

Legislative Committee on Public Lands



Bulletin No. 13-12

*Legislative Counsel
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LEGISLATIVE COMMITTEE ON PUBLIC LANDS

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SUMMARY OF RECOMMENDATIONS

LEGISLATIVE COMMITTEE ON PUBLIC LANDS

Nevada Revised Statutes 218E.510

This summary presents the recommendations approved by the Legislative Committee on Public Lands during the 2011–2012 Legislative Interim at its final meeting on August 24, 2012, in Carson City, Nevada. The bill draft requests (BDRs) will be forwarded to the Legislative Commission for transmittal to the 77th Session of the Nevada Legislature in 2013.

RECOMMENDATIONS FOR LEGISLATION

1. Amend the statutes governing the sale of electricity and the provision of transmission and distribution services by the Colorado River Commission of Nevada to implement the federal Hoover Power Allocation Act of 2011 (Public Law 112-72). **(BDR 58–206)**
2. Adopt a resolution emphasizing the potential impacts on Nevada’s rural and urban areas of listing the sage-grouse as an endangered species, and urging the Governor to incorporate the continuing involvement of the Legislature in efforts to preclude the listing. **(BDR R–207)**
3. Adopt a resolution urging Congress to ensure that public lands in Nevada remain open to multiple use and that Nevada and its local governments receive a portion of the revenues from commercial activities conducted on the public lands. **(BDR R–208)**
4. Adopt a resolution urging the Bureau of Land Management (BLM), United States Department of the Interior, and the U.S. Forest Service (USFS), U.S. Department of Agriculture, to consider an increase in livestock grazing under certain circumstances, in order to prevent range fires. **(BDR R–209)**
5. Adopt a resolution expressing the intent of the Legislature to establish a biomass industry to restore Pinyon-juniper and sagebrush ecosystems on public lands for the enhancement of economic stability, energy production, hydrologic function, rangeland health, and wildlife habitat. **(BDR R–210)**

RECOMMENDATIONS FOR COMMITTEE ACTION

6. Send a letter to the U.S. Secretary of Agriculture and the Secretary of the Interior supporting the recommendations of the Governor's Greater Sage-grouse Advisory Committee and emphasizing what is being done and what can be accomplished in Nevada to manage Pinyon-juniper woodlands and sagebrush ecosystems and preclude the listing of the Greater Sage-grouse as an endangered species under the federal Endangered Species Act of 1973.
7. Send a letter to Nevada's agricultural producers, expressing the Committee's support for their efforts to help preclude the listing of the sage-grouse and urging them to continue those efforts.
8. Send a letter to Nevada's Congressional Delegation emphasizing the potential impacts of listing the sage-grouse on both the rural and urban parts of the State, and emphasizing what is being done to preclude the listing.
9. Send letters to the Nevada System of Higher Education, the USFS, and other parties as appropriate, supporting ongoing research concerning the control of cheatgrass, red brome, and other annual grasses that contribute to the cheatgrass-fire cycle in Nevada.
10. Send a letter to the Forest Supervisor, Humboldt-Toiyabe National Forest, urging the USFS to revise its process for preparing and updating travel management plans for the National Forest.
11. Send a letter to the Director of the Nevada State Office of the BLM, urging the BLM to work with local governments, the State of Nevada, and the users of the public lands to expedite verification of R.S. 2477 rights-of-way for access to private property.
12. Send a letter to the BLM and the USFS urging the agencies to work with grazing permittees to ensure that: (a) management decisions are based on the best rangeland science; (b) flexibility is included in grazing permits to allow for adaptive management as conditions change; and (c) the quality and quantity of data collected is adequate to support decisions based on measurable resource objectives.
13. Send a letter to the Nevada Pinyon-Juniper Partnership expressing the Committee's support for the Partnership and its mission of promoting proactive, sound management to achieve healthy ecosystems for stronger communities.
14. Send a letter to the U.S. Secretary of the Interior and the Secretary of Agriculture, the Acting Director of the BLM, the Chief of the USFS, and Nevada's Congressional Delegation expressing the Committee's support for establishment of a biomass industry, in order to expand efforts to restore Pinyon-juniper and sagebrush ecosystems at a

landscape scale on public lands for the benefit of economic stability, energy production, hydrologic function, rangeland health, and wildlife habitat.

15. Send a letter to the Chairs of the Assembly Committee on Ways and Means and the Senate Committee on Finance in support of restoration of funding to the Division of Water Resources, State Department of Conservation and Natural Resources, for processing the backlog of water rights applications and enhancing online data sources.
16. Send a letter to the Governor, the Senate Committee on Finance, and the Assembly Committee on Ways and Means, urging their support for the necessary resources and staff for the State Engineer to set priorities and take action on orders and petitions for determining the relative rights of various claimants to the waters of any stream or water system.
17. Send a letter to the Chief of the USFS and the Forest Supervisor, Humboldt-Toiyabe National Forest, urging no further delays in approving and investing in water-related range improvements, notwithstanding the concerns of the USFS with Nevada water law on stockwater rights, and requesting the USFS to revise its policy requiring federal ownership of stockwater rights as a prerequisite to authorizing federal expenditures on livestock water improvements on the National Forest.
18. Send a letter to the Director of the Nevada State Office of the BLM expressing concern about the management of the Shoshone Ponds Area of Critical Environmental Concern in Spring Valley in White Pine County and inviting the BLM to meet with the Chair and interested members of the Legislative Committee on Public Lands to review the management objectives.

RECOMMENDATIONS FOR STATEMENTS IN THE FINAL REPORT

19. Include a statement in the final report calling for more collaboration and cooperation in the management of the public lands, on such subjects as fuels management, grazing leases and permits, land use plans, management of wild horses and burros, rights-of-way, travel management plans, water improvements, water resources, wilderness designations, and others.
20. Include a statement in the final report supporting improved accountability and transparency in the administration of the Equal Access to Justice Act (EAJA) of 1980, while respecting the intent of the EAJA, which is to create a level playing field on which individual citizens may question management decisions of federal agencies.
21. Include a statement in the final report supporting streamlining of both federal and State permitting of activities on public lands, provided that such streamlining preserves necessary community and natural resource protections.

22. Include a statement in the final report supporting: (a) full funding for the Payments in Lieu of Taxes (PILT) program; (b) reauthorization of the Secure Rural Schools and Community Self-Determination Act (SRS) of 2000; (c) no reduction in PILT payments based on SRS payments; and (d) a shift in emphasis for these programs to create jobs and produce receipts for revenue sharing.
23. Include a statement in the final report supporting sharing of federal receipts from commercial activity on public lands among the federal government, the State of Nevada, and Nevada's counties.
24. Include a statement in the final report concerning the renewal of grazing permits, supporting a review of the fee formula, a streamlined renewal process with accountability and flexibility, identification of the circumstances in which it is appropriate to extend permit terms to 20 years, and elimination of unwarranted delays.
25. Include a statement in the final report supporting legislative authority for and funding of drought monitoring, response planning, and mitigation measures resulting from the work of Nevada's Drought Response Committee.

REPORT TO THE 77TH 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, created in 1983. Chapter 218E of the *Nevada Revised Statutes* (NRS) sets forth the Committee's authority and duties in NRS 218E.500 through 218E.535 (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 serve a two-year term commencing on July 1 of each odd-numbered year.

On August 24, 2011, the Legislative Commission appointed the following members and alternates to the Committee on Public Lands:

Senator Greg Brower
Senator Mark A. Manendo
Senator David R. Parks
Senator Dean A. Rhoads
Assemblyman Paul Aizley
Assemblywoman Irene Bustamante Adams
Assemblywoman Maggie Carlton
Assemblyman Ira Hansen
Chris Giunchigliani, Clark County Commissioner

Alternates:

Senator Donald Gary Gustavson
Senator Michael A. Schneider
Assemblyman Richard (Skip) Daly
Assemblyman Peter (Pete) J. Goicoechea

At its first meeting of the Interim, on November 4, 2011, the Committee elected Assemblywoman Maggie Carlton to serve as Chair and Senator Dean A. Rhoads to serve as Vice Chair.

The following staff from the Legislative Counsel Bureau (LCB) provided staff support during the 2011–2012 interim:

Dave Ziegler, Supervising Principal Research Analyst, Research Division
Natalie J. Pieretti, Senior Research Secretary, Research Division
Dan Yu, Principal Deputy Legislative Counsel, Legal Division

The subject matter of the Committee on Public Lands is exceptionally broad. In the last four interims alone, 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 the 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 has revised provisions on applications to the State Engineer to appropriate water for beneficial use; 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; wilderness study areas in Humboldt County; and other subjects.

Appendix B is a summary status report on the Committee's recommended legislation from the 2009–2010 Interim.

At its August 24, 2012, work session in Carson City, the Committee approved five proposals for drafting legislation for the 2013 Legislative Session and another 20 proposals for sending letters or including statements in the final report. Topics covered included:

- Energy;
- Grazing on public lands;
- The Greater Sage-grouse;
- Pinyon-juniper woodlands;
- Public lands, generally; and
- Water resources and water supplies.

II. COMMITTEE ACTIVITIES

The Committee held five public meetings during the 2011–2012 Interim. The Committee held two meetings in rural Nevada, in Elko and Ely, and also met in Carson City and Las Vegas.

The Committee received and discussed reports from:

- The Carson City and Elko 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 (HTNF) and its Bridgeport, Carson City, Elko, Jarbidge, and Ruby Mountain Ranger Districts, U.S. Forest Service (USFS), U.S. Department of Agriculture (USDA);
- Carson City and Churchill, Clark, Douglas, Elko, Eureka, Humboldt, Lander, Washoe, and White Pine Counties;
- The Carson Water Subconservancy District; the Central Nevada Regional Water Authority (CNRWA); the CRC; the Humboldt River Basin Water Authority (HRBWA); the Southern Nevada Water Authority (SNWA); and the Virgin Valley Water District;
- The Division of Forestry, Division of State Lands, and Division of Water Resources (DWR), State Department of Conservation and Natural Resources (SDCNR); and
- The State Department of Agriculture.

In addition, the Committee received reports and discussed important topics involving the public lands, including:

- Activities and programs in southern Nevada relating to the Southern Nevada Public Land Management Act of 1998;
- The recent rulings of the State Engineer on applications to appropriate underground waters in Lincoln and White Pine Counties;
- The definition of “wildlife” as used in Title 48 (“Water”) of the NRS;
- Policies related to the Greater Sage-grouse in Nevada, and the recommendations of the Governor’s Greater Sage-grouse Advisory Committee (GSGAC);
- The provisions and implementation of the federal Equal Access to Justice Act (EAJA) of 1980 as they relate to litigation affecting public lands;
- Research on cheatgrass invasion and Pinyon-juniper encroachment;
- Best management practices for Nevada’s public lands, including grazing and ranching practices; landscape-scale and watershed-scale treatments; management of invasive plants; and restoration of disturbed sites;
- The relationship between livestock grazing and the cheatgrass-fire cycle;
- Wild horse and burro budgets, holding facilities, and statistics, and the proposed Mustang Monument Wild Horse Sanctuary in Elko County; and
- Wildfire-related programs in northeastern Nevada.

For more information, minutes and exhibits are on file in the LCB’s Research Library (telephone: 775/684-6827), located in Carson City, Nevada. Minutes and exhibits are also available online at: <http://www.leg.state.nv.us/Interim/76th2011/Committee/StatCom/Lands/?ID=12>.

At its final meeting in Carson City on August 24, 2012, the Committee recognized the long service of Senator Dean A. Rhoads, who was term-limited and serving his last interim on the Committee. Senator Rhoads chaired the Committee for 13 consecutive Interims, starting in 1985, and also served, as a member of the Nevada Assembly, on the Committee’s predecessor, the Select Committee on Public Lands, in the 1979–1980 and 1981–1982 Interims. Senator Rhoads was appointed to President Ronald Reagan’s Federalism Advisory Committee in 1981 and served as chair of its Subcommittee on Land and Water.

In addition to the public meetings, Committee members toured BLM sites in Clark County in May 2012, locations in Spring Valley in White Pine County in June 2012, and the Gund Ranch, University of Nevada, Reno, in Lander County, in June 2012.

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

At its final meeting and work session on August 24, 2012, the Committee on Public Lands considered a total of 28 proposed actions for legislation, letters, or statements in the final report. The sources of the proposed actions included suggestions received during testimony at the four Committee meetings prior to the work session and suggestions received in response to memorandums from the Chair dated May 16 and July 9, 2012.

A. PROPOSED ACTIONS RELATING TO ENERGY

President Barack Obama signed the federal Hoover Power Allocation Act of 2011 (Public Law 112-72) on December 20, 2011. The Act establishes the basis for allocations of low-cost renewable hydropower from Hoover Dam to customers in Arizona, California, and Nevada for a 50-year term. Current Hoover Dam hydropower contracts between the federal Western Area Power Administration and its customers, including the CRC, expire on September 30, 2017.

The Act provides that current Hoover Dam customers will be offered new 50-year contracts for 95 percent of their existing allocations of energy from Hoover Dam, and sets aside the remaining 5 percent as a resource pool for new hydropower customers. The CRC will offer 50-year contracts to its current hydropower customers and yet-to-be-identified new customers in Nevada. The current customers include the City of Boulder City, Lincoln County Power District No. 1, NV Energy, Overton Power District No. 5, the SNWA, the Valley Electric Association, Inc., and five industrial companies.

Section 704.787 of NRS provides that the CRC may serve only the customers under contract as of July 1997 and the SNWA and its member agencies without subjecting itself to the jurisdiction of the Public Utilities Commission of Nevada (PUCN).

The Committee heard testimony from Jayne Harkins, P.E., Executive Director, CRC, at the meeting of May 4, 2012, and also received written recommendations from Ms. Harkins on this subject. Since the CRC wishes to serve new customers after September 30, 2017, and not subject itself to PUCN jurisdiction, the CRC seeks amendments to the NRS.

Therefore, the Legislative Committee on Public Lands recommends that the Legislature:

Amend the statutes governing the sale of electricity and the provision of transmission and distribution services by the CRC to implement the federal Hoover Power Allocation Act of 2011 (Public Law 112-72). (BDR 58-206)

B. PROPOSED ACTIONS RELATING TO GRAZING ON THE PUBLIC LANDS

At the Committee's meeting in Elko on November 4, 2011, Senator Dean A. Rhoads stated, in light of numerous fires affecting grazing allotments and sage-grouse habitat on public lands in northeastern Nevada and other parts of the State, it would make sense to use grazing to help control fine fuel loads. He cited examples from Nevada and other states where grazing has been used to control fuel loads and weeds.

The BLM's Elko District Manager testified at the meeting that, because of requirements of the National Environmental Policy Act (NEPA) of 1969, it is not practical to allow additional animal unit months or extend the season of a grazing permit temporarily if the permittee seeks a one-time change during that grazing season. He said grazing is one of the available tools to reduce fuels; managing forage on public lands is complex; other resources (e.g., sage-grouse habitat) also need to be considered; and the BLM would like to partner with the livestock industry to control cheatgrass and reduce fuels.

At the June 2012 meeting in Ely, the HTNF Forest Supervisor testified that the USFS uses targeted grazing to reduce fuel loads in Carson City and other locations. At the same meeting, other witnesses testified that proper livestock grazing is a valuable tool for reducing fine fuels and avoiding catastrophic fires that harm sage-grouse habitat; that sage-grouse habitat management plans should include a role for proper grazing; and that using grazing in combination with other management techniques has increased sage-grouse habitat in some locations.

The *Strategic Plan for Conservation of Greater Sage-Grouse in Nevada* (July 31, 2012), prepared by the Governor's GSGAC recommends that the federal land management agencies allow flexibility and use targeted grazing management to reduce fuel loads and fire risk and enhance and protect sage-grouse habitat.

Therefore, the Legislative Committee on Public Lands recommends that the Legislature:

Adopt a resolution urging the BLM and the USFS to consider an increase in livestock grazing under certain circumstances, in order to prevent range fires. (BDR R-209)

At the June 19, 2012, meeting in Ely, the Committee heard testimony on a research project of the Great Basin Environmental Program, College of Agriculture, Biotechnology and Natural Resources, University of Nevada, Reno. At the University's Gund Ranch, near Austin,

Nevada, a pilot program in 2006 through 2009 showed great promise for dramatically reducing cheatgrass by grazing in successive years in the fall, after seed drop. According to the testimony, large-scale application of this research has the potential to reduce the wildfire threat in sage-grouse habitat while simultaneously increasing the profitability of ranching and protecting private property from cheatgrass-fueled wildfires. The Gund Ranch manager testified that the researchers hope to expand the experiment to other sites in Nevada and Oregon.

At the same meeting, the Committee received a report on ecosystem sustainability and the cheatgrass fire cycle from a scientist with the Rocky Mountain Research Station of the USFS. The report covered cheatgrass invasion, the importance of environmental conditions in addressing cheatgrass problems, priorities for cheatgrass management, and related research and pilot projects currently underway. The testimony also covered the phenomenon of cheatgrass die-off, the need to determine whether there is a potential for biological control of cheatgrass, and how best to restore areas where cheatgrass die-off has occurred. According to the testimony, 500,000 acres of cheatgrass in northern Nevada has died, resulting in soil erosion and secondary weed invasion. The likely causes are fungal or other pathogens interacting with weather. (According to recent news reports, a likely cause is a fungus known to USFS researchers and others as the “Black Fingers of Death” or BFOD. Although the fungus may create conditions that allow restoration of cheatgrass-infested areas, land managers will need measures to prevent cheatgrass or other invasive weeds, such as medusahead wildrye, from taking over restoration sites.)

Therefore, the Committee voted to:

Send letters to the Nevada System of Higher Education (NSHE), the USFS, and other parties as appropriate, supporting ongoing research concerning the control of cheatgrass, red brome, and other annual grasses that contribute to the cheatgrass-fire cycle in Nevada. (A copy of the Committee’s letter is included in Appendix C.)

On the motions concerning the resolution and letters on livestock grazing and range fires, the Committee further directed staff to ensure that the letters and resolution mention the involvement of the NSHE in research that provides a scientific basis for the recommendations.

At the November 4, 2011, meeting in Elko, representatives of Eureka County expressed concern for what they consider arbitrary and unjustified closures of livestock grazing in certain areas. As an example, the County said the BLM often employs nonmeasurable, vague vegetation objectives to close an entire grazing allotment for two or more years after conducting a vegetation treatment in a small area of the allotment. The County also said the BLM has closed grazing allotments during hot weather, based on subjective determinations of impacts on riparian areas. The County believes the science behind these actions is flawed, they prevent ranchers from providing for their livestock at the right time of year, and they shift the resource burden to private lands without solving the resource issue.

Therefore, the Committee voted to:

Send a letter to the BLM and the USFS urging the agencies to work with grazing permittees to ensure that: (a) management decisions are based on the best rangeland science; (b) flexibility is included in grazing permits to allow for adaptive management as conditions change; and (c) the quality and quantity of data collected is adequate to support decisions based on measurable resource objectives. (A copy of the Committee's letter is included in Appendix C.)

For the Committee's final meeting and work session on August 24, 2012, the Chair noted that livestock grazing is a long-standing use of the public lands within the concept of multiple use and that proper grazing can help meet management objectives for fuels and vegetation management. The Chair made three related recommendations. First, with adequate accountability and safeguards, it may be appropriate to extend the term of some grazing permits from 10 to 20 years to reduce the administrative burden on both the federal agencies and the permittees. Second, when grazing leases or permits are due for renewal, no significant changes are proposed, and conditions on the range are stable, the renewal process should be streamlined. Third, the process for adapting lease and permit provisions to changing conditions on the ground should also be streamlined so that land managers and users can work together to manage fuel loads, conserve wildlife habitat, and make other adaptations for the benefit of everyone.

At the August 24 meeting, the members discussed the fee formula for grazing permittees, which, under the federal Public Rangeland Improvement Act of 1978, adjusts base fees based on cattle prices, forage value, and production costs. Members said that the fee formula should also be reviewed in conjunction with the review of modifications, renewals, and terms of grazing permits.

Therefore, the Committee voted to:

Include a statement in the final report concerning the renewal of grazing permits, supporting a review of the fee formula, a streamlined renewal process with accountability and flexibility, identification of the circumstances in which it is appropriate to extend permit terms to 20 years, and elimination of unwarranted delays.

C. PROPOSED ACTIONS RELATING TO THE GREATER SAGE-GROUSE

On March 23, 2010, the U.S. Fish and Wildlife Service (USFWS) announced its decision on petitions to list the Greater Sage-grouse as threatened or endangered under the Endangered Species Act (ESA) of 1973. The USFWS found that listing of the Greater Sage-grouse is warranted, but precluded by higher-priority listing actions. This decision placed both the Greater-Sage grouse and the distinct bistate population in west-central Nevada and east-central California on the Candidate Species list under the ESA.

On September 9, 2011, the U.S. District Court for the District of Columbia approved a settlement agreement between the Center for Biological Diversity and the USFWS, in which the USFWS agreed to complete the review of the bistate population of Greater Sage-grouse by 2013 and the wider-ranging Greater Sage-grouse by 2015.

On January 27, 2012, representatives of the BLM, Nevada's Department of Wildlife (NDOW), and the USFWS briefed the Committee on Public Lands on the status of the Greater Sage-grouse and efforts to prevent a listing under the ESA. At the same meeting, a representative of the Nevada Mining Association testified that a listing of the sage-grouse would affect the economic recovery of the State, with large impacts on rural Nevada.

On March 30, 2012, Governor Brian Sandoval established the GSGAC by executive order, and directed the GSGAC to provide recommendations to the Governor by July 31, 2012, on policies and actions for developing a statewide strategy to prevent listing the species under the ESA.

According to testimony, listing the sage-grouse as an endangered species could bring about numerous direct and indirect socioeconomic impacts. A listing would likely have direct impacts on the mining, ranching, and renewable energy sectors, since operators would be required to adjust their activities and plans on both private and public lands and would encounter more complex and lengthy regulatory proceedings. A listing might also have widespread indirect impacts stemming from slower growth in the mining and renewable energy sectors and lower-than-anticipated employment and tax revenues statewide, and could hamper the State's economic diversification efforts. Recreation on the public lands could also be affected.

At its final meeting on August 24, 2012, the Committee received a briefing on the recommendations of the Governor's GSGAC. During discussion, the members commented that it was unfortunate that no representative of the Legislative Branch was invited to serve on the Advisory Committee, since the Legislature will clearly have a budgetary and policy role to play in helping to prevent a listing.

Therefore, the Legislative Committee on Public Lands recommends that the Legislature:

Adopt a resolution emphasizing the potential impacts on Nevada's rural and urban areas of listing the sage-grouse as an endangered species, and urging the Governor to incorporate the continuing involvement of the Legislature in efforts to preclude the listing. (BDR R-207)

At the Committee's June 19, 2012, meeting in Ely, a rancher in Humboldt County, Nevada, and a representative of the National Cattlemen's Beef Association urged the Committee to express its support for the recommendations of the GSGAC in letters to federal officials and Nevada's Congressional Delegation, emphasizing ongoing and planned efforts to protect sage-grouse habitat and the risks associated with a listing under the ESA. They also encouraged the Committee to write to Nevada's agricultural producers, expressing the Committee's support for their past and future efforts related to sage-grouse conservation.

According to testimony, efforts already underway on the ground to prevent listing of the sage-grouse include: construction of fuel breaks; establishment of a priority on sagebrush habitat in wildfire prevention and suppression; fence flagging or removal; hunting restrictions where necessary in certain counties and game management areas; management of OHVs and wild horse populations; restoration of burned areas with plantings, seedings, and noxious weed treatments; restoration of meadows, springs, and streams with fencing, grade control structures, new pipes and water troughs, rebuilt culverts, revegetation, and terracing; and thinning or removal of pinyon and juniper trees encroaching on sagebrush habitat. Thousands of acres of habitat have been treated in central and northern Nevada. Virtually all projects involve partnerships among educational institutions, federal and State agencies, nonprofit corporations, and private landowners and ranchers.

Therefore, the Committee voted to:

Send a letter to the U.S. Secretary of Agriculture and the Secretary of the Interior supporting the recommendations of the Governor's GSGAC and emphasizing what is being done and what can be accomplished in Nevada to manage pinyon-juniper woodlands and sagebrush ecosystems and preclude the listing of the Greater Sage-grouse as an endangered species under the federal ESA. (A copy of the Committee's letter is included in Appendix C.)

Send a letter to Nevada's agricultural producers, expressing the Committee's support for their efforts to help preclude the listing of the sage-grouse and urging them to continue those efforts. (A copy of the Committee's letter is included in Appendix C.)

Send a letter to Nevada's Congressional Delegation emphasizing the potential impacts of listing the sage-grouse on both the rural and urban parts of the State, and emphasizing what is being done to preclude the listing. *(A copy of the Committee's letter is included in Appendix C.)*

The Committee further directed staff to include in the letters a reference to the letter to the GSGAC from the co-chairs of the Nevada Pinyon-Juniper Partnership (NPJP) (June 13, 2012), noting that management of pinyon-juniper woodlands provides abundant opportunities to enhance sage-grouse habitat while meeting multiple objectives.

D. PROPOSED ACTIONS RELATED TO PINYON-JUNIPER WOODLANDS

At the June 19, 2012, meeting in Ely, the Committee heard testimony from representatives of the NPJP and the USFS, providing background information on pinyon-juniper ecosystems, management and restoration of pinyon-juniper woodlands, and potential utilization of pinyon-juniper biomass.

According to the NPJP, fires are part of the natural ecology and will always occur in pinyon-juniper woodlands. However, the impacts of those fires depend on the condition of the woodlands. Since the mid-1900s, there has been a significant influx of pinyon and juniper trees into sagebrush habitat, in terms of both density and range. Today, about 200,000 acres in central and northeastern Nevada may transition annually to a stage where the trees become dominant. When this occurs, fires will be severe and will have more serious impacts than when herbs, shrubs, and trees are in better balance. Considering the costs of fire suppression and treatment, research indicates that the benefits of treating fuels before pinyon and juniper trees become dominant far outweigh the costs. Taking into account benefits related to erosion control, forage, recreation, wildfire damage, and wildlife habitat, the ratio of benefits to costs becomes even greater.

The BLM, the USFS, and others treat pinyon-juniper woodlands that are either overgrown or threatening to become overgrown with such techniques as mastication (i.e., crushing and grinding) and thinning. When treatment can be accomplished on large landscape units, unit costs are lower.

The NPJP looks for opportunities to use the wood that comes from restoration treatments. The wood can be used as firewood or converted to fuel pellets, niche products, particle board, or posts. Under stewardship contracts, a contractor who is paid to remove trees agrees to take the trees as part of the payment, reducing the cost to the contracting agency. In Ely, a "Fuels for Schools" program uses wood from treatment projects to heat classrooms. It may be possible to produce new products now in the research and development phase, including biochar and bioplastics.

Both the NPJP and the Board of Eureka County Commissioners suggested that the Committee on Public Lands express support for the establishment of a biomass industry in Nevada, in

order to capture the multiple benefits of restoring degraded pinyon-juniper and sagebrush ecosystems.

Therefore, the Legislative Committee on Public Lands recommends that the Legislature:

Adopt a resolution expressing the intent of the Legislature to establish a biomass industry to restore pinyon-juniper and sagebrush ecosystems on public lands for the enhancement of economic stability, energy production, hydrologic function, rangeland health, and wildlife habitat. (BDR R-210)

In addition, the Committee voted to:

Send a letter to the U.S. Secretary of the Interior and the Secretary of Agriculture, the Acting Director of the BLM, the Chief of the USFS, and Nevada's Congressional Delegation expressing the Committee's support for establishment of a biomass industry, in order to expand efforts to restore pinyon-juniper and sagebrush ecosystems at a landscape scale on public lands for the benefit of economic stability, energy production, hydrologic function, rangeland health, and wildlife habitat. (A copy of the Committee's letter is included in Appendix C.)

In April 2010, a diverse group of persons interested in agriculture, commerce, the environment, renewable energy, rural development, wildfire risks, wildlife habitat, and woodlands health formed the NPJP. Participants say it is most appropriate to address the many problems associated with pinyon-juniper encroachment in sagebrush ecosystems by utilizing the biomass that results from large-scale treatments and capturing its economic value.

In December 2010, more than 170 persons attended a NPJP summit meeting on pinyon-juniper restoration and utilization. In August 2011, about 40 persons attended a NPJP workshop in Ely, focusing on the challenges and opportunities in utilizing pinyon and juniper. According to the NPJP project manager, a letter of support from the Committee on Public Lands would help the NPJP build its network and raise awareness of its issues.

Therefore, the Committee voted to:

Send a letter to the NPJP expressing the Committee's support for the Partnership and its mission of promoting proactive, sound management to achieve healthy ecosystems for stronger communities. (A copy of the Committee's letter is included in Appendix C.)

E. PROPOSED ACTIONS RELATED TO THE PUBLIC LANDS, GENERALLY

The Energy Policy Act of 2005 (42 U.S.C. 15873(a)) created a revenue sharing provision for geothermal energy generation on federal lands, to help affected state and local governments deliver governmental services and make necessary capital improvements to accommodate the energy development.

In 2010, Nevada's U.S. Senator Harry Reid and then-U.S. Representative Dean Heller introduced legislation that would have established a leasing program for solar energy projects on federal lands and provided for payments of 25 percent of the revenue to the host state and counties.

In the 2011 Session, the Nevada Legislature adopted Senate Joint Resolution No. 4 (File No. 32, *Statutes of Nevada*) by unanimous vote in both the Senate and the Assembly. The Resolution urges Congress to ensure public lands in Nevada remain open to multiple use and to enact legislation ensuring Nevada and its affected local governments receive a portion of the revenue the federal government receives for activities conducted on public lands, including rents and royalties from geothermal energy production.

In 2011, members of Nevada's Congressional Delegation were listed as co-sponsors of the Public Lands Renewable Energy Development Act of 2011 in both the Senate and the House of Representatives. Among its other provisions, it would have established a revenue distribution formula for solar and wind energy development on public lands, dividing rental and royalty income among counties, the DOI, a fund for land and wildlife conservation, and states.

At the Committee's meeting of May 4, 2012, representatives of the CNRWA testified that activities occurring on public lands in Nevada increase the demand for facilities, roads, and services. Although the State and its local governments are limited in their ability to collect fees or taxes from the users of the public lands or the U.S. to pay for the necessary facilities, roads, and services, the U.S. receives licensing fees, permitting fees, rents, and royalties and, in the past, has passed through some of those revenues to the State and local governments. The CNRWA says the federal government has recently curtailed the practice of sharing some of the revenue, the loss of revenue is a significant problem, and the Committee should recommend adoption of an updated resolution similar to S.J.R. 4 of the 2011 Session.

Therefore, the Legislative Committee on Public Lands recommends that the Legislature:

Adopt a resolution urging Congress to ensure that public lands in Nevada remain open to multiple use and that Nevada and its local governments receive a portion of the revenues from commercial activities conducted on the public lands. (BDR R-208)

In addition, the Committee voted to:

Include a statement in the final report supporting sharing of federal receipts from commercial activity on public lands among the federal government, the State of Nevada, and Nevada's counties.

The Committee further directed staff to ensure that the resolution and the statement in the final report are not limited to commercial use for geothermal energy production and refer, where appropriate, to other sources of renewable energy.

The Committee received testimony on travel management on the HTNF at the November 2011 and January 2012 meetings. The HTNF Forest Supervisor testified that the USFS has been establishing a designated system of roads and trails for public wheeled motorized use in response to the Travel Management Rule in the *Code of Federal Regulations*. The Forest Supervisor said there are over 5,700 miles of system roads and motorized trails and about 8,000 miles of additional routes created by users but not managed as part of the Forest Road System. Each ranger district has proposed a series of roads and trails for public use, including system routes and other routes, and the product is a motor vehicle use map for the public to use to know where they can drive various classes of vehicles.

A member of the Board of Elko County Commissioners testified that the travel management plan was the County's biggest natural resource challenge. The commissioner said the County had been unable to get answers on how many miles of roads would be closed and how cross-country travel would be managed, and that Elko County had concerns related to restrictions on big game retrieval, dispersed camping, and mineral prospecting, and their possible economic impacts. Representatives of Eureka and Lander Counties also expressed concern with the travel management planning process.

Therefore, the Committee voted to:

Send a letter to the Forest Supervisor, HTNF, urging the USFS to revise its process for preparing and updating travel management plans for the National Forest. *(A copy of the Committee's letter is included in Appendix C.)*

A federal law enacted in 1866, popularly referred to as R.S. 2477, granted rights-of-way for construction of highways over public lands to provide access to mining claims and other private property. With the passage of the Federal Land Policy and Management Act of 1976 (FLPMA), Congress repealed the act of 1866, but also provided that nothing in FLPMA shall be construed as terminating any valid right-of-way existing on the date of FLPMA's approval. The NRS defines "public road" to include any way which exists on a R.S. 2477 right-of-way and is accepted by public use and enjoyment. (See NRS 405.191.)

A board of county highway commissioners (composed of the regularly elected county commissioners) may locate and determine the width of R.S. 2477 rights-of-way and open them for public use. If the official map of county roads includes such a right-of-way, acceptance of the map by Nevada's Department of Transportation (NDOT) constitutes acknowledgement of the establishment of the existence and location of a right-of-way that is open for public use. (See NRS 403.190.) According to testimony concerning S.B. 49 (Chapter 71, *Statutes of Nevada*) of the 2011 Legislative Session, this process, including the acknowledgement by NDOT, helps facilitate the perfection of claims for R.S. 2477 roads with the federal land management agencies and in the federal courts.

Representatives of Eureka County provided testimony at the Committee's November 2011 meeting, referring to recent federal case law on the subject, saying there should be no need for an adjudication or determination of right-of-way for a right-of-way that does not conflict with a federal management regime and as to which no dispute has arisen. The Executive Director of Lander County also testified at the November 2011 meeting in Elko that, when a user needs access across the public lands to a geothermal project or a grazing allotment in the County, the user must make a request to the BLM's field office, which should not be necessary.

Therefore, the Committee voted to:

Send a letter to the Director of the Nevada State Office of the BLM, urging the BLM to work with local governments, the State of Nevada, and the users of the public lands to expedite verification of R.S. 2477 rights-of-way for access to private property. *(A copy of the Committee's letter is included in Appendix C.)*

On the motion to approve sending the letter on R.S. 2477 rights-of-way, the Committee stated for the record that the recommendation does not apply to development on Gypsum Ridge in Clark County.

The Committee on Public Lands heard testimony at each of its meetings in the 2011-2012 Interim on the need for better collaboration, cooperation, and coordination among managers and users of public lands. Although the Committee learned about several excellent examples of collaboration (e.g., the work of the Eastern Nevada Landscape Coalition, the Pine Forest Working Group, and the Wildfire Support Group), witnesses cited issues or problems in many areas, including: adding flexibility to grazing leases and permits for management of fine fuels; completion of travel management plans in the HTNF; conservation of cultural resources; construction of water improvements for livestock and wildlife; land use planning and permitting; management of wild horses and burros; pending but unresolved wilderness designations; resolution of issues related to R.S. 2477 rights-of-way; water resource management, monitoring, and planning; weather-related and other restrictions on grazing permittees; and others.

Therefore the Committee voted to:

Include a statement in the final report calling for more collaboration and cooperation in the management of the public lands, on such subjects as fuels management, grazing leases and permits, land use plans, management of wild horses and burros, rights-of-way, travel management plans, water improvements, water resources, wilderness designations, and others.

Certain federal environmental laws, including the Clean Water Act (CWA) of 1972, the ESA, and NEPA grant standing to individuals to sue for enforcement of those laws.

The federal EAJA authorizes certain prevailing parties to recover attorney's fees and costs in litigation involving the federal government. The Act is a partial waiver of sovereign immunity, initially enacted in 1980 and made permanent in 1985, and applies to both administrative actions and civil proceedings. The purpose of the Act is to level the playing field in litigation between individuals and the federal government, so that a person who sues the government is not placed at a competitive disadvantage. The U.S. Congress wished to ensure a degree of governmental accountability and not to deter individuals from defending themselves against arbitrary or capricious regulatory actions. In litigation involving the public lands, the Act provides an incentive for individuals and nonprofit entities to participate.

To recover attorney's fees and costs, parties must conform to limits on their net worth, itemize charges, meet procedural deadlines, pass a two-tiered reasonableness test, and prevail on some or all claims, among other requirements. If a court finds that a prevailing party has acted unreasonably in delaying or prolonging the proceedings, the award may be reduced.

Nonprofit environmental groups have pursued citizen suits against the BLM, the U.S. Environmental Protection Agency, the USFS, and the USFWS to enforce the CWA, the ESA, and NEPA, and have recovered fees and expenses under the EAJA. For example, from 2004 to 2010, the USFWS paid attorneys' fees of about \$1.5 million in 26 cases.

Although provisions in federal laws authorizing citizen suits and providing for recovery of attorney's fees were enacted to help protect the rights of individuals, the Committee on Public Lands identified a need for improved reporting and transparency on the amount of recovery under the EAJA and the outcomes of the litigation against the public land management agencies.

Therefore, the Committee voted to:

Include a statement in the final report supporting improved accountability and transparency in the administration of the EAJA, while respecting the intent of the EAJA, which is to create a level playing field on which individual citizens may question management decisions of federal agencies.

Since the 2009–2010 Legislative Interim, federal agencies have announced plans and issued policies relating to streamlining approvals of projects on public lands, including mining plans of operation, renewable energy generation and transmission projects, and other projects. The Board of Eureka County Commissioners urged the Committee to support streamlining of both State and federal permitting of activities on public lands, provided that local communities and their economic, environmental, and social capital are protected and sustained. The County says that coordination should include local government involvement early in the planning and permitting process.

Therefore, the Committee voted to:

Include a statement in the final report supporting streamlining of both federal and State permitting of activities on public lands, provided that such streamlining preserves necessary community and natural resource protections.

In accordance with the Payment In Lieu of Taxes (PILT) Act (Public Laws 94-565 and 97-258, 31 U.S.C. 6901 et seq.), the federal government makes payments to local governments to help offset the exemption from property taxes for federal lands within their boundaries. The DOI administers the payments, which it distributes from congressional appropriations with the use of a formula.

Under the Secure Rural Schools and Community Self-Determination (SRS) Act of 2000 (P.L. 106-393, as amended), the USFS makes payments to counties for roads and schools (Title I), infrastructure maintenance (Title II), and county projects (Title III). Payments under the SRS program require an offset in the following year's PILT payment for certain USFS lands. Counties that receive increased funding under SRS may find that their PILT payments are reduced.

President Barack Obama signed legislation in July 2012 providing \$398 million for the PILT program in Federal Fiscal Year (FFY) 2013 and extending SRS through FFY 2012 at \$346 million. Members of Congress are attempting to develop a long-term approach to PILT and SRS funding. Some members favor using revenues from timber sales and other commercial uses of public lands to pay for the programs. Other members emphasize the need for environmental protection and the preservation of multiple use.

Representatives of Eureka County provided testimony at the November 2011 meeting in Elko saying that PILT and SRS payments should be separate and have no effect on each other, and that there should be a shift in these programs toward active management of public lands to earn revenue for counties and schools by creating jobs and producing receipts for revenue sharing.

Therefore, the Committee voted to:

Include a statement in the final report supporting: (a) full funding for the PILT program; (b) reauthorization of the SRS; (c) no reduction in PILT payments based on SRS payments; and (d) a shift in emphasis for these programs to create jobs and produce receipts for revenue sharing.

F. PROPOSED ACTIONS RELATED TO WATER RESOURCES AND WATER SUPPLIES

During the 2005 Session, the Nevada Legislature approved \$1.8 million in State General Fund appropriations for the 2005–2007 biennium to support the efforts of the DWR to reduce water rights caseload backlogs, improve technology in order to process water rights transactions more quickly, and provide better public access to DWR records via the Internet. However, for budget reasons, the DWR held some positions vacant in the 2007–2009 biennium, and in subsequent sessions, the Legislature eliminated a number of staff positions within DWR.

At the May 2012 meeting of the Committee, a representative of the HRBWA testified that the elimination of staff positions within the DWR impairs the DWR’s ability to maintain the progress it had made in reducing the backlog of pending applications for water rights and the related public access to online data on water rights and water resources.

At the Committee’s final meeting and work session in August 2012, the State Engineer testified that the DWR has reduced its backlog from about 3,000 applications in 2005 to about 1,500 at the present time, and that many of the backlogged applications are complex because they affect surface water sources on which there are competing claims.

Therefore, the Committee voted to:

Send a letter to the Chairs of the Assembly Committee on Ways and Means and the Senate Committee on Finance in support of restoration of funding to the DWR for processing the backlog of water rights applications and enhancing online data sources. *(A copy of the Committee’s letter is included in Appendix C.)*

Some users of Nevada’s water resources began to make beneficial use of the water prior to the enactment of the State’s water laws. Such users may claim that their water rights are, therefore, vested. Vested water rights are the most senior rights on a stream or water system, since they predate the need to apply to the State Engineer for the right to divert water for beneficial use.

At the Committee's May 2012 meeting, a representative of the CNRWA provided testimony saying that it is critical for the State Engineer to have a correct accounting of legal water rights in a hydrographic basin before issuing a permit for a new water right that might impair the vested right of another person.

The process for determining the relative rights of claimants to water in a given stream or basin is known as "adjudication," which requires a significant amount of resources and time to complete. After a person files a petition for determination of the relative rights, the State Engineer conducts an investigation, takes proofs, makes a preliminary order, conducts hearings on any objections, and files an order of determination with the district court. The district court then conducts a hearing and enters a decree affirming or modifying the order of the State Engineer. In a complex case, the entire process could take ten years or more to complete and, at the present time, the State Engineer is extremely limited in his ability to assign staff.

At the Committee's final meeting and work session in August 2012, the Committee considered a proposed recommendation from the CNRWA, which would amend the statutes to require adjudication of claims for vested water rights prior to action by the State Engineer on an application for a large appropriation of water within a basin with such claims. The State Engineer expressed strong conceptual support for adjudications, since they quantify water rights and assign priorities, but said that none of the State's 256 hydrographic basins has been fully adjudicated and the CNRWA proposal would have serious ramifications.

Although the Committee did not approve the CNRWA proposal, the members said the State Engineer needs resources to address petitions already filed and to be filed in the future.

Therefore, the Committee voted to:

Send a letter to the Governor, the Senate Committee on Finance, and the Assembly Committee on Ways and Means, urging their support for the necessary resources and staff for the State Engineer to set priorities and take action on orders and petitions for determining the relative rights of various claimants to the waters of any stream or water system. *(A copy of the Committee's letter is included in Appendix C.)*

In 2003, the Legislature passed S.B. 76 (Chapter 505, *Statutes of Nevada*), which provides that the State Engineer may issue a permit to water livestock only to the rancher or operator of the livestock. (See NRS 533.040 and 533.503.) Therefore, since 2003, the BLM and the USFS cannot normally obtain a stockwater permit in their own name. Although the BLM adapted its policies to allow stockwater-related improvements on public lands in Nevada without the BLM having to own the stockwater right, the USFS has not done so, and has maintained a policy that stockwater rights associated with any water improvement on the National Forest must be owned by the USFS before an improvement will be approved. The HRBWA testified that this

policy has blocked many water-related range improvements to the detriment of the environment, the livestock industry, and wildlife.

Therefore, the Committee voted to:

Send a letter to the Chief of the USFS and the Forest Supervisor, HTNF, urging no further delays in approving and investing in water-related range improvements, notwithstanding the concerns of the USFS with Nevada water law on stockwater rights, and requesting the USFS to revise its policy requiring federal ownership of stockwater rights as a prerequisite to authorizing federal expenditures on livestock water improvements on the National Forest. (A copy of the Committee's letter is included in Appendix C.)

The Ely District of the BLM manages the Shoshone Ponds Area of Critical Environmental Concern (ACEC) in Spring Valley in White Pine County to maintain unique and valuable vegetation and aquatic habitat resources. In the 1970s, NDOW installed a well in the ACEC for the purpose of providing protected water flows to three ponds used as places of refuge for the endangered Pahrump poolfish. Poolfish were introduced into the ponds in 1972 and 1976 and are managed under the species recovery plan published by the USFWS. The ponds are within a fenced enclosure designed to keep livestock away.

On a visit to the Shoshone Ponds in June 2012, the Committee Chair observed that the vegetation within the enclosure is overgrown, the water appears to be stagnant, and it is unclear whether the poolfish are being managed effectively inside the enclosure. An adjacent pond and stream, which are unfenced, appear to be in better condition and to house a thriving population of poolfish. The Chair expressed interest in meeting with the BLM and other interested parties to review the management objectives and the present status of the ponds.

Therefore, the Committee voted to:

Send a letter to the Director of the Nevada State Office of the BLM expressing concern about the management of the Shoshone Ponds ACEC in Spring Valley in White Pine County and inviting the BLM to meet with the Chair and interested members of the Legislative Committee on Public Lands to review the management objectives. (A copy of the Committee's letter is included in Appendix C.)

In 1988, Nevada's former Governor Richard H. Bryan appointed the Drought Response and Reporting Committee (DRC), chaired by the State Climatologist. The SDCNR prepared the first drought plan in 1991. The plan was updated in 2003 at the direction of the State Engineer and by an interagency collaborative effort in 2012. The Water Planning Section, SDCNR, must support activities in response to drought as provided for in the drought plan. (See NRS 540.051.)

At the Committee's May 2012 meeting, a representative of the HRBWA urged the Committee to support funding and statutory authority for the drought monitoring, response planning, and mitigation measures resulting from the work of the DRC. According to testimony, at the time of the May 2012 meeting, over half of Nevada had been in a serious drought for at least six weeks, residents of the Humboldt River basin were anticipating very prolonged and severe drought conditions, and drought conditions were expected to intensify and persist statewide.

Therefore, the Committee voted to:

Include a statement in the final report supporting legislative authority for and funding of drought monitoring, response planning, and mitigation measures resulting from the work of Nevada's DRC.

IV. APPENDICES

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APPENDIX A

Nevada Revised Statutes 218E.500 Through 218E.535

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.535](#), inclusive, “Committee” means the Legislative Committee on Public Lands.

(Added to NRS by 1979, 5; A 1983, 209)—(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 State 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 of the Legislature and a Vice Chair from the other. Each such officer shall hold office for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the 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 of the Legislature 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 may designate an alternate appointed by the Legislative Commission to serve in place of a regular member who is unable to attend a meeting. The Chair 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](#))—(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 of the Legislative Counsel Bureau or a person he or she has designated 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 of the Legislature, the members of the Committee who are State Legislators are entitled to receive the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding session, the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to [NRS 218A.655](#) for each day of attendance at a meeting of the Committee and while engaged in the business of the Committee. Per diem allowances, compensation and travel expenses of the legislative members of the Committee must be paid from the Legislative Fund.

6. 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](#))—(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;

(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](#))—(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 of the Legislative Counsel Bureau 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](#))—(Substituted in revision for NRS 218.5368)

NRS 218E.530 Administration of oaths; deposition of witnesses; issuance and enforcement of subpoenas.

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

(a) The Secretary of the Committee, or in the Secretary's absence any member of the Committee, may administer oaths.

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

(c) The Secretary or Chair of the Committee may issue subpoenas to compel the attendance of witnesses and the production of books and papers.

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

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

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

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

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

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

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

(Added to NRS by 1979, 6)—(Substituted in revision for NRS 218.5369)

NRS 218E.535 Fees and mileage for witnesses.

1. Each witness who appears before the Committee by its order, except a state officer or employee, is entitled to receive for such attendance the fees and mileage provided for witnesses in civil cases in the courts of record of this State.

2. The fees and mileage shall be audited and paid upon the presentation of proper claims sworn to by the witness and approved by the Secretary and Chair of the Committee.

(Added to NRS by 1979, 6)—(Substituted in revision for NRS 218.5371)

APPENDIX B

Status of Bill Draft Requests From 2009–2010 Interim

**STATUS OF BILL DRAFT REQUESTS
FROM 2009–2010 INTERIM**

| BDR | SUMMARY | BILL/ RESOLUTION | STATUS |
|------------|--|-----------------------------|--|
| 48–206 | Revises provisions governing the use of water for evaporation in a pit lake or gravel pit. | N/A | Withdrawn |
| 48–207 | Revises provisions governing certain notices and hearings concerning applications to appropriate water for beneficial use. | A.B. 115 | Chapter 166, <i>Statutes of Nevada 2011</i> |
| 48–208 | Repeals provisions requiring a public hearing before the issuance of an order granting domestic well credits to a public water system. | N/A | Withdrawn |
| 48–209 | Revises the amount of the fees collected for issuing a permit to appropriate water for agricultural use. | A.B. 114 | Chapter 385, <i>Statutes of Nevada 2011</i> |
| S–210 | Revises provisions governing the titling and registration of off-highway vehicles. | S.B. 130 | Chapter 68, <i>Statutes of Nevada 2011</i> |
| 43–211 | Revises provisions governing off-highway vehicles. | S.B. 387 | Chapter 177, <i>Statutes of Nevada 2011</i> |
| R–212 | Urges the Federal Government to enact legislation authorizing the sharing of revenue generated by certain activities conducted on public lands. | S.J.R. 4 | File No. 32, <i>Statutes of Nevada 2011</i> |
| R–213 | Expresses support for the Pine Forest Working Group and the Board of County Commissioners of Humboldt County in reexamining wilderness study areas in the Pine Forest area of Humboldt County. | S.C.R. 1 | File No. 35, <i>Statutes of Nevada 2011</i> |
| R–214 | Urges proactive habitat protection, restoration and mitigation to prevent listing of the Greater Sage-grouse as an endangered species. | A.C.R. 3 | File No. 25, <i>Statutes of Nevada 2011</i> |
| R–215 | Expresses support for rangeland health in Nevada. | S.J.R. 5 | Failed deadline |

APPENDIX C

Committee Letters Approved During the Final Work Session

MAGGIE CARLTON
ASSEMBLYWOMAN
District No. 14



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State of Nevada
Assembly
Seventy-Sixth Session

January 3, 2013

The Honorable Mark Amodei
United States Representative
125 Cannon House Office Building
Washington, D.C. 20515-0001

The Honorable Steven A. Horsford
United States Representative
1330 Longworth House Office Building
Washington, D.C. 20515

The Honorable Joe Heck
United States Representative
132 Cannon House Office Building
Washington, D.C. 20515-0001

The Honorable Dina Titus
United States Representative
401 Cannon House Office Building
Washington, D.C. 20515-0001

Re: Potential Listing of the Greater Sage-Grouse as an Endangered Species

Dear Congressional Members:

Nevada's Legislative Committee on Public Lands writes to express concern regarding the potential listing of the Greater Sage-grouse under the Endangered Species Act of 1973. The State of Nevada is already taking many steps to conserve the sage-grouse and make its listing unnecessary. Such a listing would have serious impacts on both the rural and urban communities in Nevada.

If the sage-grouse were listed as an endangered species, numerous direct and indirect socioeconomic impacts could occur. A listing would likely have direct impacts on the mining, ranching, and renewable energy sectors, since operators would be required to adjust their activities and plans on both private and public lands and would encounter more complex and lengthy regulatory proceedings. A listing might also have widespread indirect impacts stemming from slower growth in mining and renewable energy and lower-than-anticipated employment and tax revenues statewide, hamper the State's economic diversification efforts, and affect recreation on the public lands.



According to testimony, efforts already underway on the ground to prevent listing of the sage-grouse include construction of fuel breaks; a priority on sagebrush habitat in wildfire prevention and suppression; fence flagging or removal; hunting restrictions where necessary in certain game management areas; management of off-highway vehicles and wild horse populations; restoration of burned areas; restoration of meadows, springs, and streams; and thinning and removal of pinyon and juniper trees encroaching on sagebrush habitat. Thousands of acres of habitat have been treated in central and northern Nevada. Virtually all projects involve partnerships among educational institutions, federal and state agencies, nonprofit corporations, and private landowners and ranchers.

As an example, the Nevada Pinyon-Juniper Partnership (NPJP) includes persons interested in agriculture, commerce, the environment, renewable energy, rural development, wildfire risks, wildlife habitat, and woodland health. Its members participate in the removal and thinning of pinyon and juniper trees encroaching on sagebrush habitat, to manage fuel loads and preserve vegetative structure in prime sage-grouse habitat. The NPJP looks for opportunities to use the wood that comes from restoration treatments for firewood, fuel pellets, particle board, posts, niche products, and other new products in the research and development stage. In Ely, a "Fuels for Schools" program uses wood from treatment projects to heat classrooms.

The Committee on Public Lands appreciates every effort to help our State conserve the Greater Sage-grouse and its habitat. Please do not hesitate to contact me or Dave Ziegler, Committee Policy Analyst (telephone: 775/684-6825) if you have any questions or need additional information.

Sincerely,



Assemblywoman Maggie Carlton, Chair
Nevada's Legislative Committee on Public Lands

MAGGIE CARLTON
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January 3, 2013

Ken Salazar
Secretary of the Interior
United States Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Tom Vilsack
Secretary of Agriculture
United States Department of Agriculture
1400 Independence Avenue, S.W.
Washington, D.C. 20250-0003

Re: Conserving Greater Sage-Grouse Habitat in Nevada

Dear Messrs. Salazar and Vilsack:

Nevada's Legislative Committee on Public Lands writes to express its support for the recommendations of Governor Brian Sandoval's Greater Sage-grouse Advisory Committee (GSGAC). Much is being accomplished on the ground in Nevada to manage pinyon-juniper woodlands and sagebrush ecosystems and avoid listing the Greater Sage-grouse as an endangered species, and the GSGAC's recommendations create a framework for effective long-term management.

On August 24, 2012, the Committee received a briefing from Allen Biaggi, a member of the GSGAC. He reviewed the history of the United States Fish and Wildlife Service's "warranted but precluded" finding and the GSGAC's recommendations, which are intended to guide actions by the State of Nevada for sage-grouse conservation and to serve as an alternative in resource management planning by the Bureau of Land Management and the U.S. Forest Service.



According to testimony, efforts already underway on the ground to prevent listing of the sage-grouse include construction of fuel breaks; a priority on sagebrush habitat in wildfire prevention and suppression; fence flagging or removal; hunting restrictions where necessary in certain game management areas; management of off-highway vehicles and wild horse populations; restoration of burned areas; restoration of meadows, springs, and streams; and thinning and removal of pinyon and juniper trees encroaching on sagebrush habitat. Thousands of acres of habitat have been treated in central and northern Nevada. Virtually all projects involve partnerships among educational institutions, federal and state agencies, nonprofit corporations, and private landowners and ranchers.

As an example, the Nevada Pinyon-Juniper Partnership (NPJP) includes persons interested in agriculture, commerce, the environment, renewable energy, rural development, wildfire risks, wildlife habitat, and woodland health. Its members participate in the removal and thinning of pinyon and juniper trees encroaching on sagebrush habitat, to manage fuel loads and preserve vegetative structure in prime sage-grouse habitat. The NPJP looks for opportunities to use the wood that comes from restoration treatments for firewood, fuel pellets, particle board, posts, niche products, and other new products in the research and development stage. In Ely, a "Fuels for Schools" program uses wood from treatment projects to heat classrooms.

The Committee on Public Lands hopes that you will endorse the recommendations of the GSGAC and recognize them as a viable strategy for the protection of sagebrush habitats and sage-grouse as a species.

Thank you for your attention to this matter. Please do not hesitate to contact me or Dave Ziegler, Committee Policy Analyst (telephone: 775/684-6825) if you have any questions or need additional information.

Sincerely,



Assemblywoman Maggie Carlton, Chair
Nevada's Legislative Committee on Public Lands

MAGGIE CARLTON
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State of Nevada Assembly

Seventy-Sixth Session

January 3, 2013

Steve Boies, Chair
Central Committee of Nevada State
Grazing Boards
P.O. Box 281251
Lamoille, Nevada 89828-1251

J. J. Goicoechea, President
Nevada Cattlemen's Association
P.O. Box 310
Elko, Nevada 89803

Hank Combs, President
Nevada Farm Bureau Federation, Inc.
2165 Green Vista Drive, #205
Sparks, Nevada 89431

David Little, President
Nevada Woolgrowers Association
Hc 30 Box 360
Spring Creek, Nevada 89815

Re: Conservation of Greater Sage-Grouse Habitat

Dear Messrs. Boies, Combs, Goicoechea, and Little:

Nevada's Legislative Committee on Public Lands supports your members' efforts to help prevent the listing of the Greater Sage-grouse as an endangered species under the Endangered Species Act of 1973. The involvement of our agricultural producers in sage-grouse conservation is essential to our success.

According to testimony, your members have helped with construction of fuel breaks; assisted with wildfire prevention and suppression; flagged or removed fences; worked to restore burned areas, meadows, springs, and streams; thinned and removed pinyon and juniper trees encroaching on sagebrush habitat; treated noxious weeds, and taken many other conservation actions. Thousands of acres of habitat have been treated in central and northern Nevada. Virtually all projects involve partnerships among your members and educational institutions, federal and state agencies, and nonprofit corporations.



To cite just one example, organizations like the Nevada Pinyon-Juniper Partnership (NPJP) work with the agricultural community, as well as persons interested in commerce, the environment, renewable energy, rural development, wildfire risks, wildlife habitat, and woodland health. Its members participate in the removal and thinning of pinyon and juniper trees encroaching on sagebrush habitat, to manage fuel loads and preserve vegetative structure in prime sage-grouse habitat. The NPJP looks for opportunities to use the wood that comes from restoration treatments for firewood, fuel pellets, particle board, posts, niche products, and other new products in the research and development stage. In Ely, a "Fuels for Schools" program uses wood from treatment projects to heat classrooms.

It will take coordinated efforts among the agricultural producers, government agencies, nonprofits, educational institutions, and the general public to conserve the sage-grouse and prevent its listing as an endangered species. Thank you for all your efforts in this regard, now and in the future. Please do not hesitate to contact me or Dave Ziegler, Committee Policy Analyst (telephone: 775/684-6825) if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Maggie Carlton". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Assemblywoman Maggie Carlton, Chair
Nevada's Legislative Committee on Public Lands

MAGGIE CARLTON
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State of Nevada
Assembly
Seventy-Sixth Session

January 3, 2013

The Honorable Harry Reid
United States Senator and Senate Majority Leader
522 Hart Senate Office Building
Washington, D.C. 20510-0001

The Honorable Dean Heller
United States Senator
361-A Russell Senate Office Building
Washington, D.C. 20510

Re: Potential Listing of the Greater Sage-Grouse as an Endangered Species

Dear Senator Reid and Senator Heller:

Nevada's Legislative Committee on Public Lands writes to express concern regarding the potential listing of the Greater Sage-grouse under the Endangered Species Act of 1973. The State of Nevada is already taking many steps to conserve the sage-grouse and make its listing unnecessary. Such a listing would have serious impacts on both the rural and urban communities in Nevada.

If the sage-grouse were listed as an endangered species, numerous direct and indirect socioeconomic impacts could occur. A listing would likely have direct impacts on the mining, ranching, and renewable energy sectors, since operators would be required to adjust their activities and plans on both private and public lands and would encounter more complex and lengthy regulatory proceedings. A listing might also have widespread indirect impacts stemming from slower growth in mining and renewable energy and lower-than-anticipated employment and tax revenues statewide, hamper the State's economic diversification efforts, and affect recreation on the public lands.



According to testimony, efforts already underway on the ground to prevent listing of the sage-grouse include construction of fuel breaks; a priority on sagebrush habitat in wildfire prevention and suppression; fence flagging or removal; hunting restrictions where necessary in certain game management areas; management of off-highway vehicles and wild horse populations; restoration of burned areas; restoration of meadows, springs, and streams; and thinning and removal of pinyon and juniper trees encroaching on sagebrush habitat. Thousands of acres of habitat have been treated in central and northern Nevada. Virtually all projects involve partnerships among educational institutions, federal and state agencies, nonprofit corporations, and private landowners and ranchers.

As an example, the Nevada Pinyon-Juniper Partnership (NPJP) includes persons interested in agriculture, commerce, the environment, renewable energy, rural development, wildfire risks, wildlife habitat, and woodland health. Its members participate in the removal and thinning of pinyon and juniper trees encroaching on sagebrush habitat, to manage fuel loads and preserve vegetative structure in prime sage-grouse habitat. The NPJP looks for opportunities to use the wood that comes from restoration treatments for firewood, fuel pellets, particle board, posts, niche products, and other new products in the research and development stage. In Ely, a "Fuels for Schools" program uses wood from treatment projects to heat classrooms.

The Committee on Public Lands appreciates every effort to help our State conserve the Greater Sage-grouse and its habitat. Please do not hesitate to contact me or Dave Ziegler, Committee Policy Analyst (telephone: 775/684-6825) if you have any questions or need additional information.

Sincerely,



Assemblywoman Maggie Carlton, Chair
Nevada's Legislative Committee on Public Lands

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State of Nevada Assembly

Seventy-Sixth Session

January 3, 2013

Mike Pool, Acting Director
Bureau of Land Management
United States Department of the Interior
1849 C Street, N.W., Room 5665
Washington, D.C. 20240

Thomas L. Tidwell, Chief
United States Forest Service
1400 Independence Avenue, S.W.
Washington, D.C. 20250-0003

Re: Optimizing the Benefits of Livestock Grazing

Dear Mr. Pool and Mr. Tidwell:

Nevada's Legislative Committee on Public Lands writes to encourage your agencies to work with grazing permittees to realize the full potential of grazing on the public lands, not only for livestock producers but also for forest and range health and wildlife habitat. The Committee desires to know that you base management decisions on the best rangeland science and measurable resource objectives; include flexibility in grazing permits to allow for adaptive management as conditions change; and collect adequate quality and quantity of data to make sound decisions regarding individual allotments and the overall program.

At the Committee's meeting on November 4, 2011, in Elko, Nevada, representatives of Eureka County expressed concern regarding closure of grazing on certain allotments for two or more years after vegetation treatment on a small part of the allotment, and during hot weather, based on what the County and users perceive as subjective determinations of impacts on riparian zones. They testified these actions are not scientifically justified, prevent ranchers from being able to provide for their livestock at the right time of year, and shift the burden to private lands and ranchers without addressing overall resource issues.



Livestock grazing is a long-standing use of the public lands within the concept of multiple use. Proper grazing can help meet management objectives for fuels and vegetation management. Federal land managers should be able to adapt lease and permit provisions to changing conditions on the ground and work with users to manage fuel loads, conserve wildlife habitat, and make other adaptations for everyone's benefit.

The Committee is aware that all aspects of public lands grazing leases and permits are contentious, and that your agencies must attempt to balance many competing points of view. Our request is that you work diligently with the grazing operators and all interested parties to arrive at the best possible outcomes for the livestock industry, the range, and the public as a whole, employing regulatory flexibility, the best and latest scientific findings, and effective monitoring and evaluation.

Thank you for your consideration of this matter. Please do not hesitate to contact me or Dave Ziegler, Committee Policy Analyst (telephone: 775/684-6825) if you have any questions or need additional information.

Sincerely,



Assemblywoman Maggie Carlton, Chair
Nevada's Legislative Committee on Public Lands

MC/njp:W122722

cc: Becky Nourse, Acting Forest Supervisor, Humboldt-Toiyabe National Forest
Amy Lueders, Nevada State Director, Bureau of Land Management, Department of the Interior

MAGGIE CARLTON
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State of Nevada
Assembly
Seventy-Sixth Session

January 3, 2013

Jason Geddes, Chair
Board of Regents
Nevada System of Higher Education
2601 Enterprise Road
Reno, Nevada 89512

Daniel Klaich, Chancellor
Nevada System of Higher Education
2601 Enterprise Road
Reno, Nevada 89512

Re: Research on the Control of Cheatgrass and Other Annual Grasses

Dear Chair Geddes and Chancellor Klaich:

The Nevada Legislature's Committee on Public Lands writes to express its support for ongoing research within the Nevada System of Higher Education on the control of cheatgrass, red brome, and other annual grasses that contribute to the cheatgrass-fire cycle in Nevada. Wildfires burning on Nevada rangeland dominated by annual grasses are not only a threat to public health and safety, the State's economy, and private property, but are also the highest risk factor in efforts to conserve the Greater Sage-grouse and its habitat and avoid its listing as an endangered species.

At its June 19, 2012, meeting in Ely, the Committee received testimony on a report entitled, "Assessing Landscape Scale Cheatgrass Fuel Load Reduction for Protection of Great Basin Ecosystems and Wildland-Urban Interface Using Late Season Grazing," submitted by Associate Professor Barry L. Perryman and Professor Tamzen K. Stringham of the Great Basin Environmental Program, College of Agriculture, Biotechnology, and Natural Resources, University of Nevada, Reno. At the University's Gund Ranch near Austin, a pilot study in 2006 through 2009 showed great promise for dramatically reducing cheatgrass by grazing in



successive years in the fall, after seed drop. Large-scale application of this research has the potential to reduce the wildfire threat in sage-grouse habitat while simultaneously increasing the profitability of ranching and protecting private property from cheatgrass-fueled wildfires.

The Committee noted that the involvement of the NSHE in this type of research helps provide the scientific basis for informed federal and State policies to conserve sage-grouse habitat and meet other objectives.

The Committee applauds this research project and similar projects that will someday lead to solutions to a very pressing problem for our State, and we encourage your continued support for these types of efforts. Please do not hesitate to contact me or Dave Ziegler, Committee Policy Analyst (telephone: 775/684-6825) if you have any questions or need additional information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Maggie Carlton".

Assemblywoman Maggie Carlton, Chair
Legislative Committee on Public Lands

MC/njp:W122722-1

cc: Ron Pardini, Interim Dean and Director, College of Agriculture, Biotechnology, and Natural Resources, University of Nevada, Reno

MAGGIE CARLTON
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State of Nevada Assembly

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January 3, 2013

Thomas L. Tidwell, Chief
United States Forest Service
1400 Independence Avenue, S.W.
Washington, D.C. 20250-0003

George "Sam" Foster, Ph.D., Station Director
Rocky Mountain Research Station
United States Forest Service
240 West Prospect Rd.
Fort Collins, Colorado 80526-2098

Re: Research on the Control of Cheatgrass and Other Annual Grasses

Dear Mr. Tidwell and Dr. Foster:

The Nevada Legislature's Committee on Public Lands writes to express its support for ongoing research within the Rocky Mountain Research Station on the control of cheatgrass, red brome, and other annual grasses that contribute to the cheatgrass-fire cycle in Nevada. Wildfires burning on Nevada rangeland dominated by annual grasses are not only a threat to public health and safety, the State's economy, and private property, but are also the highest risk factor in efforts to conserve the Greater Sage-grouse and its habitat and avoid its listing as an endangered species.

At its June 19, 2012, meeting in Ely, Nevada, the Committee received a report on Ecosystem Sustainability and the Cheatgrass Fire Cycle from Rocky Mountain Research Station scientist Jeanne Chambers, Ph.D. The report covered cheatgrass invasion, the importance of environmental conditions in addressing cheatgrass problems, priorities for cheatgrass management, and related research and pilot projects currently underway. The testimony also covered the phenomenon of cheatgrass die-off, the need to determine whether there is a



Page 2
January 3, 2013

potential for biological control of cheatgrass, and how best to restore areas where cheatgrass die-off has occurred.

The Committee applauds the work of Dr. Chambers and other researchers at the Rocky Mountain Research Station, which will someday lead to solutions for a very pressing problem for Nevada, and we encourage your continued support for these types of projects. This research helps provide the scientific basis for informed federal and State policies to conserve sage-grouse habitat and meet other objectives.

Sincerely,

A handwritten signature in black ink, appearing to read "Maggie Carlton". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Assemblywoman Maggie Carlton, Chair
Legislative Committee on Public Lands

MC/njp:W122722-2

MAGGIE CARLTON
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State of Nevada Assembly

Seventy-Sixth Session

January 3, 2013

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

Re: R.S. 2477 Rights-of-Way Verification

Dear Ms. Leuders:

Nevada's Legislative Committee on Public Lands writes to urge the Bureau of Land Management (BLM) to work with local governments, the State of Nevada, and the users of the public lands to expedite verification of R.S. 2477 rights-of-way for access to private property. During the current interim period between Legislative sessions, the Committee heard testimony from several units of local government that the BLM does not recognize R.S. 2477 rights-of-way, absent adjudication in federal court, does not adequately justify closure of rights-of-way, and imposes unnecessary requirements.

It is our understanding that the 1866 federal law commonly known as R.S. 2477 constitutes an offer of rights-of-way, which requires acceptance by the appropriate public authorities. *Nevada Revised Statutes* (NRS) 403.190 creates a process under which counties may establish the existence and location of R.S. 2477 rights-of-way for public use, and NRS 405.191 also provides that "public use alone has been and is sufficient to evidence an acceptance of the grant of a public user right-of-way."

The Committee recognizes the difficulty of obtaining a final legal judgment on local governments' claims to R.S. 2477 rights-of-way, given that the law requires no administrative formalities on the part of the BLM nor formal public acceptance on the part of the states or local governments. Even though the BLM lacks authority to make binding determinations on the ownership of R.S. 2477 rights-of-way, the Committee urges the BLM to exercise



Page 2
January 3, 2013

its long-standing administrative authority to make nonbinding determinations for its own purposes.

It appears that improved consultation and collaboration between the BLM and Nevada's counties could resolve many disagreements over R.S. 2477 rights-of-way, leaving adjudication in federal district court as a last resort when conflicts between the BLM's management plans and the interests of the users cannot be resolved amicably. The process should give local governments the opportunity to prove their claims by presenting documents and other factual evidence. Such an approach would allow Nevada to take full advantage of the many assets present on the public lands, while preserving the BLM's interests in conservation and multiple use.

Thank you for your consideration of this matter. Please do not hesitate to contact me or Dave Ziegler, Committee Policy Analyst (telephone: 775/684-6825) if you have any questions or need additional information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Maggie Carlton".

Assemblywoman Maggie Carlton, Chair
Legislative Committee on Public Lands

MC/njp:W122723

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State of Nevada
Assembly
Seventy-Sixth Session

January 3, 2013

Becky Nourse, Acting Forest Supervisor
Humboldt-Toiyabe National Forest
1200 Franklin Way
Sparks, Nevada 89431

Re: Travel Management Planning

Dear Ms. Nourse:

Nevada's Legislative Committee on Public Lands writes to encourage the staff of the Humboldt-Toiyabe National Forest (HTNF) to improve the public process for revising and updating travel management plans on the HTNF.

The Committee received testimony on travel management on the HTNF at its November 2011 and January 2012 meetings. Jeannie Higgins, then-Forest Supervisor, HTNF, testified that the United States Forest Service has been establishing a designated system of roads and trails for public wheeled motorized use, in response to the Travel Management Rule in the *Code of Federal Regulations*. She said each ranger district has proposed a series of roads and trails for public use, including system routes and other routes, and the product is a motor vehicle map for the public's use.

Representatives of Elko, Eureka, and Lander Counties expressed concern with the process of designating roads, trails, and areas under the Rule. Elko County Commissioner Demar Dahl testified that the travel management plan was the County's biggest natural resource challenge, the County had been unable to get answers on many of its questions, and the County had concerns related to restrictions on big game retrieval, dispersed camping, and mineral prospecting and the possible economic impacts of those restrictions.

It appears that many of the concerns expressed by local governments and others are related to the planning process, rather than (or in addition to) the substantive provisions of the plans.



Since all the travel management decisions for HTNF ranger districts in Nevada have been issued, the challenge now is to improve the process for the future. The Committee believes the process should be collaborative, efficient, facilitated, inclusive, open, and principled, and that it should include monitoring, evaluation, and periodic adjustments. We would also like to suggest that public involvement go beyond simple advance notice and public comment (as required in 36 CFR 212.52), and that coordination pursuant to 36 CFR 212.53 should include robust interaction with affected local governments. To the maximum extent feasible, the goal of the process should be consensus among the affected federal, state, and local entities and all user groups.

Thank you for your consideration of these recommendations. Please do not hesitate to contact me or Dave Ziegler, Committee Policy Analyst (telephone: 775/684-6825) if you have any questions or need additional information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Maggie Carlton".

Assemblywoman Maggie Carlton, Chair
Legislative Committee on Public Lands

MC/njp:W122723-1

MAGGIE CARLTON
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The Honorable Mark Amodei
United States Representative
125 Cannon House Office Building
Washington, D.C. 20515-0001

The Honorable Steven A. Horsford
United States Representative
1330 Longworth House Office Building
Washington, D.C. 20515

The Honorable Joe Heck
United States Representative
132 Cannon House Office Building
Washington, D.C. 20515-0001

The Honorable Dina Titus
United States Representative
401 Cannon House Office Building
Washington, D.C. 20515-0001

Re: Establishment of a Biomass Industry in Nevada

Dear Congressional Members:

Nevada's Legislative Committee on Public Lands writes to express the Committee's support for establishment of a biomass industry in Nevada. Such an industry would help our State expand its efforts to restore pinyon-juniper and sagebrush ecosystems on public lands for the benefit of economic stability, energy production, hydrologic function, rangeland health, and wildlife habitat, including vitally important sage-grouse habitat.

At the Committee's June 19, 2012, meeting in Ely, Nevada, the Committee heard testimony from representatives of the Nevada Pinyon-Juniper Partnership (NPJP) and the United States Forest Service providing background information on pinyon-juniper ecosystems, management and restoration of pinyon-juniper woodlands, and potential utilization of pinyon-juniper biomass.

The NPJP recommends support for additional federal funding for planning, implementing, and monitoring pinyon-juniper and sagebrush restoration projects, which would provide an opportunity to use biomass generated by those projects. Other policies to encourage the establishment of a biomass industry in Nevada could include reprogramming fire suppression



funding to strategic hazardous fuels reduction projects in pinyon-juniper woodlands with heavy fuel loading; amending the White Pine and Lincoln County Public Lands Acts to authorize utilization of money from land sales in restoration projects; supporting continued Stewardship Contract authority with the Departments of Agriculture and Interior; and extending the maximum length of stewardship contracts from 10 to 20 years.

The Committee also recognizes the cultural importance of pinyon-juniper woodlands. Pine nuts are a traditional staple food of the Ely Shoshone Tribe and other tribes and also have ceremonial value. Since it takes many years before a pinyon pine begins to produce seed, it is important to preserve a sufficient number of mature trees for these uses. Therefore, the Committee and the NPJP support thorough consultation with the tribal governments on woodlands management projects.

The Committee on Public Lands appreciates your consideration and requests your support for measures to establish a biomass industry in Nevada. Please do not hesitate to contact me or Dave Ziegler, Committee Policy Analyst (telephone: 775/684-6825) if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Maggie Carlton". The signature is fluid and cursive, with a long horizontal stroke at the end.

Assemblywoman Maggie Carlton, Chair
Nevada's Legislative Committee on Public Lands

MC/njp:W122724

MAGGIE CARLTON
ASSEMBLYWOMAN
District No. 14



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Member
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State of Nevada
Assembly
Seventy-Sixth Session

November 29, 2012

Sarah Adler and Douglas Martin, Co-Chairs
Nevada Pinyon-Juniper Partnership
P.O. Box 150266
Ely, Nevada 89315

Dear Ms. Adler and Mr. Martin:

Nevada's Legislative Committee on Public Lands would like to express its support for the Nevada Pinyon-Juniper Partnership (NPJP) and its mission of promoting proactive, sound management to achieve healthy ecosystems for stronger communities.

The NPJP includes a diverse group of persons interested in agriculture, commerce, the environment, renewable energy, rural development, wildfire risks, wildlife habitat, and woodland health. Participants in the NPJP's summit meetings and workshops have focused on the challenges of pinyon-juniper restoration and utilization. The Committee on Public Lands agrees that it is most appropriate to address the many problems associated with pinyon-juniper encroachment in sagebrush ecosystems by using the biomass that results from large-scale treatments and capturing its economic value.

Thank you for all your efforts on behalf of the State of Nevada. Please do not hesitate to contact me or Dave Ziegler, Committee Policy Analyst (telephone: 775/684-6825) if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Maggie Carlton".

Assemblywoman Maggie Carlton, Chair
Legislative Committee on Public Lands

MC/njp:W122724-1
cc: Jeremy Drew, Project Manager, NPJP



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State of Nevada
Assembly
Seventy-Sixth Session

January 3, 2013

Tom Vilsack
Secretary of Agriculture
United States Department of Agriculture
1400 Independence Avenue, S.W.
Washington, D.C. 20250-0003

Thomas L. Tidwell, Chief
United States Forest Service
1400 Independence Avenue, S.W.
Washington, D.C. 20250-0003

Re Establishment of a biomass industry in Nevada

Dear Messrs. Vilsack and Tidwell:

Nevada's Legislative Committee on Public Lands writes to express the Committee's support for establishment of a biomass industry in Nevada. Such an industry would help our State expand its efforts to restore pinyon-juniper and sagebrush ecosystems on public lands for the benefit of economic stability, energy production, hydrologic function, rangeland health, and wildlife habitat, including vitally important sage-grouse habitat.

At the Committee's June 19, 2012, meeting in Ely, Nevada, the Committee heard testimony from representatives of the Nevada Pinyon-Juniper Partnership (NPJP) and the United States Forest Service's Rocky Mountain Research Station, providing background information on pinyon-juniper ecosystems, management and restoration of pinyon-juniper woodlands, and potential utilization of pinyon-juniper biomass.

The NPJP recommends support for additional federal funding for planning, implementing, and monitoring pinyon-juniper and sagebrush restoration projects, which would provide an opportunity to use biomass generated by those projects. Other policies to encourage the



establishment of a biomass industry in Nevada could include reprogramming fire suppression funding to strategic hazardous fuels reduction projects in pinyon-juniper woodlands with heavy fuel loading; amending the White Pine and Lincoln County Public Lands Acts to authorize utilization of money from land sales in restoration projects; maintaining stewardship contract authority within the Departments of Agriculture and Interior; and extending the maximum length of stewardship contracts from 10 to 20 years.

The Committee also recognizes the cultural importance of pinyon-juniper woodlands. Pine nuts are a traditional staple food of the Ely Shoshone Tribe and other tribes and also have ceremonial value. Since it takes many years before a pinyon pine begins to produce seed, it is important to preserve a sufficient number of mature trees for these uses. Therefore, the Committee and the NPJP support thorough consultation with the tribal governments on woodlands management projects.

The Committee on Public Lands appreciates your consideration and requests your support for measures to establish a biomass industry in Nevada. Please do not hesitate to contact me or Dave Ziegler, Committee Policy Analyst (telephone: 775/684-6825) if you have any questions or need additional information.

Sincerely,



Assemblywoman Maggie Carlton, Chair
Legislative Committee on Public Lands

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State of Nevada
Assembly
Seventy-Sixth Session

January 3, 2013

Ken Salazar
Secretary of the Interior
United States Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Mike Pool, Acting Director
Bureau of Land Management
United States Department of the Interior
1849 C Street, N.W., Room 5665
Washington, D.C. 20240

Re: Establishing a Biomass Industry in Nevada

Dear Messrs. Salazar and Pool:

Nevada's Legislative Committee on Public Lands writes to express the Committee's support for establishment of a biomass industry in Nevada. Such an industry would help our State expand its efforts to restore pinyon-juniper and sagebrush ecosystems on public lands for the benefit of economic stability, energy production, hydrologic function, rangeland health, and wildlife habitat, including vitally important sage-grouse habitat.

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Sincerely,

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Assemblywoman Maggie Carlton, Chair
Legislative Committee on Public Lands

MAGGIE CARLTON
ASSEMBLYWOMAN
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State of Nevada
Assembly
Seventy-Sixth Session

January 3, 2013

The Honorable Harry Reid
United States Senator and Senate Majority Leader
522 Hart Senate Office Building
Washington, D.C. 20510-0001

The Honorable Dean Heller
United States Senator
361-A Russell Senate Office Building
Washington, D.C. 20510

Re: Establishment of a Biomass Industry in Nevada

Dear Senator Reid and Senator Heller:

Nevada's Legislative Committee on Public Lands writes to express the Committee's support for establishment of a biomass industry in Nevada. Such an industry would help our State expand its efforts to restore pinyon-juniper and sagebrush ecosystems on public lands for the benefit of economic stability, energy production, hydrologic function, rangeland health, and wildlife habitat, including vitally important sage-grouse habitat.

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Assemblywoman Maggie Carlton, Chair
Nevada's Legislative Committee on Public Lands

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State of Nevada
Assembly
Seventy-Sixth Session

January 3, 2013

The Honorable Brian Sandoval
Governor of the State of Nevada
101 North Carson Street, Suite 1
Carson City, Nevada 89701-4786

Re: Determining the Rights of Claimants to Water

Dear Governor Sandoval:

The Legislative Committee on Public Lands writes to express its support for necessary enhancements to the budget of the Division of Water Resources, State Department of Conservation and Natural Resources, to allow the State Engineer to set priorities and take action on orders and petitions for determining the relative rights of various claimants to the waters of any stream or stream system.

As you know, some users of Nevada's water resources began to make beneficial use of the water prior to the enactment of the State's water laws. Such users may claim that their water rights are, therefore, vested. Vested water rights are the most senior rights on a stream or stream system.

The process for determining the relative rights of claimants to water in a given stream or system is known as "adjudication." The process is resource intensive and requires a significant amount of time to complete. After the State Engineer conducts an investigation, holds hearings, and files an order of determination with the district court, the district court then conducts additional hearings and enters a decree. In a complex case, the entire process may take ten years or more to complete and, at the present time, the State Engineer is extremely limited in his ability to assign staff.



At the Committee's meeting and work session in August 2012, the Committee considered a proposed statutory amendment to require adjudication of claims for vested water rights prior to action by the State Engineer on an application for a large appropriation of water within a basin with vested rights claims. The State Engineer expressed strong conceptual support for adjudications, since they quantify water rights and assign priorities, but said that none of Nevada's 256 hydrographic basins has been fully adjudicated and the proposal would have serious ramifications.

Although it did not recommend the statutory amendments, the Committee—after lengthy discussion—agreed that the State Engineer needs resources to address petitions already filed and those that will be filed in the future. Therefore, the Committee voted to send this letter urging your support for the necessary resources and staff for the State Engineer to set priorities and take action on orders and petitions for determining the relative rights of various claimants to the waters of any stream or stream system.

Thank you for your consideration of this matter. Please do not hesitate to contact me or Dave Ziegler, Committee Policy Analyst (telephone: 775/684-6825) if you have any questions or need additional information.

Sincerely,



Assemblywoman Maggie Carlton, Chair
Legislative Committee on Public Lands

MC/njp:W122725

cc: Leo M. Drozdoff, P.E., Director, State Department of Conservation and Natural Resources (SDCNR)
Jason King, P.E., State Engineer, Division of Water Resources, SDCNR

MAGGIE CARLTON
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State of Nevada
Assembly
Seventy-Sixth Session

January 3, 2013

Thomas L. Tidwell, Chief
United States Forest Service
1400 Independence Avenue, S.W.
Washington, D.C. 20250-0003

Becky Nourse, Acting Forest Supervisor
Humboldt-Toiyabe National Forest
1200 Franklin Way
Sparks, Nevada 89431

Re: Stockwater Improvements on the Public Lands in Nevada

Dear Mr. Tidwell and Ms. Nourse:

Nevada's Legislative Committee on Public Lands writes to urge no further delays in approving and investing in water-related range improvements in Nevada, despite the concerns of the United States Forest Service (USFS) with Nevada law on stockwater rights. The Committee respectfully requests the USFS to revise its policies on this subject which, according to testimony before the Committee, have blocked many water-related range improvements to the detriment of the environment, the livestock industry, and wildlife.

In 2003, the Legislature passed Senate Bill 76, which provides that the State Engineer may issue a permit to water livestock only to applicants who are legally entitled to place livestock on the lands for which the permit is sought, and who own or have an interest in the livestock. (See *Nevada Revised Statutes* [NRS] 533.040.) A federal agency must apply to the State Engineer to appropriate water on the public lands, and the State Engineer has continuing jurisdiction over any acquisition by the U.S. of the waters of the State, by appropriation or otherwise, and whether or not the water is appurtenant to the federal lands. (See NRS 328.065)



The policies of the USFS, which do not appear to be embodied in any federal law, conflict with the water laws of the State of Nevada. It is the policy of the Intermountain Region that livestock water rights used on National Forest grazing allotments should be held in the name of the U.S., and that the U.S. must have a state water right before federal funds are expended for construction or reconstruction of any livestock water development or facility. Further, the regulations of the Secretary of Agriculture limit the ability of livestock operators to construct or install water improvements on the National Forests, even if federal funds are not required.

The policies of the Intermountain Region also differ from the policies of the Bureau of Land Management (BLM), U.S. Department of the Interior, on this subject. According to the statement on the Website of the Nevada State Office of the BLM:

Since the passage of S.B. 76, the BLM has adhered to the substantive and procedural requirements of state law as required by Departmental policy and has not filed new applications with the Nevada State Engineer for permits to appropriate water(s) for the purpose of watering livestock on public lands. In light of these state requirements and in recognition of its fiduciary duty to the public, Nevada BLM policy is that when the BLM and another party cooperatively develop a water source on public lands that is intended to water livestock, the BLM may expend public funds on the development in an amount that corresponds to the relative quantity of water allowed by a second water right obtained by BLM for a different use (such as wildlife). In some circumstances the BLM state director may grant an exception to this policy. This may occur, for example, if natural resource benefits attributable to the development could not be achieved by other practical means, and the development would not be constructed unless BLM contributed to the cost of the development in excess of its relative share.

The policies of the BLM strike a more reasonable balance between the interests of the State of Nevada and the federal land managers. They allow for administrative flexibility and have not prevented improvements to water features on grazing allotments subsequent to the passage of S.B. 76. The Committee on Public Lands urges the USFS to reconsider its policies in this light.

Page 3
January 3, 2013

Thank you for your consideration of this matter. Please do not hesitate to contact me or Dave Ziegler, Committee Policy Analyst (telephone: 775/684-6825) if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Maggie Carlton". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Assemblywoman Maggie Carlton, Chair
Nevada's Legislative Committee on Public Lands

MC/njp:W122725-1

cc: Harv Forsgren, Regional Forester, Intermountain Region, United States Forest Service
Amy Leuders, Nevada State Director, Bureau of Land Management, U.S. Department of the Interior
Jason King, State Engineer, Division of Water Resources, State Department of Conservation and Natural Resources

MAGGIE CARLTON
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State of Nevada
Assembly
Seventy-Sixth Session

January 3, 2013

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

Re: Shoshone Ponds ACEC

Dear Ms. Lueders:

On behalf of Nevada's Legislative Committee on Public Lands, I am writing to express our interest in the management of the Shoshone Ponds Area of Critical Environmental Concern (ACEC) in Spring Valley in White Pine County and to invite you to meet with me and other Committee members to review the management objectives.

The Ely District of the Bureau of Land Management (BLM) manages the Shoshone Ponds ACEC to maintain unique and valuable vegetation and aquatic habitat. In the 1970s, the Nevada Department of Wildlife (NDOW) installed a well in the ACEC for the purpose of providing protected water flows to three ponds used as places of refuge for the endangered Pahrump poolfish. The ponds are within a fenced enclosure designed to keep livestock away.

On a visit to the Shoshone Ponds in June 2012, I observed that the vegetation within the enclosure is overgrown, the water appears to be stagnant, and it is unclear whether the poolfish are being managed effectively inside the enclosure. An adjacent pond and stream, which are unfenced, appear to be in better condition and to house a thriving population of poolfish. According to testimony before the Committee on Public Lands, staff of the BLM and NDOW have visited the ACEC and are aware of these conditions and the contrast between the two sites.



Page 2
January 3, 2013

The Committee on Public Lands values the diligent efforts of the BLM and its Nevada State Office to conserve our range and forests and their attendant resources. I'm confident that by working together, we can advance our understanding of these valuable resources and preserve them for future generations of Nevadans.

To arrange a meeting, it would be most convenient to contact the Committee's Policy Analyst, at the following address:

Dave Ziegler, Supervising Principal Research Analyst
Legislative Counsel Bureau
401 S. Carson St.
Carson City, Nevada 89701
telephone: 775/684-6825
e-mail: dziegler@leg.state.nv.us

Please do not hesitate to contact Mr. Ziegler or me if you have any questions or need additional information.

Sincerely,



Assemblywoman Maggie Carlton, Chair
Nevada's Legislative Committee on Public Lands

MC/njp:W122725-2

MAGGIE CARLTON
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State of Nevada
Assembly
Seventy-Sixth Session

January 3, 2013

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

Re: Determining the Rights of Claimants to Water

Dear Senator Smith:

The Legislative Committee on Public Lands writes to express its support for necessary enhancements to the budget of the Division of Water Resources, State Department of Conservation and Natural Resources, to allow the State Engineer to set priorities and take action on orders and petitions for determining the relative rights of various claimants to the waters of any stream or stream system. In my capacity as Chair of the Assembly Committee on Ways and Means, I will also share this recommendation with the members of that committee.

As you may know, some users of Nevada's water resources began to make beneficial use of the water prior to the enactment of the State's water laws. Such users may claim that their water rights are, therefore, vested. Vested water rights are the most senior rights on a stream or stream system.

The process for determining the relative rights of claimants to water in a given stream or system is known as "adjudication." The process is resource intensive and requires a significant amount of time to complete. After the State Engineer conducts an investigation, holds hearings, and files an order of determination with the district court, the district court then conducts additional hearings and enters a decree. In a complex case, the entire process may take ten years or more to complete and, at the present time, the State Engineer is extremely limited in his ability to assign staff.



At the Committee's meeting and work session in August 2012, the Committee considered a proposed statutory amendment to require adjudication of claims for vested water rights prior to action by the State Engineer on an application for a large appropriation of water within a basin with vested rights claims. The State Engineer expressed strong conceptual support for adjudications, since they quantify water rights and assign priorities, but said that none of Nevada's 256 hydrographic basins has been fully adjudicated and the proposal would have serious ramifications.

Although it did not recommend the statutory amendments, the Committee—after lengthy discussion—agreed that the State Engineer needs resources to address petitions already filed and those that will be filed in the future. Therefore, the Committee voted to send this letter urging your support for the necessary resources and staff for the State Engineer to set priorities and take action on orders and petitions for determining the relative rights of various claimants to the waters of any stream or stream system.

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

Sincerely,



Assemblywoman Maggie Carlton, Chair
Legislative Committee on Public Lands

MC/njp:W130550

cc: Leo M. Drozdoff, P.E., Director, State Department of Conservation and Natural Resources (SDCNR)
Jason King, P.E., State Engineer, Division of Water Resources, SDCNR
Mark Krmpotic, Senate Fiscal Analyst, Legislative Counsel Bureau
Cynthia Jones, Assembly Fiscal Analyst, Legislative Counsel Bureau

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State of Nevada
Assembly
Seventy-Sixth Session

January 3, 2013

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

Re: Determining the Rights of Claimants to Water

Dear Senator Smith:

The Legislative Committee on Public Lands writes to express its support for restoration of funding to the Division of Water Resources (DWR), State Department of Conservation and Natural Resources, for processing the backlog of water rights applications and enhancing online data sources. In my capacity as Chair of the Assembly Committee on Ways and Means, I will also share this recommendation with the members of that committee.

During the 2005 Session, the Legislature approved \$1.8 million in State General Fund appropriations for the 2005-2007 biennium to support the efforts of the DWR to reduce water rights caseload backlogs, improve technology in order to process water rights transactions more quickly, and provide better public access to DWR records via the Internet. However, for budget reasons, the DWR held some positions vacant in the 2007-2009 biennium, and in subsequent sessions, the Legislature eliminated a number of staff positions within the DWR.

At the May 2012 meeting of the Committee on Public Lands, a representative of the Humboldt River Basin Water Authority testified that elimination of staff positions impairs the DWR's ability to maintain the progress it made in reducing the backlog of pending water rights applications and improving public access to online data on water resources.

At the Committee's meeting and work session in August 2012, the State Engineer testified that the DWR has reduced its backlog from about 3,000 applications in 2005 to about 1,500 at the



Page 2
January 3, 2013

present time, and that many of the backlogged applications are complex because they affect surface water sources on which there are competing claims.

After considering the testimony, the Committee voted to send this letter urging your support for the restoration of funding to the DWR for processing the backlog of water rights applications and enhancing online data sources.

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

Sincerely,



Assemblywoman Maggie Carlton, Chair
Legislative Committee on Public Lands

MC/njp:W130550-1

cc: Leo M. Drozdoff, P.E., Director, State Department of Conservation and Natural Resources (SDCNR)
Jason King, P.E., State Engineer, Division of Water Resources, SDCNR
Mark Krmptic, Senate Fiscal Analyst, Legislative Counsel Bureau
Cynthia Jones, Assembly Fiscal Analyst, Legislative Counsel Bureau

APPENDIX D

Suggested Legislation

The following Bill Draft Requests will be available during the 2013 Legislative Session, or can be accessed after “Introduction” at the following website: <http://www.leg.state.nv.us/Session/77th2013/BDRList/page.cfm?showAll=1>

- BDR 58–206 Revises provisions governing the sale of electricity and the provision of transmission and distribution services by the Colorado River Commission to implement the federal Hoover Power Allocation Act of 2011.
- BDR R–207 _CR: Urges the Office of the Governor to include the Legislature’s continued involvement in considering the potential economic impact of listing the sage grouse as an endangered species.
- BDR R–208 _JR: Urges Congress to take certain actions concerning federal public lands in Nevada.
- BDR R–209 _JR: Urges the Bureau of Land Management and the United States Forest Service to consider an increase in livestock grazing under certain circumstances.
- BDR R–210 _CR: Expresses the intent of the Legislature to establish a biomass industry to restore certain ecosystems on public lands.