal rents and royalties, Churchill County brought this issue before the Committee to address recent action by Congress to redirect rents and royalties that previously went to local governments.

3. **Adopt a resolution** supporting the efforts of the Pine Forest Working Group and the Humboldt County Commission in their reexamination of wilderness study areas in the Pine Forest area of Humboldt County. (Tom Fransway, Humboldt County Commissioner, November 2010 meeting.)

According to Commissioner Fransway, the Working Group has held several work sessions and one formal field trip and plans on holding several more sessions and a final field trip before making recommendations to the Humboldt County Commission. The Working Group was sanctioned by the Humboldt County Commission in 2009 with the assistance of Trout Unlimited and consists of stakeholders representing a wide range of interests. The Working Group is evaluating the areas at Alder Creek (5,142 acres) and Blue Lake (20,508 acres).

4. **Send a letter** to the Federal Energy Regulatory Commission (FERC), Nevada's Congressional Delegation, and El Paso Corporation, expressing the Committee's disapproval of the agreement between El Paso Corporation and certain environmental organizations for the donation of \$20 million to be used to permanently retire grazing permits. Further, express the Committee's disappointment that local residents and livestock organizations were not consulted prior to the consumation of the agreement. Finally, if appropriate, submit formal comments expressing the above sentiments to FERC in connection with any pending applications for the Ruby Pipeline proposed by El Paso Corporation.

This item will be the subject of one or more presentations at the July 30, 2010, meeting in Ely.

5. **Send a letter** to the Bureau of Land Management (BLM) in support of Carson City's application to nominate the acquisition of the Bently Ranch in the "Parks, Trails, and Natural Areas" category for funding under the Southern Nevada Public Land Management Act. (Juan Guzman, Carson City Open Space Manager, March 2010 meeting.)

This item is self-explanatory.

6. **Include a statement in the final report** stating the Committee's opposition to any reconsideration of the current designation of Great Basin National Park as a Class II airshed. (Laurie Carson, Chair, White Pine County Commission, July 2010 meeting.)

This item will be discussed during White Pine County's presentation at the July 30, 2010, meeting. Designation as a Class I airshed would result in the imposition of more stringent air quality and visibility standards and affect certain development within 300 kilometers (approximately 186 miles) of the Park.

7. **Include a statement in the final report** urging Congress to continue to fully fund payments to states under the Payments in Lieu of Taxes Act (PILT) and to reauthorize and fund the Secure Rural Schools Act. (Ray Williams, Lander County Commissioner, and Gene Etcheverry, Lander County Manager, November 2009 meeting.)

According to testimony, these sources of funding are important to rural counties.

8. **Include a statement in the final report** supporting efforts in Congress to remove Nevada from the scope of the federal Antiquities Act of 1906 through federal legislation requiring congressional approval of any new monument designations in Nevada (similar to the status accorded to Wyoming under the Antiquities Act). U.S. Senator John Ensign (R-Nevada) (S. 3041) and U.S. Representative Dean Heller (H.R. 4675) have both introduced such legislation. (Lorinda Wichman, Nye County Commissioner, May 2010 meeting.)

The federal Antiquities Act was passed at the urging of preservationists concerned about the destruction and defacement of archeological ruins in the Southwestern United States. The Act permits the designation of national monuments by administrative action, thereby bypassing Congress. Recent reports of an internal memorandum in the U.S. Department of Interior allegedly identifying possible national monuments in several western states, including Nevada, have resulted in proposals to amend the Antiquities Act and require Congressional approval of any new national monuments. National organizations such as the National Association of Counties, the Public Lands Council, and similar organizations support such legislation. Designation of land as a national monument significantly limits the uses of that land.

9. **Include a statement in the final report** expressing the Committee's support of the reform of the federal Equal Access to Justice Act (EAJA) to prevent abuses. (Lorinda Wichman, Nye County Commissioner, May 2010 meeting.)

The EAJA was originally enacted in 1980 to assist individuals, small businesses, or public interest groups to recover attorneys' fees (up to \$125 per hour) in cases where they were the prevailing party in a lawsuit alleging wrongdoing by federal agencies. The Act

covers topics ranging from trademark infringement to fair housing to environmental laws. Some watchdog groups are investigating possible abuses of the Act by environmental groups.

10. **Include a statement in the final report** supporting the Esmeralda County Commission's position that any consideration of landmark status for Goldfield be limited to the town and not adjacent mining areas. (Nancy Boland, Chair, Esmeralda County Commission, May 2010 meeting.)

At the request of Esmeralda County, U.S. Senator Harry Reid arranged for the National Park Service to conduct a reconnaissance survey of Goldfield, Nevada, for possible nomination as a national landmark. The Esmeralda County Commission supports further study provided it is limited to the town boundaries. At this time, it is not known whether further action will occur.

11. **Include a statement in the final report** supporting pending legislation in the 111th Congress sponsored by U.S. Senator Harry Reid (S. 3408) and U.S. Representative Dean Heller (H.R. 5370) to clarify title in Ione and Gold Point, former mining towns in Nevada, and further supporting future efforts to clarify title in other similarly affected mining towns in the State. (Lorinda Wichman, Nye County Commissioner, May 2010 meeting.)

The pending legislation would require the BLM to expedite an examination and determination of the validity of unpatented mining claims for federally owned land in Ione and Gold Point on which persons constructed improvements with the belief that: (a) title to the property was or would be acquired from the federal government; or (b) title to the property could be acquired by means of a valid claim against the federal government. All land not subject to a valid mining claim would then be conveyed, without cost, to the County which would then convey title to any person with a valid claim to the property under Nevada law. The mining townsites would also be withdrawn from any form of entry, use or disposal as public lands or under the mining laws. Conveyance of these lands to the Counties and then to private parties would result in those properties generating tax revenue rather than being tax-exempt federal lands. According to Ms. Wichman, other townsites in Nevada have similar issues and would also be appropriate subjects of such congressional action.

12. **Include a statement in the final report** urging federal agencies to consult with all affected local governments early in the federal planning processes and to provide an opportunity for public input at the earliest possible time and urging federal agencies to make themselves familiar with the provisions of the policies and plans of local governments that have been prepared pursuant to the provisions of NRS 321.7355 as enacted in 1983 to complement the Federal Land Policy and Management Act (FLPMA). Further, the statement would urge federal agencies to consult with affected ranchers and livestock organizations in the development and implementation of grazing policies and

restrictions and to encourage federal agencies to use conservation agreements instead of grazing restrictions, whenever feasible. The statement would also urge federal land managers to review and consider county master plans when developing local resource management plans or travel management plans and further urge the BLM to improve public involvement and transparency in its right-of-way permitting process and to improve its environmental studies and review. [Note: This proposal is a combination of similar items suggested by several speakers.] (Ray Williams, Lander County Commissioner, and Gene Etcheverry, Lander County Manager, November 2009 meeting; Lorinda Wichman, Nye County Commissioner, May 2010 meeting; Wes Henderson, NACO, via e-mail; and Michael Garabedian, Water Keepers, March 2010 meeting.)

In 1983, the Legislature passed Senate Bill 40 (Chapter 587, Statutes of Nevada) which required the State land use planning agency, in cooperation with State agencies and local governments, to prepare plans or policy statements covering the use of federally administered lands in Nevada. The Public Lands Committee was supportive of that effort and related legislation passed in the 1980s. According to testimony by Lander County representatives, the County prepared such a plan and has updated it, but federal land managers are unfamiliar with these plans and policies. Title II of FLPMA requires the Secretary of the Interior to “. . . keep apprised of State, local, and tribal land use plans [and] 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. . . .” According to Ms. Wichman, building on similar remarks by other speakers, the federal government should do more to reach out to local residents familiar with the land and its needs and should try to find collaborative solutions rather than “top-down” solutions. The Committee received testimony from several counties about the lack of federal consideration for county master plans and county input in federal planning processes. According to Mr. Garabedian’s follow-up letter sent at the request of the Chair, the BLM’s process for receiving and disseminating public comment is not clear, and he also is concerned about the unavailability of certain documents affecting BLM decisions, such as stipulations and agreements. Finally, he expressed concern about BLM not having adequate environmental studies on which to base decisions.

13. **Include a statement in the final report** recognizing the importance of public lands to Nevada’s economy and quality of life and the importance of all parties working together to preserve and maximize the use of public lands in the State. (Brad Goetsch, Churchill County Manager, March 2010 meeting.)

According to Mr. Goetsch, Nevada is unique in having such large expanses of public lands, and this attribute attracts many visitors and residents to Nevada. Further, he feels the expanses of public lands should be, in many cases, considered an asset and a desirable attribute.

PROPOSED ACTIONS RELATING TO WATER RESOURCES

14. **Amend the statutes** to require that a water right be obtained for a pit lake or gravel pit, used for purposes of evaporation. (Humboldt River Basin Water Authority, November 2009 meeting.)

According to the State Engineer, he currently has the discretionary authority to require water rights for such a use, but not all pit lakes or gravel pits are required to obtain a water right.

15. **Amend the statutes** (such as NRS 533.370) to clarify the renotification and hearing process. (State Engineer, March 2010 meeting.)

The recent decision of the Nevada Supreme Court in the Great Basin Water Network case has resolved many of the questions resulting from its first decision. However, based on the State Engineer's workshops held at the request of the Legislature (during the 26th Special Session), there appears to be consensus on the need to further clarify the statutes with respect to reopening the protest period and other aspects of the hearing process.

16. **Amend the statutes** to allow the State Engineer to restrict or prohibit domestic wells in certain basins for which the State Engineer has made required findings related to the significant over appropriation of groundwater. (State Engineer, March 2010 meeting.)

According to the State Engineer, there are basins which are grossly over appropriated. Despite the over appropriation, existing parcels are still eligible to drill a domestic well and use 2 acre-feet per year. Although legislation in the 2007 Session (S.B. 275, Chapter 246, Statutes of Nevada) provided for priority dates for domestic wells and allows the State Engineer to require a dedication of water rights for new parcels, those provisions do not address the future problems that may be caused by build out of existing parcels in over appropriated basins.

17. **Amend the statutes** (such as NRS 534.090) to clarify that only "certificated" water rights (as distinguished from "permitted" water rights) are subject to forfeiture for nonuse and further clarifying the relationship between extensions to avoid a forfeiture and the requirement to send a 4-year nonuse letter. (State Engineer, March 2010 meeting.)

A recent court decision found that the State Engineer must send a so-called "4-year" letter advising a water rights holder of possible forfeiture for nonuse (after 5 years) despite the fact that the water rights holder had already applied for (and received) several extensions of time to avoid a forfeiture for nonuse. The State Engineer believes this decision creates a "loophole" that will require duplicative and delaying notices.

18. **Amend the statutes** (such as NRS 534.040) to clarify that assessments imposed by the State Engineer for basin supervision programs are not subject to property tax abatements or, in the alternative, are not to be calculated as part of the property tax rate and therefore are not subject to property tax abatements. (State Engineer, March 2010 meeting.)

The NRS gives the State Engineer authority to require supervision of a basin through the employment of a well supervisor and assistants. For example, the Las Vegas Artesian Groundwater Basin is subject to supervision. The board of county commissioners must levy a special assessment to cover the salaries and costs as fixed by the State Engineer. In some counties, the special assessment is converted into a tax rate and thus has been abated since enactment of the property tax caps in 2005. According to the Office of the Attorney General, the statutes were amended in 1995 to clarify that the levy was a special assessment and not a tax. However, at least one county (Clark County) has disagreed with that opinion and is remitting only a reduced percentage of the amount set by the State Engineer. The State Engineer does not have the funds to make up the difference between the amount needed to supervise the basin and the reduced amount collected as a result of the property tax abatement.

19. **Amend the statutes** (such as NRS 534.350) to eliminate the requirement for a public hearing prior to issuing an order granting domestic well credits to public water systems. (State Engineer, March 2010 meeting.)

When a water purveyor extends service to a parcel served by a domestic well and the well is abandoned, the water purveyor may apply to receive a credit for the water rights represented by the domestic well. The current statute requires a public hearing before the State Engineer can grant the credit. According to the State Engineer, public hearings for such matters are not attended by the public and are unnecessary and costly.

20. **Amend the statutes** (such as NRS 533.435) to revise the fee for agricultural applications to appropriate water. (State Engineer, March 2010 meeting)

In the 2009 Session, Assembly Bill 480 (Chapter 250, Statutes of Nevada) amended the fee schedule for applications and other actions relating to water. The fee for issuing permits to appropriate water for any purpose other than hydroelectric power or watering livestock was raised from a \$200 fee to \$300 plus \$3 per acre-foot. According to agricultural users, the impact of the fee increase has disproportionately affected agricultural users.

21. **Send a letter** asking the State Engineer to adopt regulations to add criteria for determining “environmental soundness” in relation to interbasin transfers of water as used in NRS 533.370(6). (Great Basin Water Network, via e-mail. **[PLEASE SEE TAB A.]**)

Great Basin Water Network and the State Engineer have discussed this proposal and whether it would be better to proceed using the rule-making process or the legislative

process. There appears to be consensus on the need for clarification of the term “environmental soundness.”

22. **Send a letter** to Nevada’s Congressional Delegation seeking their support in opposing proposed federal legislation that would redefine “navigable waters” or otherwise expand the scope of the federal Clean Water Act, thereby infringing on the authority of states to regulate water within their boundaries. See for example, H.R. 5088 in the 111th Congress. (Central Nevada Regional Water Authority, March 2010 meeting, and Humboldt River Basin Water Authority, November 2009 meeting.)

Similar legislation has been introduced in prior Congresses and opposed by the National Association of Counties, ranching and livestock organizations, and western legislatures, to name a few. Although the sponsor of the legislation, U.S. Representative James Oberstar (D-Minnesota), states that the legislation does not expand the scope of the Clean Water Act, opponents argue that the bill is designed to overturn recent court decisions limiting enforcement of the Clean Water Act to “navigable” waterways.

23. **Include a statement in the final report** encouraging federal agencies to consider impacts on water purveyors when making decisions on public lands, such as changes of use or disposal of lands, and to provide funding mechanisms to mitigate those impacts. (Brad Huza, General Manager, Moapa Valley Water District, January 2010 meeting.)

According to the testimony by the Moapa Valley Water District, disposals of public lands in and adjacent to its service area can have significant impacts on both the infrastructure and the water resources of the District. Currently, there are several thousand acres in the eastern part of the District’s service area being considered for disposal.

24. **Include a statement in the final report** recognizing the need to consider the interconnectivity of surface and groundwater when approving or modifying surface or groundwater rights that are hydrologically connected to another water source. (CNRWA, May 2010 meeting.)

According to testimony before the Committee, recent court decisions and two pending cases before the Nevada Supreme Court are bringing this issue to the fore. It is the opinion of the CNRWA that Nevada lags behind other western states in its approach to the hydrologic connection of many surface and groundwater sources. The Authority notes that failing to take this interrelationship into account may result in unnecessary conflicts between senior surface water rights holders and junior rights for groundwater.

25. **Include a statement in the final report** recommending that local governments notify irrigation districts of proposed parcel and subdivision maps, and applications for new school construction or other construction that may impact or be impacted by the irrigation district and its infrastructure. Further, include a statement asking local governments to provide a meaningful opportunity to irrigation districts to comment and propose

mitigation measures to protect public health, safety and welfare and avoid impacts to the districts' infrastructure or easements. Finally, include a statement suggesting that the Public Lands Committee consider these issues during the 2011-2012 Interim, take testimony on possible legislative or other solutions, and, if appropriate, request legislation. (Ernest C. Schank, President, Truckee-Carson Irrigation District [TCID] Board of Trustees, via e-mail.)

According to Mr. Schank, the Fernley flood illustrates the potential dangers of encroaching urban development into previously irrigated farmlands. He notes that the local governments within the TCID have different rules and policies about involving the District in parcel maps or subdivisions and in certain larger construction projects and suggests that a consistent approach should be taken. He believes that the District, and other irrigation districts around the State, should have a role in such decisions from both a practical standpoint of improving design and preventing harm to the irrigation infrastructure and a liability standpoint. He also advises that the Salt River Irrigation Project in Arizona has provided a role for irrigation districts and could serve as a model for Nevada legislation.

26. **Include a statement in the final report** encouraging the State Engineer to consider the water dedication requirements set by local governments or water purveyors and to consult with affected local governments or water purveyors when setting water dedication requirements. (CNRWA, May 2010 meeting.)

The CNRWA is concerned about the State Engineer undermining local government efforts to set more stringent water dedication requirements to address water supply problems in the affected basin or local jurisdiction. The Authority would like the State Engineer to consider all points of view before issuing any decisions that might contradict local government ordinances or policies on this subject. Water purveyors may also find themselves in this same situation.

27. **Include a statement in the final report** urging regional water authorities and private and public water purveyors to maximize conservation efforts, and to thoroughly investigate potential alternative water sources, such as desalinization, use of reclaimed water, rainwater capture, and cloud seeding, and encouraging cities and counties to maximize conservation efforts and to use alternative sources of water to the greatest extent feasible. (CNRWA, May 2010 meeting.)

As the most arid state in the U.S., Nevada law requires water conservation plans. However, some argue that more can be done. Some water purveyors, most notably the Southern Nevada Water Authority, have begun efforts to look at alternative sources such as desalinization, and the CNRWA testified that such efforts should be continued and expanded.

28. **Include a statement in the final report** encouraging the State Engineer, when feasible as a condition of certain water rights permits, to make a determination of the maximum distance to which groundwater can be lowered before the basin's ecosystem and other water rights holders in the basin will be deemed negatively impacted. Further, encourage the State Engineer to develop and enforce effective monitoring and mitigation measures, for both surface and groundwater projects, to ensure that permit conditions are met and impacts are dealt with in a timely and meaningful way. Finally, encourage the State Engineer to impose appropriate safeguards as a condition of interbasin transfers. (CNRWA, May 2010 meeting, and Connie Simpkins, N-4 Grazing Board, January 2010 meeting.)

According to CNRWA, by reviewing native vegetation types and other criteria, the State Engineer should be able to determine at what point a dropping groundwater level would cause unacceptable and possibly irreversible impacts. The Authority notes that using models and other scientific knowledge makes it possible to set a maximum standard that would trigger either mitigation measures or the cessation of pumping and that having a predetermined trigger provides predictability and reassurance to the affected parties. One suggestion is to adopt regulations addressing this issue and thereby allow an opportunity for public input and scientific debate on the proper mechanisms for implementing such a policy. Ms. Simpkins presented testimony relating to concerns of the Grazing Board about the future effects of interbasin transfers, including the impacts of drawdowns on vegetation and grazing operations.

29. **Include a statement in the final report** recognizing that Nevada has a finite sustainable water supply (surface and groundwater) for its communities and environment, and encouraging local governments to base their land use plans on identified sustainable water resources. (CNRWA, May 2010 meeting.)

According to the Authority, when counties adopt land use plans with allowable development densities and uses that exceed current or projected water supplies, the potential for future conflicts between developers, local residents and businesses, and local governments is created. To avoid unrealistic expectations and promote responsible planning, proponents of this type of policy argue that limiting land use plans to identified water supplies is critical. This proposal is similar to the issue debated by the 2009 Legislature in Assembly Bill 119.

30. **Include a statement in the final report** voicing the Committee's support for the A.B. 198 program. (CNRWA, May 2010 meeting.)

In 1987, the Legislature created the Board for Financing Water Projects in Chapter 349 of NRS. Two sessions later, A.B. 197 (Chapter 558, Statutes of Nevada 1991) and A.B. 198 (Chapter 559, Statutes of Nevada 1991) were enacted and authorized loans and grants to water companies for capital improvements, with a preference for water suppliers with 6,000 or fewer customers. The original bills authorized \$100 million in

revenue bonds for the loan program and \$25 million in general obligation bonds for the grants. Today, the program is referred to as the "A.B. 198" program and the limit on the bonds has been raised several times.

<p style="text-align: center;">PROPOSED ACTIONS RELATING TO RENEWABLE ENERGY PROJECTS ON PUBLIC LANDS</p>
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31. **Send a letter** to the BLM in support of a pilot demonstration project in Lincoln County for biomass power generation. The letter would ask the BLM to commit to providing a 20-year supply of wood from the BLM's proposed thinning of 3.2 million acres of pinion and juniper in the Ely District. (Connie Simpkins, N-4 Grazing Board, January 2010 meeting.)

The project would be similar to the biomass power plant operated at the Nevada State Prison in Carson City. The BLM Resource Management Plan for the Ely District calls for treatment of 3.2 million acres of pinion and juniper woodlands. According to the testimony, the thinning would enhance forest health, diversify plant communities, reduce fire hazards, and create local jobs. The implementation of a demonstration biomass project would accomplish many different goals and benefit Lincoln County.

32. **Include a statement in the final report** supporting renewable energy projects on public lands in Nevada provided that: (a) the design and location of facilities minimize disruption to public land users; (b) the impacts of the project are fully mitigated and there is no net loss of animal unit months; and (c) cooperating agency status is granted to affected grazing boards to ensure them a meaningful role in the planning and implementation of a project. (Connie Simpkins, N-4 Grazing Board, January 2010 meeting.)

According to Ms. Simpkins, rural counties and ranchers support renewable energy projects but are concerned about siting and mitigation of impacts. Also, the grazing boards were recently denied cooperating agency status which affected their ability to make their concerns known.

33. **Include a statement in the final report** asking the Legislature to consider whether the tax abatements to encourage economic development in the form of geothermal development and energy production in Nevada are necessary and appropriate given the unique and limited nature of the resource and the importance of the abated tax revenue to the local governments. (Brad Goetsch, Churchill County Manager, March 2010 meeting.)

Churchill County has testified previously about its concerns that the economic development abatements are not needed to attract geothermal companies to Nevada and that the County cannot afford to lose the abated tax revenues. Unlike solar or wind power projects, which can be built in many locations, geothermal resources are limited to a few states.

**PROPOSED ACTIONS RELATING TO WILDLIFE,
GRAZING, AND NOXIOUS WEEDS**

34. **Adopt a resolution** urging State, local governments, users of public lands, and conservation organizations to be proactive in habitat protection, restoration, and mitigation to prevent listing of the Greater Sage Grouse as an endangered species. (Assemblyman Bobzien.)

In March 2010, the U.S. Fish and Wildlife Service determined that the Greater Sage Grouse is a candidate species for listing but that listing is precluded at this time due to higher priority listings. The "Greater Sage-Grouse Conservation Plan for Nevada and Eastern California," issued in 2004 as the result of a bistate task force convened under Governor Kenny C. Guinn, has set priorities and identified mitigation projects and data collection needs but continues to lack adequate funding. Efforts to promote renewable energy projects and transmission lines have the potential to impact sage grouse habitat and make implementation of the Plan a high priority for many interests in Nevada.

35. **Include a statement in the final report** supporting: (a) continued and expanded funding for the Wildfire Conservation Group; (b) additional U.S. Department of Agriculture (USDA) National Resources Conservation Service (NRCS) fuels management projects in Nevada funded through the Environmental Quality Incentives Program (EQUIP); (c) increased USDA Agricultural Research Service (ARS) or NRCS funding and rangeland research positions for Nevada, including the Great Basin Region; (d) the use of a collaborative landscape partnership approach by federal agencies; (e) the case-by-case qualifying of certified professionals as technical service providers (TSPs) by the NRCS State Conservationist for conservation planning purposes; and (f) the Committee's efforts in Washington, D.C., to obtain the support of Nevada's Congressional Delegation and the appropriate federal agency personnel for efforts listed above. (Jan Schade, Coordinator, Wildfire Support Group, November 2009 meeting.)

Since the November 2009 meeting, the Wildfire Support Group has split into two groups to pursue related but somewhat different goals. The Wildfire Conservation Group will be focusing on pursuing pre-suppression or prevention efforts, primarily through funding of fuels management projects while the Wildfire Support Group will continue to work with the BLM on training and fire suppression. The Wildfire Conservation Group is already working with Nevada's Congressional Delegation and federal agencies to maximize funding for Nevada.

36. **Include a statement in the final report** addressing the impacts of seasonal grazing restrictions and the importance of considering alternatives and understanding other options for rangeland management. (Assemblyman Carpenter.)

This proposal will be addressed as part of a presentation by Dr. Tamzen Stringham and testimony at the July 30, 2010, meeting.

37. **Adopt a resolution addressing** the importance of rangeland health to the State's wildlife, endangered species, tax base and economy and the importance of maintaining the State's tradition of multiple uses of public lands. Further, communicate to the BLM the importance of staying within current appropriate management levels (AMLs) and the State's opposition to the expansion of existing herd management areas. Finally, take the steps necessary to ensure that the BLM complies with existing federal laws relating to wild horses and burros and to oppose changes to the Wild Horse and Burro Act that would negatively impact Nevada. (Assemblyman Goicoechea.)

This proposal will be addressed further as part of a presentation by the Nevada Cattlemen's Association at the July 30, 2010, meeting.

38. **Include a statement in the final report** expressing the Committee's support for maintaining wild horses and burros at AMLs through timely gathers, adoption programs, private partnerships and the use of sanctuaries, and sterilization. (Connie Simpkins, N-4 Grazing Board, January 2010 meeting.)

This recommendation is self-explanatory.

PROPOSED ACTIONS RELATING TO OFF-HIGHWAY VEHICLES (OHVS)

39. **Amend the statutes** (see S.B. 394, Chapter 504, *Statutes of Nevada 2009*) to extend the deadline for implementation of the titling and registration provisions for OHVs.

The \$500,000 start-up money required by the Department of Motor Vehicles (DMV) to implement the titling and registration provisions of the bill has been identified but, due to delays in drafting the contract for transferring the money from Clark County to the DMV, the approval of the Interim Finance Committee (IFC) has not yet occurred. Once the IFC approves the funding, the DMV advises that it will need one year to get the program up and running.

40. **Amend the statutes** (such as Chapter 490), in relation to the provisions for titling and registering OHVs as enacted in S.B. 394, to exempt homemade or other OHVs without vehicle identification numbers (VINs) in a manner similar to the existing statutes for certain motor vehicles without VINs. (Ken Freeman, Board Member, Southern Nevada Off Road Enthusiasts, January 2010 meeting.)

Mr. Freeman suggested addressing this gap in the same way motor vehicles are handled in DMV statutes and regulations. See NRS 482.290 and Nevada Administrative Code 482.501 relating to motor vehicles. If the DMV determines that the existing provisions already cover OHVs, then the bill may not be necessary.

Tab A



GREAT BASIN WATER NETWORK

1755 E. Plumb Ln. #170
Reno, NV 89502
775-786-9955

Proposal for Legislation Regarding Interbasin Transfers of Water

Nevada's interbasin water transfer statute, NRS 533.370(6), currently requires the State Engineer to deny an application for an interbasin transfer of water if he finds that such the proposed transfer would not be "environmentally sound" with regard to the basin from which the water is proposed to be taken.

It has been suggested that the term "environmentally sound" is not adequately defined to give the State Engineer enough specific guidance to make meaningful determinations as to what is or is not "environmentally sound" for a given basin.

If the Public Lands Committee and State Legislature decide to address this issue, the Great Basin Water Network (GBWN) recommends that Nevada's interbasin transfer statute be modified to make the following priorities and considerations more explicit:

1. The Legislature should establish a set of general criteria for defining what is "environmentally sound" with regard to the basin of origin.
2. The General Criteria should provide that:
 - a. A scientifically sound, independent inventory of hydrologic and biological conditions in the basin of origin must be compiled at the applicant's expense to serve as a baseline against which potential effects or changes are gauged (should include but not be limited to springs, creeks, seeps, wet meadows; types of vegetative and animal species; and current groundwater levels and quality).
 - b. A proposed transfer must leave enough water in the basin of origin to satisfy the purposes of protecting existing water rights holders, and for designated public lands in that basin, such as parks, wildlife refuges and wildlife management areas, and other public lands with grazing allotments and wildlife needs. Drawdowns have occurred in basins of origins without water leaving the basin, therefore, current basins of origin with declining groundwater levels should be protected from further drawdowns.
 - c. A proposed transfer must not threaten to eliminate or substantially reduce or degrade any population or habitat of any fish, animal, or plant

community; or any species that is listed or designated as a species of concern under federal or state law.

- d. A proposed transfer must not threaten the health, safety or welfare of residents living in the basin of origin.
 - e. A proposed transfer must not threaten the existence or integrity of important examples of major periods of Nevada history or prehistory.
 - f. In assessing the potential environmental effects of a proposed transfer, the State Engineer should consider the cumulative effects of the proposed transfer together with historic uses and reasonably probable future uses, as well as the transfer's individual effects.
 - g. In assessing potential environmental effects of the proposed transfer, the State Engineer should also consider the impacts to future water supplies in the basin of origin that may be affected by long term droughts and/or possible climate change.
 - h. A proposed transfer is not "environmentally sound" and must be denied if it is likely it will have the kind of effects listed above, and either (i) those effects cannot feasibly be avoided or mitigated or (ii) there are feasible alternatives that would avoid such effects.
3. The State Engineer also should be directed to establish individualized criteria for specific basins in consultation with other agencies having relevant expertise, such as those that manage public lands or resources in the affected areas.

CONSENT CALENDAR FOR WORK SESSION

Legislative Committee on Public Lands

Nevada Revised Statutes (NRS) 218E.510

July 30, 2010

NOTE TO COMMITTEE MEMBERS: The proposals listed below have been placed on a consent calendar by the Chair to assist the Committee in taking action on selected items. Committee members may request one or more items be removed from this list for further discussion. With the approval of the Committee, additional proposals from the work session may be added to the Consent Calendar.

ITEM NUMBER	BRIEF DESCRIPTION OF RECOMMENDATION (Please see "Work Session Document" for full description.)
7	Include a statement in the final report urging Congress to continue to fully fund payments to states under the Payments in Lieu of Taxes Act (PILT) and to reauthorize and fund the Secure Rural Schools Act.
11	Include a statement in the final report supporting pending legislation in the 111th Congress sponsored by U.S. Senator Harry Reid (S. 3408) and U.S. Representative Dean Heller (H.R. 5370) to clarify title in Ione and Gold Point, former mining towns in Nevada, and further supporting future efforts to clarify title in other similarly affected mining towns in the State.
13	Include a statement in the final report recognizing the importance of public lands to Nevada's economy and quality of life and the importance of all parties working together to preserve and maximize the use of public lands in the State.
14	Amend the statutes to require that a water right be obtained for a pit lake or gravel pit, used for purposes of evaporation.
22	Send a letter to Nevada's Congressional Delegation seeking their support in opposing proposed federal legislation that would redefine "navigable waters" or otherwise expand the scope of the federal Clean Water Act, thereby infringing on the authority of states to regulate water within their boundaries. See for example, H.R. 5088 in the 111th Congress.
23	Include a statement in the final report encouraging federal agencies to consider impacts on water purveyors when making decisions on public lands, such as changes of use or disposal of lands, and to provide funding mechanisms to mitigate those impacts.
26	Include a statement in the final report encouraging the State Engineer to consider the water dedication requirements set by local governments or water purveyors and to consult with affected local governments or water purveyors when setting water dedication requirements.

ITEM NUMBER	BRIEF DESCRIPTION OF RECOMMENDATION (Please see "Work Session Document" for full description.)
27	Include a statement in the final report urging regional water authorities and private and public water purveyors to maximize conservation efforts, and to thoroughly investigate potential alternative water sources, such as desalinization, use of reclaimed water, rainwater capture, and cloud seeding, and encouraging cities and counties to maximize conservation efforts and to use alternative sources of water to the greatest extent feasible.
28	Include a statement in the final report encouraging the State Engineer, when feasible as a condition of certain water rights permits, to make a determination of the maximum distance to which groundwater can be lowered before the basin's ecosystem and other water rights holders in the basin will be deemed negatively impacted. Further, encourage the State Engineer to develop and enforce effective monitoring and mitigation measures, for both surface and groundwater projects, to ensure that permit conditions are met and impacts are dealt with in a timely and meaningful way. Finally, encourage the State Engineer to impose appropriate safeguards as a condition of interbasin transfers.
30	Include a statement in the final report voicing the Committee's support for the Assembly Bill 198 program.
31	Send a letter to the BLM in support of a pilot demonstration project in Lincoln County for biomass power generation. The letter would ask the BLM to commit to providing a 20-year supply of wood from the BLM's proposed thinning of 3.2 million acres of pinion and juniper in the Ely District.
32	Include a statement in the final report supporting renewable energy projects on public lands in Nevada provided that: (a) the design and location of facilities minimize disruption to public land users; (b) the impacts of the project are fully mitigated and there is no net loss of animal unit months; and (c) cooperating agency status is granted to affected grazing boards to ensure them a meaningful role in the planning and implementation of a project.
33	Include a statement in the final report asking the Legislature to consider whether the tax abatements to encourage economic development in the form of geothermal development and energy production in Nevada are necessary and appropriate given the unique and limited nature of the resource and the importance of the abated tax revenue to the local governments.
34	Adopt a resolution urging State, local governments, users of public lands, and conservation organizations to be proactive in habitat protection, restoration, and mitigation to prevent listing of the Greater Sage Grouse as an endangered species.

ITEM NUMBER	BRIEF DESCRIPTION OF RECOMMENDATION (Please see "Work Session Document" for full description.)
35	Include a statement in the final report supporting: (a) continued and expanded funding for the Wildfire Conservation Group; (b) additional U.S. Department of Agriculture (USDA) National Resources Conservation Service (NRCS) fuels management projects in Nevada funded through the Environmental Quality Incentives Program (EQUIP); (c) increased USDA Agricultural Research Service (ARS) or NRCS funding and rangeland research positions for Nevada, including the Great Basin Region; (d) the use of a collaborative landscape partnership approach by federal agencies; (e) the case-by-case qualifying of certified professionals as technical service providers (TSPs) by the NRCS State Conservationist for conservation planning purposes; and (f) the Committee's efforts in Washington, D.C., to obtain the support of Nevada's Congressional Delegation and the appropriate federal agency personnel for efforts listed above.
38	Include a statement in the final report expressing the Committee's support for maintaining wild horses and burros at AMLs through timely gathers, adoption programs, private partnerships and the use of sanctuaries, and sterilization.
39	Amend the statutes (see Senate Bill 394, Chapter 504, <i>Statutes of Nevada 2009</i>) to extend the deadline for implementation of the titling and registration provisions for OHVs.
40	Amend the statutes (such as Chapter 490), in relation to the provisions for titling and registering OHVs as enacted in S.B. 394, to exempt homemade or other OHVs without vehicle identification numbers (VINs) in a manner similar to the existing statutes for certain motor vehicles without VINs.