

NEVADA ASSOCIATION OF COUNTIES (NACO)

Board of Directors' Meeting
January 22, 2016, 9:30 a.m.
NACO Office
304 S. Minnesota Street
Carson City, NV 89703

AGENDA

Some NACO Board members may attend via video link or phone from other locations. Items on the agenda may be taken out of order. The NACO Board may combine two or more agenda items for consideration. The NACO Board may remove an item from the agenda or delay discussion relating to an item on the agenda at any time.

Call to Order, Roll Call, Salute to the Flag

1. Public Comment. Please Limit Comments to 3 Minutes.
2. Approval of Agenda. **For Possible Action.**
3. Investiture of 2016 NACO Officers.
4. NACO President's Report.
5. NACO Executive Director's Report.
6. Approval of Minutes of the December 18, 2015 NACO Board of Directors Meeting. **For Possible Action.**
7. Approval to Expand the NACO Executive Committee to Include an At-Large Representative from Washoe County. **For Possible Action.**
8. Approval of a Request by the Nevada Rural Housing Authority for NACO Membership as a Government Partner. **For Possible Action.**
9. Presentation by Western Insurance Specialties.
10. Update and Possible Action regarding a Proposal to Consolidate the University of Nevada, Reno College of Agriculture, Biotechnology and Natural Resources (CABNR), Cooperative Extension, and the Nevada Agriculture Experiment Station (NAES). **For Possible Action.**
11. Discussion on the November 10, 2015 Federal Court Ruling in the Civil Rights Lawsuit against Lyon County and its Former Public Administrator and the Response by Lyon County.
12. Presentation on the Programs and Activities of the Nevada Division of Emergency Management.
13. Update on the Nevada Supreme Court's Committee to Study Evidence-Based Pretrial Release.
14. Discussion regarding Possible Opportunities for Expanding Legal Representation for NACO and Nevada's Counties.
15. Update and Possible Action on AB191 Enacted in the 2015 Legislative Session which Authorizes a County to Place on the Ballot at the General Election on November 8, 2016 a Question which Asks the Voters in the County whether to Authorize the Board of County Commissioners to Impose, for the Period beginning on January 1, 2017, Annual Increases to Taxes on Certain Motor Vehicle Fuels. **For Possible Action.**
16. Update and Possible Action regarding NACO's Priorities and Discussions with Nevada's Congressional Delegation during the National Association of Counties Legislative Conference in Washington, D.C. February 20-24, 2016. **For Possible Action.**

17. Update on the Feasibility of NACO Serving as a Wildfire Grant Clearinghouse for Addressing the State Wildland Fire Issues in Prevention, Suppression and Post Mitigation.
18. Discussion and Possible Approval of a NACO Position Paper on the Basin and Range National Monument Designation. **For Possible Action.**

Note: The NACO Board of Directors May Interrupt the Open Meeting and Exclude the Public from the Meeting for the Limited Purpose of Receiving the Information and for Deliberation Relative to Agenda Item #19 below:

19. Discussion and Possible Action regarding the Bureau of Land Management's and U.S. Forest Service's Greater Sage-Grouse Approved Resource Management Plans (ARMP'S) including the The Complaint for Declaratory and Injunctive Relief Filed by Western Exploration LLC, Elko County, Eureka County, Quantum Minerals, White Pine County, Lander County, Humboldt County Ninety-Six Ranch, LLC, Paragon Precious Metals, LLC, Churchill County, Washoe County and the State of Nevada. **For Possible Action.**
20. Update on NACO's Comments on the Bureau of Land Management's and U.S. Forest Service's Proposal under the Amended Resource Management Plans to Withdraw Lands Within Sagebrush Focal Areas from Location and Entry under the 1872 Mining Law, Subject to Valid Existing Rights, and Approval of NACO's Comments on the Nevada and California Bi-State Distinct Population Segment Forest Plan Amendment and Final Environmental Impact Statement. **For Possible Action.**
21. Discussion and Possible Action to Support Increased Funding for U.S. Department of Agriculture, Animal and Plant Health Inspection Service Predator Control Efforts in Nevada. **For Possible Action.**
22. NACO Committee of the Emeritus Update. **For Possible Action.**
23. National Association of Counties and Western Interstate Region Board Member Updates.
24. NACO Board Member Updates.
25. Public Comment - Please Limit Comments to 3 Minutes

Adjournment.

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify NACO in writing at 304 S. Minnesota Street, Carson City, NV 89703, or by calling (775) 883-7863 at least three working days prior to the meeting.

Members of the public can request copies of the supporting material for the meeting by contacting Amanda Evans at (775) 883-7863. Supporting material will be available at the NACO office and on the NACO website at: www.nvnaco.org

This agenda was posted at the following locations:

NACO Office 304 S. Minnesota Street, Carson City, NV 89703

Washoe County Admin. Building 1001 E. Ninth Street, Reno, NV 89520

Clark County Admin. Building 500 S. Grand Central Parkway, Las Vegas, NV 89155

POOL/PACT 201 S. Roop Street, Carson City, NV 89701

The following links and/or pages are support for agenda
Item 6

NEVADA ASSOCIATION OF COUNTIES (NACO)

Board of Directors' Meeting
December 18, 2015, 9:30 a.m.
NACO Office
304 S. Minnesota Street
Carson City, NV 89703

UNADOPTED MINUTES

Attendance: (NACO staff – Jeff Fontaine, Dagny Stapleton, Amanda Evans, Tori Sundheim) President Wichman; President Elect Carson; Vice President Phillips; Pershing County Commissioner Irwin; Humboldt County Commissioner French, Washoe County Commissioner Herman, Lyon County Commissioner Alt, Esmeralda County Commissioner Bates; Churchill County Commissioner Olsen; Carson City Mayor Crowell; Lander County Commissioner Waits; Elko County Commissioner Dahl; Eureka County Commissioner Goicoechea; Larry Burtness, County Fiscal Officers Association; Tammi Davis, County Treasurers Association; Nancy Parent, County Clerks and Election Officials; and Bob Roshak, County Sheriff's Association

Other Attendees: Linda Bissett, NV Energy; Nye County Commissioner Carbone, Joni Eastley, Nye County; Jake Tibbets, Eureka County; Rob Stokes, Elko County, Bill Brewer, Nevada Rural Housing Authority.

1. **Public Comment.** None was given
2. **Approval of Agenda.** The agenda was approved on a motion by Commissioner Tipton with second by Commissioner Irwin.
3. **President's Report.** President Wichman noted that she is honored to have served as the NACO President and is thankful for the support of the Board throughout her term.
4. **NACO Executive Director's Report.** Jeff spoke about the issues recently experienced with the video conference system and that staff is working with the system provider and internet service providers to rectify the issues. Mayor Crowell noted that his neighboring office has a T1 line installed and staff will contact his IT personnel to look into the possibility of extending the line. Jeff discussed the special session of the Legislature that a fiscal note was submitted by Dagny on behalf of the counties. He noted that AB1 is mainly composed of workforce development issues and does not hugely affect counties. SB1 contains language regarding tax abatements, incentives and infrastructure financing, it is very complex and there are three components that staff has been working on. The first being section 64 regarding the streamlining of processes for the State Engineer to transfer certain waters, which could also include inter-basin transfers which has raised concern and work is being done to amend the section to provide protections. The second is provisions for financing measures for bonding for infrastructure, including rail roads and natural gas services. The third area of concern is the agreements that local governments have with the Governor's Office of Economic Development; work is being done to amend the bill to change the provision that would allow the Executive Director of GOED to modify agreements without the concurrence of local governments. Jeff also announced that at the meeting of the Legislative Commission on Monday the 21st and the agenda includes discussion and possible action on a possible interim study for SJR13 which could possibly change the property tax system. He noted that it is imperative that the Resolution be looked at closely because if it is passed out of the 2017 Legislature it would go to the ballot in 2018 and would radically change the Nevada Constitution and how property taxes are assessed. NACO will suggest to the Commission that the committee be an ADHOC Committee comprised of affected parties such as the Treasurer's and Assessors. He noted that there will be a financial burden associated with the committee and Commissioner Tipton asked who would be hired as the consultant and Jeff noted that Jeremy Aguero of Applied Analysis would be the first choice since he has worked on the issue in the past. Jeff stated that the item will be brought back to the Board when estimates have been received and that it is imperative to have the best information available going into the 2017 session.

5. **Approval of Minutes of the November 20, 2015 NACO Board of Directors Meeting.** The minutes were approved on a motion by Commissioner Tipton with concurrent second by Commissioner Irwin and Commissioner Bates.
6. **Update and Possible Action regarding a Proposal to Consolidate the University of Nevada, Reno College of Agriculture, Biotechnology and Natural Resources (CABNR), Cooperative Extension, and the Nevada Agriculture Experiment Station (NAES).** Chancellor Klaich thanked the Board for inviting him to return and for making NACO staff available to help him understand the issues the Board has with the proposed consolidation. He noted the importance of the relationship of the counties with the University and that he plans to continue to move toward a more positive and productive relationship. He invited staff to participate in a two day retreat being held in January by CABNR, NAES and Cooperative Extension during which the discussion will surround how best to complete the mission of all the colleges and will include the Board approved Position Statement. He also noted that Dean Payne needs to visit the counties and have meetings with critical stakeholders within the counties as well to communicate his vision and if his vision fits with that of the counties and stakeholders. He also stated that he is clear that there are deep issues and a positive step forward would be to put together a working group to start "drilling down" on the most fundamental issues and what can be done to solve them. He stated that he will come to report and listed to the Board as often as necessary but he can't solve the issues on his own. President Whichman asked Jeff if staff is able to participate in the retreat and he stated that would be a priority if the schedule allows. He also inquired as to the timeline of the University taking the plan to the Board of Regents and the Chancellor stated that there is no specific timeline for the plan to go the Board and that there is not a solid consolidation plan to take to the Regents and that there is time to work on the issue. President Whichman thanked the Chancellor for coming and asked him to forward the information on the retreat to staff as soon as possible. She also noted that the relationship with the University is important to all the counties. No action was taken by the Board.
7. **Appointment of One of NACO's Two Representatives to the National Association of Counties Board of Directors.** President Whichman noted that interest in serving was expressed by Commissioners Tipton and Kirkpatrick. She stated that Commissioner Tipton would like to continue serving until December of 2016 and suggested that Commissioner Kirkpatrick take over the position in 2017. Commissioner Bates moved to retain Commissioner Tipton in the position through 2016 and have Commissioner Kirkpatrick complete the service term. The motion was unanimously approved on a second by Commissioner French. Commissioner Tipton stated that she has things in the 'works' that she would like to complete and that it is important for the urban counties to be involved and that by her serving through 2016 it will give Commissioner Kirkpatrick the opportunity to become more familiar with NACo.
8. **Nomination for a Position on the U.S. Bureau of Land Management's Wild Horse and Burro Advisory Board.** Commissioner Tipton noted that she has tried for several years to get a seat on the Board specific to a county elected official and was told that if there was a specific restructuring of the Board to include an elected official that it would require the allotment of a seat for every organization feeling that have a stake in the issue. Vice President Phillips volunteered to apply to the Board. Dagny noted that there are specific seats open with specific expertise which is a humane advocate, livestock, and wildlife, and that highlighting experience in the noted fields on the application is imperative. It was noted that the term is three years and the Board meets quarterly. Commissioner Dahl noted that he would support Vice President Phillips for the livestock seat and Commissioner French for the wildlife seat. Dagny noted that the applications are due on December 28th and a nomination letter would be completed on behalf of the NACO Board. Commissioner Tipton moved for Vice President Phillips and Commissioner French be nominated to fulfill the livestock and wildlife seats respectively and the motion was passed unanimously on a second by President Elect Carson.
9. **Approval of a Letter of Appreciation to Gwen Washburn for Her Service on the Nevada Rural Housing Authority Board of Commissioners.** A letter was approved on a motion by Commissioner Tipton with second by Commissioner Olsen. The NRHA Executive Director Bill Brewer stated that he appreciates the participation of NACO and that Ms. Washburn served the Board faithfully and he looks forward to working with Joni Eastley the Boards recent appointment to the Authority's Board.

- 10. Discussion and Possible Approval of NACO's 2016 Budget.** President Wichman reminded the Board that at the November meeting the Board suggested a 3% increase for staff and to look at a comparable salary for Dagny and that Jeff reviewed her salary and the budget proposed would move her to the mid-range of salaries for her position. On the revenue side Jeff pointed out that the unreserved fund balance had been reduced from the preliminary budget, which was from unexpected onetime expenses for the sage-grouse lawsuit, the need to replace the server and the need to repair the sewer line lateral. He also noted that he recommends the transfer of \$55,600.00 from investment accounts to cover the costs associated with building improvements, specifically the ADA restrooms due to the unexpected costs in FY2015. He noted that the investments are solid, equipment and vehicle reserves and depreciation accounts are well funded in separate accounts. Jeff also explained that the county dues revenues will be down for FY2016 and how they are calculated. He reiterated the increases in staff salaries for Dagny, Amanda and Tori and that he has included funds on the expense side for a website upgrade and special projects which could include the study on property taxes and law suits. He also noted a reduction in light item expenses based on FY2015 actual expenses. The 2016 budget was unanimously approved on a motion by President Elect Carson with second by Commissioner Tipton.
- 11. Discussion and Possible Action Regarding NACO's Participation in National Association of Counties Contracts for the Prescription Discount Card Program, Dental Program and Medical Program.** Jeff introduced Alex Koroknay-Palicz the Membership Coordinator for the National Association of Counties and works closely with these programs, Alex provided additional details and clarifications for the programs. Jeff noted the item will be a standing item for a period of time and reminded that Nevada has been an enrolled member of the Prescription Discount Card Program for a number of years and that there are two fairly new programs (Dental and Health) that Nevada is not under contract to offer. He continued with a PowerPoint presentation provided by NACo outlining the various programs. It was clarified that the programs are not insurance but act in concert with insured, underinsured and uninsured citizens. The programs provide discounts on prescriptions, lab work, various testing, dental, vision and hearing services; while the prescription program is free there is a minimal fee for the dental and health programs. It was noted that the National Association of Counties provides all necessary materials for marketing the programs and registration in the programs is completed online by the individual citizens. Amanda reviewed the documents included in the Board packet clarifying that the service providers are all online and can be searched by zip code, and that a spreadsheet was received with a list of all Nevada providers. She reviewed the county specific documents provided and gave some ideas of potential savings based upon personal experiences. She noted again that NACo and the program administrators work closely with the counties on the administration of the programs and provide the marketing materials with county information preprinted on them. Commissioner Waits inquired as to whom contacts the local pharmacies and Alex clarified that CVS/Caremark makes contact with the service providers within a participating county. Commissioner Irwin noted that his county's local pharmacy was already aware of the program and that the NACo program is most often the best savings option. No action was taken.
- 12. Update on the Nevada Department of Transportation's Statewide Transportation Technical Advisory Committee (STTAC).** Sondra Rosenberg of NDOT informed the Board that the Committee was established in 1993 to help the department with the requirements of the Transportation Authorization bills requirements for outreach and communications and engagement with other agencies throughout the state. The Committee is made up of members from several different Boards, Commissions and Committee's, noting that NACO's representative is Dagny. She stated that the Committee is currently under some restructuring of the By-laws as they reflect language specific to outdated spending authorization bills and how the committee will work going forward. President Wichman suggested considering a rural representative and Ms. Rosenberg stated that that position is filled by the NACO representative. Dagny clarified that the Committee reviews the list of proposed projects and that as NACO's representative to please bring any issues or projects to her attention to bring to the Committee. Commissioner Irwin inquired as to funding changes since the passage of the most recent Congressional Authorization and Ms. Rosenberg stated that they are still in the process of analyzing the bill but in brief summary they see their funding going up slightly and that there is an allocation for a new program for freight and that they are in a good position because they are in the middle of building the plan and incorporate aspects of the Act. She noted that there were slight changes in names of programs and the percentage of allocations split by populations.

- 13. Update and Possible Action on AB191 Enacted in the 2015 Legislative Session which Authorizes a County to Place on the Ballot at the General Election on November 8, 2016 a Question which Asks the Voters in the County whether to Authorize the Board of County Commissioners to Impose, for the Period beginning on January1, 2017, Annual Increases to Taxes on Certain Motor Vehicle Fuels.** Jeff informed the Board that there are still several questions and that information from LCB is still forthcoming but has been delayed due to the special session. Jeff introduced Derek Morse, former Director of the Washoe County Regional Transportation Commission and indicated that Washoe County was the first to have fuel indexing. Mr. Morse noted that AB191 is very complex and that there were a lot of changes made between the bill that allowed for Washoe's fuel tax indexing and the bill passed in the 2015 session. He noted that Washoe County passed indexing in 2002 and again in 2008 and that indexing recovers purchase power lost by inflation. Washoe County looks at all fuel taxes, local, state and federal and calculates their index amount on a ten year average of rolling inflation with caps. He stated that it is imperative to start now on public understanding and support for the passage of indexing ballot initiatives. He noted that having specific projects identified and that linking transportation to voter priorities is very important, he utilized the example of repaired and well maintained roads leads to lower vehicle maintenance costs to the citizens and better roads can assist in economic development and growth. He also noted that the funds Washoe County received from indexing were ten times greater than those received during the course of the federal stimulus programs. He also noted that communicating that the funds are under greater local control than the current taxes is also important and that indexing only increases with increased inflation. Commissioner Olsen inquired as to the sharing arrangement with NDOT and it was clarified that the index on the state fuel taxes does go to the state but must be spent on state projects within the county the indexing funds are collected from. He also stressed the importance of knowing the difference between education and advocacy in the communication of information to the citizens. Commissioner Waits inquired as to the duration of the indexing if passed in 2016 and it was clarified that if passed the indexing would take place for ten years and could be reapproved by the voters for an additional ten years, after which the bill is silent. Sondra Rosenberg noted that NDOT is working with each county on their priorities and that they are continuing to compile information for later distribution to the counties. Dagny also reminded the Board that she requested the county road priorities via an email to the Board and she is still compiling that data. No action was taken as information is still being compiled and NACO's potential role in engagement will be discussed in January.
- 14. Discussion and Possible Direction to Staff to Evaluate the Feasibility of NACO Serving as a Wildfire Grant Clearinghouse for Addressing the State Wildland Fire Issues in Prevention, Suppression and Post Mitigation.** Jeff reminded the Board of the existence of the Nevada Fire Safe Council that administered grants from the BLM, Forest Service, SNPLMA etc. He noted that the Council declared bankruptcy and the grant funds were frozen causing contractors etc. not to be paid and caused issues with the credibility of having a similar program. He stated that UNR's Dr. Elwood Miller updated the Board on the status of the funds at their meeting in Eureka. Since that update the Department of Justice is allowing funds to be released to some of the contractors and there is renewed interest in resurrecting a council or similar organization that can provide several services including the administration of the associated grants. He noted that the State Forester, Bob Roper would like to see the project renewed. It has been discussed that NACO would be an organization that has credibility and that stakeholders would have faith in NACO administering the program. He noted the actual 'blueprint' of what the new organization would look like is in flux and a meeting will be held in January or February to determine the actual needs of the proposed Council. Jeff inquired as to the Boards appetite for ongoing research in NACO's ability to fulfill the role. President Wichman noted concern with the costs associated with administration of the council and Jeff noted that grant funds are available for the administration of such organizations, but that would need to occur with current NACO funding. Commissioner Tipton moved for staff to continue looking into the option and the motion passed on a second by Commissioner Irwin. Commissioner Waits inquired as to the timeframe associated and Jeff stated that the State Forester is coordinating the meeting previously discussed and that staff will report back as developments require. Cheva Gabor, State Liaison from the Forest Service stated that her office will assist with grant opportunities and that not having the Council is a large void for the Agencies.
- 15. Discussion and Possible Approval of NACO's Federal Priorities for Discussion with Nevada's Congressional Delegation during the National Association of Counties Legislative Conference in Washington, D.C. February 20-24, 2016.** Jeff informed the Board

that former Congressman John Porter has invited those in attendance to a private tour of the Capitol and he needs to know who is interested in attending that tour as soon as possible. He noted that various steering committee meetings etc. will take place prior to the official start of the conference on Monday. He asked that those attending forward all necessary travel information to Amanda for coordination and that Congressional visitation's will be scheduled most likely on Wednesday. Jeff noted that if the visits can't be scheduled on Wednesday that they be scheduled later in the day during the body of the conference. He also asked the Board for direction on the list of priority issues included in the agenda packet which are very well known by the delegation and proposed a different approach to the visits. Jeff proposed to educate the delegation this year on the individual counties utilizing the County Explorer tool provided by NACo and create commonality of issues affecting Nevada's counties. President Wichman and Commissioner Tipton agreed with the proposal and that she has had discussion with the need to educate those that don't have the same issues Nevada does by opening dialogue with common issues. Commissioner Irwin suggested requesting meetings with the associated committee chairpersons and Jeff said that may not be an expectation we are able to meet this year. Jeff did note that it is more realistic to coordinate meetings with the committee staff but that NACO staff will work toward the goal. President Wichman noted that what she has found most beneficial in attending NACo events is the opportunity to educate other Commissioners on what the concerns are in Nevada. It was suggested that the discussion include healthcare and to educate the delegation regarding the county's concerns with hospital care, Medicaid, indigent care etc. Commissioner Dahl suggested obtaining copies of HR481, Congressman Amodei's land transfer bill to distribute to Commissioners from eastern counties. Jeff noted that staff will be preparing a briefing packet based upon the Board's discussion.

16. **Discussion and Possible Action regarding Proposed NACO Comments on the Nevada and California Bi-State Distinct Population Segment Forest Plan Amendment and Final Environmental Impact Statement.** Tori noted that she had completed drafting the format for comments and has been working with Esmeralda and Douglas Counties as well as the Governor's office to retrieve supporting information and that the comment period was extended to January 15th. She noted that there were significant changes to the Statement which seem to mirror the plans for the Greater Sage-Grouse, and that most stakeholders didn't know about the changes that only affect Nevada and not California. She also noted concerns with connective habitat inclusions and previously unidentified threats that are not clearly identified and are based on old studies. Tori was directed by the Board to finish her draft comments and distribute them to the affected Board members for review prior to the deadline.
17. **Discussion and Possible Action regarding the Bureau of Land Management's and U.S. Forest Service's Greater Sage-Grouse Approved Resource Management Plans (ARMP'S) including;**
 - a. **The Complaint for Declaratory and Injunctive Relief Filed by Western Exploration LLC, Elko County, Eureka County, Quantum Minerals, White Pine County, Lander County, Humboldt County Ninety-Six Ranch, LLC, Paragon Precious Metals, LLC, Churchill County, Washoe County and the State of Nevada.** This item was heard in a closed session with legal counsel.
 - b. **Proposed NACO Comments on the BLM's and USFS's Proposal under the ARMP's to Withdraw Lands Within Sagebrush Focal Areas from Location and Entry under the 1872 Mining Law, Subject to Valid Existing Rights and Approval to Request to be Given Cooperating Agency Status in the National Environmental Policy Act Analysis of the Proposal.** Tori requested Laura Granier discuss the new habitat map introduced at the Sagebrush Ecosystem Council and Laura noted that she hasn't received any feedback as to if the new maps actually resolve any of the issues presented in court but that they do increase core and priority habitat areas and that are vastly improved but have not been ground truthed. She noted that concerns were raised by the Nevada Department of Wildlife that if the new maps are greater than 10% different than the adopted maps that they could not be adopted without going through an additional LUPA. She also noted that it was discussed that all of the science was collected prior to the ROD being signed and that the FEIS and the ROD now are contradictory. Commissioner French noted that the data didn't include a very large sample area and that the satellite photo's used could not be effectively utilized without ground truthing, as well as the fact that NDOW has much better and more accurate information. Tori spoke regarding the comments to be submitted and that it is

important to include all possible effects that are imminent and/or could be experienced to not only educate the department but to preserve rights in the future. Commissioner Goicoechea noted that it will be important to incorporate the need for excessive need for proof of claim validity and that if there are staked claims (not requiring excessive proof) on the day the plan was adopted that those claims could still go forward. Tori also noted that the State should be allowed to implement its plan for at least ten years prior to withdrawal of lands to mitigate economic devastation within the state. Tori requested direction on what the Board would like to see as the required alternatives to be proposed. Commissioner Goicoechea reminded the Board that the LUPA did not adopt the state plan and that if nothing is done the LUPA remains in place including the mineral withdrawals. He also stated that the options are mineral withdrawal, no mineral withdrawal and a modified option would be that each project should be reviewed so that the habitat can be ground-truthed prior to any withdrawal decisions. Commissioner Tipton moved to accept the three alternatives and the items passed on a second by President Elect Carson. She was directed to work further with Commissioner's Goicoechea, French and Jake Tibbets. She was also instructed to bring back additional information on how NACO can become a cooperating agency on behalf of the counties.

18. **Update and Possible Action regarding NACO's Efforts Seeking to Compel the U.S. Bureau of Land Management to Comply with the Provisions of the Wild Free-Roaming Horse and Burro Act.** Jeff updated the board on the actions surrounding the draft appeal received on the date of the Board's November meeting. The appeal was filed on November 23rd and contained several amendments prepared by Tori in concert with Mr. Pollot and Mayor Crowell. Mayor Crowell noted that there is a chance to win the appeal with the work Tori completed on the document. No action was taken.
19. **Discussion and Possible Approval of a NACO Position Paper on the Basin and Range National Monument Designation.** Jeff noted that the original OPED was rewritten to be less editorial at the direction of the Board, however due to the length of time it will no longer be effective as an OPED and as the Antiquities Act is likely to be utilized again prior to the end of year and that we have heard from Oregon on a proposed monument with lack of communication and local input that changing the document to a position paper might be a better use of the document. Commissioner Dahl noted support of a position paper more broadly addressing the Antiquities Act to assist others with issues similar to what was experienced by the Basin and Range designation. Commissioner Tipton moved to revise the document to a position paper for Board approval and the item passed on a second by Commissioner Dahl.
20. **Update on Recommendations Adopted by the Governor's Drought Forum.** Leo Drozdoff, Director of the Nevada Department of Conservation and Natural Resources gave the Board an update on the development of the Forum and the process used to develop the report presented to the Governor. The Forum identified areas of concern both in the public and private sector and concentrated on education vs. penalization of residents, as well as reviewing programs that have worked in one sector and determining how they could be used in others. The Forum's recommendations to the Governor include items in categories such as conservation, law, research, financial & technical assistance, supply augmentation, long range planning, information sharing and outreach and drought declarations and emergency actions. Additional concerns addressed in the report include the 'use it or lose it' aspect of maintenance of water rights, potential metering, local government's approach for efficiency for new development and the allowance of management plans. Some of the recommendations will require statutory changes however; Mr. Drozdoff noted that the majority of Nevada water law is grounded in judicial opinion which will need to be addressed in new statute. He also specifically noted that if a curtailment order is issued the report specifies that it be only for outdoor water usage, as the law does not currently state, to allow residents to effectively function within their homes. The report also contains specific criteria for the declaration of a drought emergency. Commissioner Waits inquired as to how the state is going to educate new legislators on the issue so the 2017 session can be more effective. Mr. Drozdoff indicated that the report will be the key resource for educating the legislature, it was also suggested that educating the members of NACO who in turn can speak to their legislators would also be an effective tool.
21. **NACO Committee of the Emeritus Update.** Commissioner Irwin thanked staff for coordinating the recent workshop noting that he received several comments on the success of the event. The committee is continuing to work on the PAC and updates to the New Commissioner Handbook for

the 2016 NACO Conference. Commissioner Bates noted how helpful the handbook has been to her as she navigates her first commission term. Dagny announced the next workshop in March on Understanding Local Government Finance.

22. **National Association of Counties and Western Interstate Region Board Member Updates.** Commissioner Irwin reported on his attendance at the Safe & Secure Counties symposium in Colorado Springs including the workshops and trainings he attended. Commissioner French reported on his attendance on a teleconference for WIR and that the full funding of PILT took a lot of the push for public land transfers away. He also noted that wildfire funding was a large topic of conversation and there was a lack of conversation about fire prevention. He also noted that there was a lot of talk about transportation and what will happen with the passage of the FAST Act.
23. **NACO Board Member Updates.** Updates were given by several members of the Board on what is occurring in their counties.
24. **Public Comment.** None was given

The following links and/or pages are support for agenda
Item 10

NACO Position Paper on the Status of University of Nevada Cooperative Extension (UNCE) and the Proposed UNCE-College of Agriculture, Biotechnology, and Natural Resources Consolidation

In 2012-2013, the Nevada Association of Counties (NACO) had conversations with President Marc Johnson and other representatives of the University of Nevada, Reno regarding their proposal to consolidate the University's Cooperative Extension (UNCE) program with the College of Agriculture, Biotechnology, and Natural Resources (CABNR). After hearing NACO's objections, in a letter to NACO dated June 13, 2013, University President Marc Johnson stated that the University was not going forward with the proposal at that time and would be working to build relationships with the counties and engage in quarterly meetings with NACO. During the subsequent two years, there were no meetings between NACO and UNR in which the consolidation or future status of UNCE were discussed. Then, this summer (2015), only after NACO requested an update, counties were told that the consolidation proposal would in fact move forward.

Following two meetings with representatives of the University, it has become clear that the reasons that counties were concerned about both the proposed merger and the health and stability of UNCE in 2013 are even stronger in 2015. NACO would like to take this opportunity to make clear the concerns regarding both the proposed merger and the current state of UNCE. Cooperative Extension provides programs, services, and research that benefit not only Nevada's counties, but also, and more importantly, the Nevadans whose lives are improved by the outreach, education, and resources that Cooperative Extension provides. NACO urges NSHE to reconsider the proposal for consolidation and also to make assurances that the cuts and administrative changes that have been made to UNCE will be restored and that the program will be fully supported by the University going forward. Following the outline below of the programmatic compromises that have been made to Cooperative Extension in Nevada and the subsequent impacts to Nevada's communities and to the UNCE mission, is a list of assurances that NACO believes must be met if UNCE is to continue to be the viable, award winning, program that has served our State, the University, and Nevada's communities so well in the past.

Opportunities for Collaboration and UNCE's Record

In a letter from Provost Carman to the Faculty Senate dated August 25, 2015, the Provost stated that one of the reasons behind the consolidation is to enhance collaboration; however, currently there is not a lack of opportunity for collaboration between UNCE and other University departments, just as there is no evidence to suggest that there will be an overall increase in those opportunities were UNCE to be put within one specific college. UNCE in its current form has actually been remarkably successful and has received national recognition on a number of occasions for their work - this is despite the fact that, comparatively, UNCE receives less state dollars and is smaller in size than many of its counterparts across the nation. In fact, recent data demonstrates that Rhode Island is the only state that has less Extension faculty positions than Nevada. Yet, UNCE is the only extension

program in the country to have received the National Excellence in Extension Award twice. UNCE also received the USDA-NIFA (National Institute of Food and Agriculture) Partnership Award twice, for two programs that support Nevada's kids and families. And the Living with Fire program was so successful that it became a national model for wildfire prevention.

UNCE Funding

Since FY 2008-2009 the State portion of the UNCE budget has been cut over 70%, resulting in a reduction of 39 positions (out of 69). During that same time, despite severe county budget shortfalls and layoffs, counties have continued to dedicate about the same amount of county dollars to Cooperative Extension. The results of the 2009 cuts to Cooperative Extension were profound and the effects continue to be felt by Nevadans across the State. Since 2009 there has been a relative rebounding of the economy and recently much of the University's budget has been restored, with positions being added throughout University departments. Cooperative Extension, however, has received only one small increase in funding, for \$500,000 (only 8% of what it would have taken to restore the cuts from 2008-2009.) Furthermore, this modest funding increase for UNCE was not supported by University or NSHE Administration - it was awarded by the Legislature due to the advocacy of UNCE Advisory Board members.

UNCE Positions

In addition, there has been no real restoration of UNCE positions. University administration will argue that five new positions have been given to UNCE; however, these positions are all split positions with other departments, and, the evaluations and requirements for tenure will be determined by the other departments/Colleges, not UNCE. This clearly places the focus of the positions on on-campus work and other departments and does not encourage faculty members to go out to counties and do outreach, UNCE programing, or education. Without a focus in, or even the incentive to perform UNCE duties out in the field, these positions are of little use to stakeholders throughout the state, and are also not based on Cooperative Extension needs assessments that are regularly conducted at the county level. Furthermore, these "new" split positions were granted to UNCE over the past two years, despite the fact that in the June 13, 2013 letter to NACO, President Johnson promised, "There will be no further split appointments between UNCE and teaching responsibilities." If past performance is the best indicator of future action, these examples are indicators of how UNCE positions and activities will continue to be managed going forward. The fears that UNCE will continue with a lack of support and positions, and that UNCE dollars intended to fund programs off campus will continue to be pulled onto campus and into other departments, are not unfounded.

In addition to funding cuts, the administration has taken other actions that have compromised UNCE's ability to meet its mission and provide education and vital programs in communities across Nevadan. One is the newly created requirement that all UNCE faculty members who want tenure track positions have PhDs. UNCE

faculty has traditionally been a mix of PhDs and faculty with other advanced degrees - this reflects the varied academic and professional backgrounds required to meet the complex needs of the Cooperative Extension mission. Extension faculty conduct research but also meet community needs by doing outreach, education, and coordinating and carrying out programming that ranges from 4-H and gardening to career training and family support programs. This requirement handicaps the ability of UNCE to replace retiring extension educators with the most qualified professionals, especially in rural counties, yet increases incentives for the type of solely research oriented candidate that might want to dedicate more time to on campus activities. It also hinders the ability of UNCE to recruit and retain faculty. A recent survey found that most Extension units in the West consider the master's degree the advanced degree required for tenure track Extension educators. There are already examples of Nevada extension educator positions going unfilled as educators retire.

Proposed Consolidation with the College of Agriculture

The University Administration has insisted that housing Cooperative Extension within the College of Agriculture will enhance UNCE and will not pull state UNCE dollars onto campus and out of extension offices and counties; however, the counties are still concerned that this will not be the case. The aforementioned examples of changes to the program, which were not vetted with stakeholders and are contrary to previous commitments, have already weakened the program, and counties have received no real assurances that such policies will not continue.

Though the Department of Agriculture, Biotechnology and Natural Resources overlaps with a portion of UNCE's charge, a significant portion of Cooperative Extension activities are outside the purview of CABNR. This leaves further doubt as to whether the proposed merger would support the full mission and activities of Cooperative Extension. Though Agriculture is an important portion of UNCE's Mission, it is not the only focus. According to NRS 549.010, Cooperative Extension's charge is to "provide for continued educational, research, outreach and service programs pertaining to agriculture, community development, health and nutrition, horticulture, personal and family development, and natural resources ***in the rural and urban communities*** (emphasis added) in the State of Nevada...." This is a broad mission and an extremely varied list of program areas, making UNCE's current position as a stand-alone college with the ability to nimbly work with any other department or college in the University system appropriate.

There are other Cooperative Extension programs in other land grant universities in the U.S. that are housed within agriculture departments but only three of these are in States with a similarly small sector of the State economy dedicated to agriculture (UNCE/CABNR Planning Group Report, p. 11). NACO would ask whether programs addressing small business support, youth career training, and literacy will be supported within a college primarily focused on agriculture and natural resources? And, if UNCE's mission is to take many different types of knowledge into communities in order to improve the social, economic, and environmental well-

being of Nevadans, how would being one further step removed from departments like economics, health sciences, and education better achieve that goal?

Transparency and Communication with Partners and Stakeholders

Aside from a handful of recent meetings, some called by the counties themselves, throughout the discussion on consolidating UNCE and CABNR there has been a lack of effort to involve counties in the planning process for this decision, despite the fact that UNCE and counties are partners. Discussions on the current proposal were initiated by NACO, though it was clear that late this summer, when the counties did reach out, that the proposal had already been discussed with faculty and that planning had not included county stakeholders. Counties value extension because of the connection that is created between their communities and the University, and because of programs like 4-H, the Family Storyteller Literacy Program, and the support of master gardeners, which many view as invaluable to all of the communities in the State. There is an official mechanism through which the administration and the counties work together on planning for UNCE and that is the UNCE Advisory Board. This board, however, has not been called to meet for almost two years and is, for all intents and purposes, currently defunct. This breakdown in communications is further evidence that outreach to counties from the University, whether it is in programming or governance, has not been made a priority.

The process for making a decision for a UNCE-CABNR consolidation has been handled haphazardly at best, which is also a concern. The Administration has not kept their promise, and their responsibility to the counties, to have them participate in a process “over the next two years to... evaluate the most appropriate and beneficial administrative structure for UNCE, CABNR, UNR, and the state of Nevada,” as promised in June 2013. The original Planning Group, made up of UNCE faculty and others and that was organized to produce a study on UNCE/CABNR consolidation, stated in the final Planning Group Report that their product was incomplete as they were not given enough time or the opportunity to incorporate the input of key stakeholders and analysis (including from the deans of both departments, UNCE Advisory Council members, and fiscal officers (p. 32). In addition, the majority of concerns that were raised by the Report were dismissed in a letter from Provost Carman dated February 15, 2013. There is no reason for NACO to believe that this lack of transparency and dedication of proper analysis and resources will not continue and further compromise UNCE.

Commitment and Assurances

As it stands now there are examples across the State of counties who, though they are contributing the same amount of county revenue to their local cooperative extension office, are seeing a significant decrease in Cooperative Extension services. From Nye County to Pershing County, and from Washoe to Clark, there are fewer extension educators, specialists, staff, and services, and communities are being impacted. Each county has evidence of important programs, like 4H and Master Gardeners, or programs that support families, being either cut or significantly reduced. In 2006 UNCE published about 135 fact sheets, special publications, and

other information documenting much of the research and work of UNCE faculty. By 2014, the production of these resources had fallen to a quarter of those produced eight years earlier. This information is used by stakeholders and in support of communities around the State and in 2014 consisted of only 36 publications.

The county funding that goes to UNCE programs, as well as the State budget dollars that have been allocated, are both already approved for Cooperative Extension outreach and educational programming, and, Nevada's counties ask for a guarantee that the entirety of this funding be used solely for UNCE activities that result in off campus outreach and educational programs, both for this fiscal year and going forward. Not only are counties the University's partner in Cooperative Extension, but counties also provide the largest single revenue source to the program. Counties are justifiably concerned that significant policy changes continue to be made to UNCE without any real notice or input on their behalf. The mission of Cooperative Extension is an important one to counties, our State, the University System, and one from which all Nevadans benefit. It is the position of Nevada's counties that, as a land grant university, the University administration should commit itself to supporting a thriving Cooperative Extension and that, unless the following assurances are officially adopted, Nevada's counties, on behalf of all of those throughout the State who benefit from the invaluable services that UNCE provides to Nevada's communities, must continue to question and protest the decisions of the Administration regarding this program.

1. UNR and NSHE will request and support restoration of state-appropriated resources for Extension programs throughout the state similar to the FY 2008-09 levels in the next Legislative session. This funding proposal should be developed in collaboration with Extension Leadership and based on needs identified at the county level.
2. ALL UNCE funds shall be used for UNCE activities only, activities intended to be carried out "in the rural and urban communities in the State of Nevada" (NRS 549.010):
 - Per NRS.549.050, "All moneys appropriated pursuant to NRS 549.040 must be expended under the direction of the Director." The UNCE Director shall have all authority of expending all Extension funds and managing its resources – state-appropriated, county and federal, in accordance with state and federal laws.
3. The UNCE Advisory Committee will resume, at a minimum, quarterly meetings, effective first quarter 2016. As was the case prior to 2013, it will have representatives/stakeholders from throughout the state with diverse interests in UNCE programs – rural, urban, various programs, various geographic areas, etc., selected by UNCE leadership (Dean, Director, Area Directors, Extension Educators, etc.), in consultation with the NACO Board of

Directors. NACO shall have two appointments to this Board, one county commissioner, and either the NACO Executive Director or Deputy Director.

4. UNCE shall maintain separate financial accounts and management of its funds, and UNCE funds shall be under the exclusive control of the UNCE Director. This shall include UNCE having its own CFO/Financial Director, who is separate from any other entity/college.
5. UNCE shall be led by a Dean or Director, not an Assistant or Associate Director.
6. UNCE shall conduct a national search for the Dean/Director of the University of Nevada Cooperative Extension.
7. The terminal/advanced degree required for Extension Educator positions will be determined on a case-by-case basis by the appropriate UNCE Area Director, in consultation with the UNCE Director, and the UNCE Advisory Committee.
8. The terminal/advanced degree required for other UNCE faculty positions with regional or statewide responsibility will be determined on a case-by-case basis by the UNCE Director, in consultation with other UNCE leadership (Dean, Director, Area Directors, Extension Educators, etc.), and the UNCE Advisory Committee.
9. All UNCE faculty positions and Extension Educator positions shall remain tenure track positions.
10. No joint appointments located on campus with UNCE and other NSHE units shall be instituted from this point on with county funds, or with any state-appropriated funds specifically designated for Extension (including general fund, as well as federal and county pass-through funds).
11. The UNCE Dean/Director may, in consultation with the UNCE Advisory Committee, recommend approval of MOUs for joint appointments located on campus with UNCE and other NSHE units that are to be funded by UNR's general state appropriations or other NSHE funds, funds not specifically appropriated to UNCE.
12. The UNCE Director may, in consultation with the UNCE Advisory Committee and NACO Board of Directors, recommend approval of MOUs that use proportional Extension-appropriated funds for joint appointments located off campus with UNCE and other NSHE units.
13. In future MOUs for joint positions, or for any current joint positions, with UNCE, despite the origin of the funding, an MOU shall be created that

includes measurable goals and evidence that the position is meeting UNCE's mission to provide education, outreach, and service programs to people outside of the University, "in the rural and urban communities in the State of Nevada," (NRS 549.010). The MOUs shall also provide a mechanism for ending the relationship if the UNCE Director concludes these goals are not being satisfactorily met, and provide that the UNCE Director may redirect the UNCE portion of the funding to other programs supporting the UNCE mission as he/she sees fit, and as defined by state and federal law.

14. UNCE shall have the rights and responsibilities of a "major unit," as defined by NSHE and UNR bylaws and codes. This is to guarantee that any changes in status would have to be approved at the level of the Board of Regents.
15. If there is consideration of elimination of any faculty or staff positions, or combining of positions, resulting in termination of UNCE employees that may result from the consolidated leadership, the UNCE Advisory Board shall be consulted and given the opportunity to voice their opinions; and, any such terminations must be approved by the UNCE Director, as well as the Northern and Southern Area Directors, unanimously. Any such terminations shall strictly adhere to procedures and give due notice, as dictated by NSHE and UNR bylaws and codes.
16. Per NRS 549.070, "All supplies, materials, equipment, property or land acquired for the use of county agricultural extension offices under the provisions of chapter 213, Statutes of Nevada 1919, shall remain the property of the county extension offices set up under the provisions of this chapter."

The following links and/or pages are support for agenda
Item 11

<http://lasvegassun.com/news/2015/nov/13/jury-awards-2-million-to-sons-in-case-of-looted-es/>

The following links and/or pages are support for agenda
Item 12



Nevada Department of Public Safety Division of Emergency Management

MISSION AND CAPABILITIES BRIEF



STATUTORY RESPONSIBILITIES (NRS 414)

- Manage DEM resources and provide resources to statewide EM organizations.
- Prepare a comprehensive state emergency management plan that is integrated with EM partners and their plans.
- Institute a comprehensive planning, training, and exercises plan with EM partners.
- Administer and coordinate mutual aid agreements with other states between political subdivisions of the state.
- Conduct public outreach.



STATUTORY RESPONSIBILITIES (NRS 414)

- Conduct studies and surveys of resources and capabilities for EM response.
- Administer the Emergency Assistance Account and the Disaster Relief Account.
- Administer the State Disaster Identification Team.
- Coordinate Search and Rescue activities.
- Coordinate Homeland Security efforts.
- Activate SEOC as necessary.
- Take all other preparatory steps ahead of emergencies.



DEM STRATEGIC PLANNING FRAMEWORK

Governor Sandoval's Public Safety Strategic Priority

- **Safe and Livable Communities**—Nevada is a great place to live, work, and play, and State Government must provide public safety services while protecting our national and cultural resources.

Department of Public Safety Vision, Mission, and Values

- **Vision:** To be a unified multi-discipline and total force organization that will provide excellent public safety services and will be known for our abilities and resource capabilities to “to take care of business” anywhere and anytime in the State of Nevada.
- **Mission:** In partnership with the people of Nevada, the Department of Public Safety provides services in support of protecting our citizens and visitors by promoting safer communities through prevention, preparedness, response, recovery, education, and enforcement.
- **Core Values:** Integrity, Excellence, Courage, Accountability, Leadership, Teamwork.



DEM VISION, MISSION, AND GOALS

- **Vision:** Nevada's Essential Emergency and Disaster Coordinating Partner.
- **Mission:** Coordinating preparedness, response, recovery, and mitigation resources through partnerships to sustain safe and livable communities for Nevada's residents and visitors.
- **Goals:**
 1. An efficient team, strengthened by collaboration, communication, and leadership.
 2. An essential partner in the coordination of emergency and disaster resources for the Whole Community.
 3. A statewide leader in sustaining and building emergency and disaster response capacity.



DEM ADMINISTRATIVE OVERVIEW

- 33 Total Full-time Employees
 - Carson City: 31 FTE
 - Las Vegas: 2 FTE
- 5 Sections:
 - Fiscal and Administrative Section
 - Preparedness
 - Homeland Security
 - Grants/Mitigation/Recovery
 - Public Information Officer
- Total State Appropriations for FY16
 - BA 3673: \$372,611
 - BA 3675: \$175,223
 - Total: \$547,834
- Total Federal Funding Authority for FY16
 - BA 3673: \$4,770,840
 - BA 3675: \$252,830
 - Total: \$5,023,670



FISCAL AND ADMINISTRATIVE SECTION

- Supports all facets of the agency (NRS 414.040.2)
 - Budgets/Closings (funding authority)
 - Coordinate BA 1335 Disaster Relief Account requests
 - Manage emergency, operating, and pass-through BAs
 - BA 1336: Emergency Assistance Account (NRS 414.135)
 - BA 3673: Operating/BA 3674 Pass through/BA 3675 HS Operating
 - Accounting (payables and receivables)
 - Personnel/Payroll
 - Travel and Purchasing
 - Audits and Financial Reporting
 - Contracts
 - Policies/Procedures/Internal Controls



PREPAREDNESS SECTION: PT&E

- Planning: (NRS 414.040.4b)
 - State Comprehensive Emergency Management Plan (SCEMP) (NRS 414.040)
 - State and Local Planning Initiatives and Deliverables
- Training: (NRS 414.040.4b)
 - National Incident Management System-required training
 - Resource-specific training and SEOC staff training
- Exercise (NRS 414.040.4c)
 - Activity to validate all planning and training events
 - Homeland Security Exercise and Evaluation Program (HSEEP) Compliant



PREPAREDNESS SECTION: OPERATIONS

- Resource Management
 - Division of Emergency Management Coordination Center (DEMC)
 - Statewide Resource Inventory
 - Nevada Intrastate Mutual Aid System (NRS 414.020.1c), Emergency Management Assistance Compact (EMAC), Interstate Mutual Aid Coordination (NRS 415)
- State Emergency Operation Center (SEOC) Management
 - Duty Officers – 24-7
 - Declaration of Emergency or Disaster (NRS 414.070)
 - Emergency Support Function (ESF) – Multiple State Agencies that support the SEOC
 - WebEOC (Common Operating Picture Platform)
 - Emergency communications coordination & satellite communications vehicles
 - State Technical Assistance Teams (NRS 353.2753)
 - Search and Rescue Program (NRS 414.0170-260)



HOMELAND SECURITY

- Governor's Homeland Security Advisor (HSA)
- Nevada Commission on Homeland Security (NCHS) (NRS 239C.120)
 - NCHS Committees:
 - Critical Infrastructure Committee (CIC); Nevada Critical Infrastructure Protection Plan Subcommittee (NCIPP); Cyber Security Committee (CSC); Finance Committee; Legislative and Bylaws Committee; and the State Homeland Security Strategy Advisory Committee (SHSS).
 - Executive Order (EO) Advisory Committees:
 - Homeland Security Working Group (HSWG) – EO 2015-32
 - Nevada Public Safety Communications Committee (NPSCC) – EO 2014-01
 - Annual Report of Governor (NRS 239C.200)
 - Nevada Fusion Center Report Liaison



GRANTS, RECOVERY, & MITIGATION SECTION

- DEM is not only heavily funded by grants (95%) but it also works to provide resources to local jurisdictions and tribal nations to support their local services
- There are two categories in grants: Pre & Post Disaster and Preparedness
- Examples:
 - Homeland Security Grant Program (HSGP)
 - Emergency Management Performance Grants (EMPG)
 - Pre-Disaster Mitigation Grants (PDM)
 - Cooperating Technical Partners (CTP)
 - Disaster Grants: Individual Assistance, Public Assistance, Post Disaster Hazard Mitigation
 - Communication Grants; State and Local Implementation Grant Program (SLIGP)
 - Department of Energy (DOE)
 - Department of Education (DOE)
 - Ebola preparedness grant funding



GRANTS, RECOVERY, & MITIGATION SECTION

- Advisory Groups:
 - Nevada Earthquake Safety Council (NESC)
 - Nevada Hazard Mitigation Planning Committee (NHMPC)
 - Emergency Preparedness Working Group (EPWG)
 - Northern Nevada Volunteer Advisory Committee
 - Statewide Citizen Corps Council – EO 2011-26



PUBLIC INFORMATION OFFICER

The DEM Public Information Officer (PIO) “carries out public information programs” (NRS 414.060.3.c) by communicating with local agencies, the public, and the media. Key responsibilities include:

- Gathering facts and information regarding daily activities and statewide incidents
- Public outreach and education as well as marketing awareness campaigns
- Monitoring public opinions and media coverage
- Public awareness as well as maintaining a social media and website presence
- Develop rapport with local, regional and state and federal agencies
- Manages Joint Information Center
- Prepare and distribute media releases
- Additional responsibilities may include special event planning, news conferences, and awards ceremonies

The following links and/or pages are support for agenda
Item 13

http://nvcourts.gov/AOC/Committees_and_Commissions/Evidence/Overview/

The following links and/or pages are support for agenda
Item 15



COUNTY INDEX TAX REVENUE PROJECTIONS - FY17 - FY26
GASOLINE/GASOHOL

COUNTY NAME	FY15 BASE GALLONS	FY17		FY18		FY19		FY20		FY21		FY22		FY23		FY24		FY25		FY26	
	TOTAL GASOLINE/ GASOHOL GALLONS	PROJECTED GALLONS*	PROJECTED TAX**	PROJECTED GALLONS*	PROJECTED TAX**	PROJECTED GALLONS*	PROJECTED TAX**	PROJECTED GALLONS*	PROJECTED TAX**	PROJECTED GALLONS*	PROJECTED TAX**	PROJECTED GALLONS*	PROJECTED TAX**	PROJECTED GALLONS*	PROJECTED TAX**	PROJECTED GALLONS*	PROJECTED TAX**	PROJECTED GALLONS*	PROJECTED TAX**	PROJECTED GALLONS*	PROJECTED TAX**
CARSON CITY	35,253,634	35,606,170	\$ 1,068,185.11	35,962,232	\$ 2,157,733.92	36,321,854	\$ 3,268,966.89	36,685,073	\$ 4,402,208.75	37,051,924	\$ 5,557,788.55	37,422,443	\$ 6,736,039.72	37,796,667	\$ 7,937,300.13	38,174,634	\$ 9,161,912.15	38,556,380	\$ 10,410,222.68	38,941,944	\$ 11,682,583.24
CHURCHILL	8,891,375	8,980,289	\$ 269,408.66	9,070,092	\$ 544,205.50	9,160,793	\$ 824,471.33	9,252,400	\$ 1,110,288.06	9,344,924	\$ 1,401,738.67	9,438,374	\$ 1,698,907.27	9,532,757	\$ 2,001,879.07	9,628,085	\$ 2,310,740.41	9,724,366	\$ 2,625,578.79	9,821,610	\$ 2,946,482.87
DOUGLAS	20,736,883	20,944,252	\$ 628,327.55	21,153,694	\$ 1,269,221.66	21,365,231	\$ 1,922,870.82	21,578,884	\$ 2,589,466.03	21,794,672	\$ 3,269,200.87	22,012,619	\$ 3,962,271.45	22,232,745	\$ 4,668,876.52	22,455,073	\$ 5,389,217.47	22,679,624	\$ 6,123,498.36	22,906,420	\$ 6,871,925.93
ELKO	30,897,923	31,206,902	\$ 936,207.07	31,518,971	\$ 1,891,138.28	31,834,161	\$ 2,865,074.49	32,152,503	\$ 3,858,300.31	32,474,028	\$ 4,871,104.14	32,798,768	\$ 5,903,778.22	33,126,756	\$ 6,956,618.67	33,458,023	\$ 8,029,925.55	33,792,603	\$ 9,124,002.90	34,130,529	\$ 10,239,158.81
ESMERALDA	228,179	230,461	\$ 6,913.82	232,765	\$ 13,965.92	235,093	\$ 21,158.37	237,444	\$ 28,493.28	239,818	\$ 35,972.76	242,217	\$ 43,598.99	244,639	\$ 51,374.14	247,085	\$ 59,300.44	249,556	\$ 67,380.12	252,052	\$ 75,615.47
EUREKA	1,767,574	1,785,250	\$ 53,557.49	1,803,102	\$ 108,186.13	1,821,133	\$ 163,901.99	1,839,345	\$ 220,721.35	1,857,738	\$ 278,660.71	1,876,315	\$ 337,736.78	1,895,079	\$ 397,966.50	1,914,029	\$ 459,367.05	1,933,170	\$ 521,955.81	1,952,501	\$ 585,750.40
HUMBOLDT	13,960,639	14,100,245	\$ 423,007.36	14,241,248	\$ 854,474.87	14,383,660	\$ 1,294,529.43	14,527,497	\$ 1,743,299.63	14,672,772	\$ 2,200,915.78	14,819,500	\$ 2,667,509.93	14,967,695	\$ 3,143,215.87	15,117,372	\$ 3,628,169.17	15,268,545	\$ 4,122,507.22	15,421,231	\$ 4,626,369.22
LANDER	4,543,149	4,588,580	\$ 137,657.41	4,634,466	\$ 278,067.98	4,680,811	\$ 421,272.99	4,727,619	\$ 567,314.29	4,774,895	\$ 716,234.29	4,822,644	\$ 868,075.96	4,870,871	\$ 1,022,882.84	4,919,579	\$ 1,180,699.05	4,968,775	\$ 1,341,569.29	5,018,463	\$ 1,505,538.87
LINCOLN	2,651,541	2,678,056	\$ 80,341.69	2,704,837	\$ 162,290.22	2,731,885	\$ 245,869.68	2,759,204	\$ 331,104.50	2,786,796	\$ 418,019.44	2,814,664	\$ 506,639.56	2,842,811	\$ 596,990.28	2,871,239	\$ 689,097.35	2,899,951	\$ 782,986.86	2,928,951	\$ 878,685.26
LYON	26,226,492	26,488,757	\$ 794,662.71	26,753,644	\$ 1,605,218.67	27,021,181	\$ 2,431,906.28	27,291,393	\$ 3,274,967.13	27,564,307	\$ 4,134,646.00	27,839,950	\$ 5,011,190.95	28,118,349	\$ 5,904,853.34	28,399,533	\$ 6,815,887.85	28,683,528	\$ 7,744,552.57	28,970,363	\$ 8,691,109.00
MINERAL	2,257,148	2,279,719	\$ 68,391.58	2,302,517	\$ 138,151.00	2,325,542	\$ 209,298.77	2,348,797	\$ 281,855.67	2,372,285	\$ 355,842.78	2,396,008	\$ 431,281.46	2,419,968	\$ 508,193.31	2,444,168	\$ 586,600.28	2,468,610	\$ 666,524.57	2,493,296	\$ 747,988.69
NYE	23,096,763	23,327,731	\$ 699,831.92	23,561,008	\$ 1,413,660.48	23,796,618	\$ 2,141,695.62	24,034,584	\$ 2,884,150.10	24,274,930	\$ 3,641,239.51	24,517,679	\$ 4,413,182.28	24,762,856	\$ 5,200,199.79	25,010,485	\$ 6,002,516.33	25,260,590	\$ 6,820,359.18	25,513,195	\$ 7,653,958.63
PERSHING	3,959,721	3,999,318	\$ 119,979.55	4,039,311	\$ 242,358.68	4,079,705	\$ 367,173.41	4,120,502	\$ 494,460.19	4,161,707	\$ 624,255.98	4,203,324	\$ 756,598.25	4,245,357	\$ 891,524.94	4,287,810	\$ 1,029,074.50	4,330,689	\$ 1,169,285.91	4,373,995	\$ 1,312,198.63
STOREY	1,641,007	1,657,417	\$ 49,722.51	1,673,991	\$ 100,439.47	1,690,731	\$ 152,165.80	1,707,638	\$ 204,916.62	1,724,715	\$ 258,707.23	1,741,962	\$ 313,553.16	1,759,382	\$ 369,470.14	1,776,975	\$ 426,474.10	1,794,745	\$ 484,581.20	1,812,693	\$ 543,807.79
WHITE PINE	7,320,929	7,394,138	\$ 221,824.15	7,468,080	\$ 448,084.78	7,542,760	\$ 678,848.44	7,618,188	\$ 914,182.57	7,694,370	\$ 1,154,155.49	7,771,314	\$ 1,398,836.46	7,849,027	\$ 1,648,295.63	7,927,517	\$ 1,902,604.09	8,006,792	\$ 2,161,833.90	8,086,860	\$ 2,426,058.05
TOTALS	183,432,957	185,267,287	\$ 5,558,018.60	187,119,959	\$ 11,227,197.57	188,991,159	\$ 17,009,204.31	190,881,071	\$ 22,905,728.47	192,789,881	\$ 28,918,482.20	194,717,780	\$ 35,049,200.43	196,664,958	\$ 41,299,641.17	198,631,608	\$ 47,671,585.80	200,617,924	\$ 54,166,839.37	202,624,103	\$ 60,787,230.85

*Projected growth of 1% per year

**Projected increase of \$0.03 per year based on FY16 PPI indexing factor of 5.25%

This is a cumulative tax so subsequent increases are added to prior years indexed taxes

Clark and Washoe Counties are excluded from this spreadsheet as they have already enacted Indexing.

Totals	County Portion	State Portion
\$ 62,382,941.14	\$ 40,330,571.45	\$ 22,052,369.69
\$ 15,733,700.63	\$ 10,171,837.45	\$ 5,561,863.17
\$ 36,694,876.67	\$ 23,723,237.77	\$ 12,971,638.90
\$ 54,675,308.42	\$ 35,347,586.90	\$ 19,327,721.53
\$ 403,773.33	\$ 261,039.46	\$ 142,733.87
\$ 3,127,804.21	\$ 2,022,125.42	\$ 1,105,678.79
\$ 24,703,998.49	\$ 15,971,135.02	\$ 8,732,863.47
\$ 8,039,312.96	\$ 5,197,415.83	\$ 2,841,897.13
\$ 4,692,024.83	\$ 3,033,394.05	\$ 1,658,630.78
\$ 46,408,994.51	\$ 30,003,414.95	\$ 16,405,579.56
\$ 3,994,128.12	\$ 2,582,203.83	\$ 1,411,924.29
\$ 40,870,793.83	\$ 26,422,968.21	\$ 14,447,825.62
\$ 7,006,910.04	\$ 4,529,967.34	\$ 2,476,942.70
\$ 2,903,838.03	\$ 1,877,331.29	\$ 1,026,506.74
\$ 12,954,723.56	\$ 8,375,228.78	\$ 4,579,494.78
\$ 324,593,128.77	\$ 209,849,457.75	\$ 114,743,671.02

The following links and/or pages are support for agenda
Item 17

NV Fire Safe Council Vision

Goal:

Create a grant clearing house entity for addressing the State wildland fire issues in prevention, suppression and post mitigation actions.

Discussion:

Following the demise of the previous Nevada Fire Safe Council, there is still community support and need for a non-profit entity to solicit, distribute and administer various grant funds for wildland fire projects. The number one task is to create a new title, entity and restore trust among all stakeholders.

This entity should not perform the actual work, only solicit, award and administrate grant funds. NDF and other entities will act as the technical specialists so overhead/indirect administrative costs are minimized. Administrative costs must follow OMB A87 rules for federal grant funds, which provide a default 10% rate if a documented/approved rate is not developed.

Due to the prior organization's bankruptcy, public trust must be restored and oversight control must be incorporated. This oversight will be bolstered by new regulatory rules being imposed by federal grantors. This new Fire Safe entity must be highly accountable and transparent in all functions so grant solicitation is successful.

Funding History:

The biggest challenge to creating a new Fire Safe entity is to develop "seed funding" to begin the grant solicitation process. This funding is essential to bridge the grant cycle for a sustainable operation. In the original Fire Safe Council program, the NV State Legislature appropriated \$2 mil to begin this process and provide work funding. Federal grant funding came through USFS grants funds to NDF pass-through and Southern Nevada Public Land Management Act (SNPLMA).

In the future once public trust is restored, in addition to federal grant funds, the state and private charitable funds should be solicited. Non-federal funds give greater latitude to funding options and create greater opportunities for local community buy-in to the wildland fire issues.

Organization of Entity:

This next generation of Fire Safe Council should be a stand-alone entity that is associated with grantors, but grantors should not be part of its regulatory body. Any non-profit organization can create a type of Fire Safe Council and there can be multiple entities, although to maximize participation, a single focused entity may be the best option.

The following links and/or pages are support for agenda
Item 19

ONE HUNDRED ONE NORTH CARSON STREET
CARSON CITY, NEVADA 89701
OFFICE: (775) 684-5670
FAX No.: (775) 684-5683



555 EAST WASHINGTON AVENUE, SUITE 5100
LAS VEGAS, NEVADA 89101
OFFICE: (702) 486-2500
FAX No.: (702) 486-2505

Office of the Governor

December 22, 2015

Lorinda Wichman, President
Nevada Association of Counties
304 South Minnesota Street
Carson City, NV 89703

RE: Response to NACO Request to Support Joint Litigation Against BLM/USFS Record of Decision and Land Use Plan Amendments.

Dear President Wichman:

Thank you for your letter dated November 3, 2015 requesting my support of the legal action filed by Attorney General Laxalt and several Nevada counties. I appreciate the information you provided on this important matter and I recognize the importance and significance of the recently signed Record of Decision and the impact the new land use plan amendments will have on Nevada. In fact, General Laxalt and I have discussed this issue recently.

As you may know, in 2012 I issued an Executive Order establishing the Nevada Sagebrush Ecosystem Council (SEC) to address the critical importance of the sagebrush habitat across the landscape of Nevada. The SEC and the Sagebrush Ecosystem Technical Team (SETT), comprised of scientists and range managers from state agencies, have worked to develop innovative solutions to the critical habitat conservation issues facing our state. I firmly believe the hard work of our Nevada team was instrumental in the U.S. Fish & Wildlife Service reaching a not warranted decision for the Greater Sage-grouse, which I consider a win. The Greater Sage-grouse Conservation Plan (the Plan), which includes a very detailed Conservation Credit System (CCS), is an outstanding plan that should have been chosen by the Bureau of Land Management (BLM) and the U.S. Forest Service (USFS) during the NEPA process as the preferred management plan for Nevada. Unfortunately, that was not the case and I agree we are left with a Nevada Land Management Plan (NVLMP) that has a number of issues that still need to be addressed.

I have been very clear since the not warranted decision was announced, that I consider a non-listing a positive thing for Nevada; that I have not precluded litigation but believe it is premature at this time; and I take Secretary Jewell at her word that she will continue to work with me to address many of the problems in the NVLMP.

The process is unfolding in real time. For instance, your letter mentioned some county-specific concerns regarding mapping. New, updated maps have already been prepared and adopted by the SEC and more accurately designate important habitat and will correct inaccurate habitat designations in existing urban areas. The BLM has already begun using those updated maps to inform implementation decisions on the ground on a project by project basis while the formal process to adopt the maps is underway. This is a very good sign for projects that have been stopped or slowed because of the NVLMP.

I've also been assured that all existing permits, plans of operations, and signed agreements will continue with no interruption. My staff has been in close contact with the Department of Interior and announcements will be made as we continue to make progress.

These two examples – maps and existing project allowances -- are indicators of what the negotiations have accomplished to date, with only a handful of meetings and conference calls. Litigation is simply premature until we see exactly how much we can or cannot achieve.

I met with Secretary Jewell the first week of December at the Western Governors' Association winter meeting and engaged in additional negotiations for relief and clarification for Nevada under the new management plan. We discussed Nevada's Plan and the importance of implementing the CCS. As a result, the SETT will start working with the BLM to identify a pilot project to demonstrate the effectiveness of the CCS. Another issue we discussed was the right-of-way request from the town of Baker for a new water tank. The Secretary recognized the importance of this request and the BLM has now signed the right-of-way permit and sent it to Baker for their signature. My staff is working with the BLM and the Baker community to work through stipulations to expedite construction.

These are a few examples of my successful negotiations. However, should I decide litigation is ultimately necessary, I have said I will lead the charge. For me, that time is not now. General Laxalt and I have agreed that while we are pursuing different strategies, we must avoid any outcome that would result in the not warranted decision being vacated if regulatory certainty is deemed to be in jeopardy. I'm sure NACO does not want that outcome.

Thank you again for your letter and your leadership on this issue. I will continue to work with NACO and the other stakeholders in Nevada on this critical resource issue.

Sincere regards,

A handwritten signature in blue ink, appearing to read "BRIAN SANDOVAL".

BRIAN SANDOVAL
Governor

The following links and/or pages are support for agenda
Item 20



Nevada Association of Counties

304 South Minnesota Street

Carson City, NV 89703

775-883-7863

www.nvnaco.org

January 15, 2016

Mr. Neil Kornze
Director, Bureau of Land Management
1849 C Street NW., (WO-200)
Washington, C.C. 20240

Mr. John Ruhs,
Nevada State Director, Bureau of Land Management
Nevada State Office
1340 Financial Boulevard
Reno, NV 89502

Mr. William Dunkelberger, Forest Supervisor
Humboldt-Toiyabe National Forest
1200 Franklin Way
Sparks, NV 89431

Sagebrush Withdrawal EIS Comments
c/o Mark Mackiewicz, PMP, National Project Manager
BLM, Brice Field Office
125 South 600 West
Price, UT 84501
Sagebrush_withdrawals@blm.gov

**RE: Comments for the September 24, 2015 Notice in the Federal Register at 80 FR 57635
on the Proposed Withdrawal of Sagebrush Focal Areas in Nevada and an Associated
Application and Environmental Impact Statement**

Dear Director Kornze, State Director Ruhs, and Forest Supervisor Dunkleberger:

As an inter-governmental association for Nevada's county governments, the Nevada Association of Counties ("NACO") greatly appreciates the opportunity to provide comments for the Proposed Withdrawal Application and scoping comments on the Environmental Impact Statement ("EIS")

for Proposed Withdrawals within Sagebrush Focal Areas (“SFAs”).¹ NACO works with county government to adopt and maintain local, regional, state and national cooperation which will result in a positive influence on public policy and optimize the management of county resources. As the state association for all 17 of Nevada’s counties, it is our belief that county government, being closest to the people, is best positioned to understand and provide for fundamental needs.

This comment and scoping letter is in response to the Bureau of Land Management (“BLM”) Notice published in the Federal Register at 80 FR 57635 on September 24, 2015, 80 FR 63583 on October 20, 2015, and 80 FR 57635 on November 13, 2015.² This Notice constitutes an application filed by BLM requesting the Assistant Secretary of the Interior for Land and Minerals Management to withdraw, subject to valid existing rights, approximately 10 million acres of BLM-managed public and National Forest System lands located in the States of Idaho, Montana, Nevada, Oregon, Utah and Wyoming from location and entry under the United States mining law, but not from leasing under the mineral or geothermal leasing or mineral materials laws. The areas described in Nevada contain approximately 2,797,399 acres across Elko, Humboldt, and Washoe Counties. This Notice also requests scoping comments for the Environmental Impact Statement prepared pursuant to the National Environmental Protection Act (“NEPA”), 43 U.S.C. § 4331 *et seq.*

For a State like Nevada with a vibrant economic and cultural interest in mining and agriculture, the withdrawal of public lands from mineral entry and associated land management restrictions will prove impactful, perhaps changing forever Nevadans ways of life. It is important now, more than ever, that the BLM and United States Forest Service (“USFS”) (together, “Agencies”) work closely with local government to ensure the protection of the Greater Sage Grouse is balanced with the need to protect Nevada’s citizens; and perhaps discover that the two are not mutually exclusive.

This withdrawal process is governed by Sections 202 and 204 of the Federal Land Policy and Management Act of 1976 (“FLPMA”), 43 U.S.C. §§ 1712, 1714 and with NEPA, 43 U.S.C. § 4331 *et seq.* Once the application for withdrawal is submitted to the Secretary, the Secretary must determine whether to reject the application or withdraw the lands from mineral entry.³

The proposed withdrawals of these SFAs are a direct result of the Nevada and Northeastern California Greater Sage-Grouse Approved Resources Management Plan Amendment signed September 21, 2015 (“ARMPA”) and the recommendations provided by the FWS to the BLM in the Fish and Wildlife Service (“FWS”) Memo from Director Dan Ashe (“FWS Memo”) to provide

¹ These comments are made in good faith with the aim to provide collaborative, thoughtful and substantive information to help inform decision-making on this important issue. NACO remains concerned about the underlying information, or lack thereof, used to support the conclusion that this withdrawal should occur. Instead, NACO understands that because the withdrawal process has begun it is important to provide input and ensure that the withdrawal process proceed properly. These comments may not be used to the extent that they conflict within the context of the lawsuit regarding the underlying ARMPA. It is in NACO, and Nevada’s Counties’ interest that the State Plan developed by the Sagebrush Ecosystem Program be implemented without interference.

² All materials cited herein, the majority of which are readily available online, are incorporated in full by reference. NACO has included a Memo that is not available online as Attachment A to this comment letter.

³ FLPMA § 204(b); 43 U.S.C.A. § 1714(b).



regulatory assurances to help avoid a listing under the Endangered Species Act (“ESA”).⁴

NACO recognizes that the Agencies are, and should be, encouraged to rely on one another to draw upon collective resources. While the work that the FWS does is extremely important, it is also important to consider that the FWS does not have jurisdiction over any non-migratory species not on the endangered species list, which includes the Greater Sage Grouse. Because the FWS Settlements resulted in an accelerated listing schedule, a listing under the ESA has become a threat resulting in what can only be described as a FWS veto power over the land management planning process. This veto power has resulted in an equally accelerated decision-making process that overrides the State Plan and lacks the use of credible science regarding extremely sensitive socioeconomic and environmental issues. It is important that the BLM think through this Withdrawal process before making a determination that will commit irretrievable resources for twenty plus years.

Pursuant to NEPA § 102(2)(C), the BLM will prepare an EIS for this proposed withdrawal upon finalization of the scoping period.⁵ Most importantly, FLPMA § 204 identifies specific analyses that the Agencies must undertake prior to the Withdrawal of public lands from operation of the Mining Law of 1872.⁶ A proper determination is one which fairly considers all 12 factors listed in 43 USCS § 1714 and the BLM’s Regulations at 43 CFR 2310.3-1 explaining in detail the proposed withdrawal’s effects on current natural resource uses, current land users, incompatibility with current land uses, and effect on state and local government interests and regional economy.

The first portion of this letter will focus on the Withdrawal Petition and underlying assumptions as published.⁷ The remainder of this letter will describe the remaining Application and NEPA requirements and suggest ways the Agencies can work to fulfill them in concert with local government.

I. Comments on the Proposed Withdrawal Publication/Petition

Please accept this section as NACO’s response to provide comments on the proposed withdrawal petition as described in 80 FR 57635. Publication of a withdrawal proposal in the Federal Register initiates a segregation period lasting up to two years during which period the activities specified in the notice are restricted.⁸ This application segregates and seeks “to withdraw approximately 2,797,399 million acres of public and National Forest System lands located in Elko, Humboldt, and Washoe Counties in Nevada from location and entry under the United States mining laws, but not

⁴ Record of Decision and Approved Resource Management Plan Amendments for the Great Basin Region, Including the Greater Sage-Grouse Sub-Region of Idaho and Southwestern Montana, Nevada and Northeastern California, Oregon, and Utah, US Department of the Interior Bureau of Land Management (September 2015) (“ARMPA”); Greater Sage-Grouse: Additional Recommendations to Refine Land Use Allocations in Highly Important Landscapes, Memorandum from Director Dan Ashe of the Fish and Wildlife Service to Bureau of Land Management Director Neil Kornze and US Forest Service Chief Tidwell, (October 27, 2014). (“FWS Memo”).

⁵ 43 U.S.C. § 4332

⁶ 43 U.S.C. § 1714

⁷ Notices published in the Federal Register can be found at 80 FR 57635 on September 24, 2015, 80 FR 63583 on October 20, 2015, and 80 FR 57635 on November 13, 2015.

⁸ 43 C.F.R. § 2310.2(a).



from leasing under the mineral or geothermal leasing or mineral materials laws.”⁹

The BLM has chosen to submit the application for withdrawal separately from the proposal or petition.¹⁰ Submission of withdrawal petitions must contain:

(1) The office originating the petition (State Director’s Office); (2) The type and purpose of the proposed withdrawal action (See § 2300.0-5(h) of this title) and that the petition pertains to the making of a withdrawal; (3) A legal description of the entire land area that falls within the exterior boundaries affected by the petition, together with the total acreage of such lands, and a map of the area; (4) The extent to which and the time during which any public lands that may be involved in the petition would be temporarily segregated and the temporary land uses that may be permitted during the segregation period, in accordance with § 2310.2 of this title; and (5) **A preliminary identification of the mineral resources in the area.** (e) Upon the approval by the Secretary of a petition for withdrawal, the petition shall be considered as a Secretarial proposal for withdrawal, and notice of the withdrawal proposal shall be published immediately in the Federal Register in accordance with § 2310.3-1(a) of this title.¹¹

The following information must also be provided for the withdrawal petition to be sufficient under FLPMA. 43 CFR 2310.3-1. A withdrawal application must provide the following information as part of the public notice:

(4) The type of withdrawal action that is being requested (See § 2300.0-5(h) of this title) and whether the application pertains to the making, extension or modification of a withdrawal; (5) A description of the lands involved in the application; (7) The public purpose or statutory program for which the lands would be withdrawn. If the purpose or program for which the lands would be withdrawn is classified for national security reasons, a statement to that effect shall be included; but, if at all possible, a general description of the use to which the lands would be devoted, if the requested withdrawal is allowed, should be included. In the case of applications that are not classified for national security reasons, an analysis of the manner in which the lands as well as their natural resources and resource values would be used to implement the purpose or program shall be provided; (8) The extent to which the lands embraced in the application are requested to be withheld from settlement, sale, location or entry under the public land laws, including the mining laws, together with the extent to which, and the time during which, the lands involved in the application would be temporarily segregated in accordance with § 2310.2 of this subpart; (9) The type of temporary land use that, at the discretion of the authorized officer, may be permitted or allowed during the segregation period, in accordance with § 2310.2 of this subpart; (10) **An analysis and explanation of why neither a right-of-way under section 507 of the Act (43 U.S.C. 1767), nor a cooperative agreement under sections 302(b) (43 U.S.C. 1732(b)) and 307(b) (43 U.S.C. 1737(b)) of the act would adequately provide for the proposed use;** (11) The duration of the withdrawal, with a statement in justification thereof (see § 2310.3-4 of this title). Where an extension of an existing withdrawal is requested, its duration may not exceed the duration of the existing withdrawal; (12) **A statement as to whether any suitable alternative sites are available for the proposed use or for uses which the requested withdrawal action would displace. The statement shall include a study comparing the projected costs of obtaining each alternative**

⁹ 80 FR 57635.

¹⁰ 43 C.F.R. §§ 2310.3-1, 2310.1-3(c), 2310.1-2.

¹¹ 43 CFR 2310.1-3



site in suitable condition for the intended use, as well as the projected costs of obtaining and developing each alternative site for uses that the requested withdrawal action would displace; (13) A statement as to whether water will or will not be needed to fulfill the purpose of the requested withdrawal action; and (14) The place where records relating to the application can be examined by interested persons.¹²

(A) Failure to Preliminarily Identify the Mineral Resources in the Area

The notice does not provide the requisite “preliminary identification of the mineral resources in the area.”¹³ This information is extremely important because it is the reason this action is occurring. The FWS’s initial findings on March 23, 2010 for petitions to list the Greater Sage-Grouse as Threatened or Endangered at 75 FR 13910 highlight that the FWS does not “have comprehensive information on the number or surface extent of mines across the range,” but that “Nevada (Management Zones III, IV, and V) is ranked second in the United States in terms of value of overall nonfuel mineral production in 2006 (USGS 2006, p. 10).”

The FWS listing determination states that the Agencies do not know how much mining impacts Greater Sage Grouse. On October 2, 2015, the FWS issued another finding stating that “Consistent with our 2010 finding, we do not have a comprehensive dataset about existing and proposed mining activity to do a quantitative analysis of potential impacts to sage-grouse.”¹⁴

“...Overall, the extent of [mining] projects *directly affects less than 0.1 percent of the sage-grouse occupied range*. Although direct and indirect effects may disturb local populations, *ongoing mining operations do not affect the sage-grouse range wide.*”¹⁵

Also, FWS quantifies the huge area of the western U.S. that contains GSG habitat:

“The sagebrush ecosystem upon which the sage-grouse depends **remains one of the largest, most widespread ecosystems in the United States, spanning approximately 70 million ha (173 million ac)**”.¹⁶

These findings are problematic, as the State of Nevada, Commission on Mineral Resources Nevada Division of Minerals (“Division of Minerals”) does have a comprehensive dataset about existing and proposed mining activity.¹⁷ It is possible to perform a quantitative analysis of potential impacts to sage-grouse.

Request I-A: That the BLM submit a notice that describes the mineral resources in the area. The BLM should consult with the State of Nevada, Commission on Mineral Resources Nevada Division of Minerals and the US Geological Survey. It would be helpful to preliminarily review and

¹² 43 CFR 2310.1-2

¹³ 43 CFR 2310.1-3(5).

¹⁴ 80 F.R. 59858, 59915 (October 2, 2015).

¹⁵ *Id.*

¹⁶ *Id.* at 59933.

¹⁷ *Information Related to Sage Grouse Management Plan and Proposed Mineral Withdrawal*, State of Nevada Commission on Mineral Resources Division of Minerals (Aug. 24, 2015) (“Division of Minerals Site”), retrieved at http://minerals.nv.gov/home/features/Mineral,_Geothermal_and_Oil_Gas_Potential_Maps_of_Sagebrush_Focal_Areas_-6/24/2015/



reference the materials provided on the Division of Minerals website to provide this information, at http://minerals.nv.gov/home/features/Mineral_Geothermal_and_Oil_Gas_Potential_Maps_of_Sagebrush_Focal_Areas - 6/24/2015/.

(B) Alternatives Are Available, and Agencies Lack Scientific and Procedural Support for the Segregation Boundaries and Resulting Withdrawal

The BLM has, pursuant to FLPMA § 204(a), segregated 2,797,399 million acres within the SFA from Mineral Entry.¹⁸ The segregation precludes adverse parties from establishing new rights in the SFA area prior to actual withdrawal. The notice does establish the segregative effect for up to 2 years while the application is processed.¹⁹

The issue with the conclusion that alternatives are not available is four-fold: First, the public was not provided a notice and comment period to provide input on the boundaries and potential effectiveness of the SFAs, as they were first presented in the FEIS for the ARMPA. Second, New Science and Mapping Require that the BLM Re-Initiate the Segregation and Notices, and Submit an SEIS. Third, the science the Agencies purport to rely on does not support the SFA boundaries. Fourth, there are available alternatives to the withdrawal.

1. The Public Has Not Had A Meaningful Opportunity To Comment On The Segregation Boundaries

The use of the ARMPA to segregate the 2.8 million acres designated as SFAs for withdrawal presupposes that the public was provided an opportunity for public hearing and meaningful comment. It also presupposes that reasonable alternatives to the SFAs were presented, which they were not. The public did not have a hearing or comment period prior to the application regarding the segregation and withdrawal boundaries because withdrawals first appeared in the FEIS.

The University of Nevada, Reno College of Agriculture, Biotechnology, and Natural Resources (“UNR CABNRs”) Dean William A. Payne summarized these concerns in a supporting memorandum to a Protest of the 2015 Land Use Plan Amendment Final Environmental Impact Statement (“LUPA FEIS”), highlighting a “Lack of transparency regarding criteria used to determine landscapes essential to conservation of the species undermines public confidence”:²⁰

“One of the most troubling aspects regarding process is inadequate time given to study a large document that had significantly changed since its draft form. The DEIS was issued on November 22, 2013, and the FEIS on May 28, 2015. Thus, while the BLM took more than one and one-half years to revise the EIS, the public was only allowed 30 days to protest the FEIS, which exceeds 2,000

¹⁸ 43 USCA § 1714(a)

¹⁹ 80 F.R. 57635; 43 C.F.R. 2300.0-5(m).

²⁰ William A. Payne, Memorandum to JJ Goicoechea, Sagebrush Ecosystem Council Chairman, Dean’s Office for the College of Agriculture, Biotechnology and Natural Resources, University of Nevada, Reno, Table 1 (July 12, 2015)(CABNR Memo)



pages in length, and 60 days for consistency review. This despite the fact that there were major departures from and additions to the DEIS, and lack of response to or incorporation of many comments that were well grounded in science [For example, Humboldt County (2014) submitted a 40 page critique of the DEIS written largely by a University of Nevada Cooperative Extension expert, replete with a great many scientific citations. It was virtually ignored in the FEIS]. Some revisions included important changes in methodologies, with insufficient justification or explanation for the public, making it difficult if not impossible even for scientific experts to make an informed response.”²¹

Request I-B-1: That the BLM thoroughly explain and cite to scientific information describing how the SFAs were designated.

2. New Science and Mapping Require that the BLM Re-Initiate the Segregation and Notices, and Submit an SEIS

Secretary of the Interior Sally Jewell has committed to adopt the Sagebrush Ecosystem Council’s (“Council’s”) new map immediately for project-level decisions.²² This new map reflects new science that impacts the SFAs. It is NACO’s position that the map should be adopted only in context of the State Plan, which permits ground-truthing and does not support wholesale programmatic exclusions or withdrawals.

The new map referenced is the “Management Category Map (Draft December 2015) released by the Sagebrush Ecosystem Council (“Council”) on December 11, 2015 at the Nevada Department of Wildlife (“NDOW”). At that meeting, Dr. Pete Coates presented these new maps (Coates et al. 2014, 2015)(“Coates Map”). This commitment raises additional concerns. First, this map is specifically designed for program-level decisions, not project-level decisions. Management areas within the Coates Map simply triggers the need to ground-truth at the project level to help identify the habitat needed to implement the State Plan’s Conservation Credit System. This is why the Council categorized management areas rather than designate SFAs or Withdrawal areas and that is what the State Plan supports. This was discussed in detail at the public meeting. The Coates Maps are based on modeling and do not provide confidence intervals or provide information about sample sizes. These maps contain disclaimers that say it is only meant as a model, for further ground-truthing. To adopt this map for project-level decisions is inappropriate and not supported by the best available science.

Second, this map is significantly different than what is provided in the ARMPA, especially in the Northern areas of Nevada. If there is a commitment to adopt this map, then the BLM must also reconsider the strongholds in light of this new scientific information. The BLM adopted the initial map presented by Dr. Pete Coates. Prior to the date the Record of Decision (“ROD”) was signed, the BLM was aware that Dr. Pete Coates had this information but that the new map was not ready. Instead of waiting or preparing an SEIS,

²¹ CABNR Memo at 1.

²² Sandoval Meets with Secretary of the Interior, Delivers Update on Greater Sage-Grouse Negotiations, Nevada Governor Brian Sandoval (Dec. 4, 2015), retrieved at: <http://gov.nv.gov/News-and-Media/Press/2015/Sandoval-Meets-With-Secretary-of-The-Interior,-Delivers-Update-on-Greater-Sage-Grouse-Negotiations/>



the Agencies failed to disclose that this information was being gathered and that the goal was to adopt that map in the future.

It is therefore curious that the SFAs would not change even as new information becomes available for that very area. This new information requires a Supplemental Environmental Impact Statement (“SEIS”) under NEPA. Because the new information is related to the habitat mapping, this directly impacts the SFAs and withdrawals, especially in northern Elko County where a lot of the segregation is located. Therefore, the withdrawals should be delayed until at a minimum the SEIS is provided.

A Supplemental EIS must be prepared by an agency where “(1) changes to the proposed action would result in significant environmental impacts that were not evaluated in the EIS; or (2) new information or circumstances relevant to environmental concerns and bearing on the proposed action or its impacts would result in significant environmental impacts not evaluated in the EIS.”²³ To determine whether these two factors are present, the Agency must apply “a ‘rule of reason,’ if there remains major federal action to occur, and if the new information is sufficient to show that the remaining action will affect the quality of the human environment in a significant manner or to a significant extent not already considered.”²⁴ This “rule of reason” is applied the same way the decision whether to create an EIS is applied.²⁵ That the SFAs only appeared in the FEIS yet resulted in this entire Withdrawal and additional EIS process legally requires an SEIS. Further, the new maps if adopted by the Agency will also require an SEIS or a new EIS altogether.

Request I-B-2: That the BLM publish a Supplemental Environmental Impact Statement (“SEIS”) for public notice and comment regarding the SFAs and new mapping information. This information and public discussion at the Sagebrush Ecosystem Council meeting on December 11, 2015 makes clear that the purpose and use of the maps require further analysis, discussion, and reconciliation to ensure accurate and implementable Sage-Grouse protection measures. This also shows the need to provide an SEIS and to halt the segregation and Withdrawal period until that analysis is completed.

3. The Science Cited Does Not Support SFA Boundaries

A withdrawal of the SFAs constitutes an irretrievable commitment of resources for an action that may not even benefit Sage-Grouse, and that would undermine the State Plan. Despite this irretrievable commitment, the public does not know how the SFAs were developed: “The methods provided for delineation of the SFAs are not explicit or transparent, and therefore of poor scientific quality.”²⁶

This withdrawal process adopts wholesale the assumption that the SFAs constitute the best habitat for Sage Grouse; and that it can only be protected by withdrawal. While it is important to work closely with the FWS to implement regulatory assurances like the State Plan to continue to conserve

²³ 23 C.F.R. § 771.130(a)

²⁴ *Marsh v. Or. Nat. Res. Council*, 490 U.S. 360, 363 (1989).

²⁵ *Id.* At 373-74.

²⁶ CABNR Memo at Table 1.



Greater Sage Grouse habitat and to avoid a future listing, the BLM *must* make explicit reference to the scientific and other sources relied upon for conclusions in the statement.²⁷

Mineral withdrawal from the areas designated as SFAs is not scientifically supported. There are no habitat maps or scientific studies cited that support the conclusion that the SFAs are more important than other areas designated as “core” or “priority” management areas; whether in the ARMPA, COT Report, NTT Report, FWS Memo, or Nevada State Plan.²⁸

If sufficient regulatory certainty protects against non-SFA PHMAs without withdrawals, then it follows that a withdrawal is not necessary at all.

“Sagebrush Focal Areas (SFAs)—BLM and Forest Service will manage these areas, totaling approximately 2,797,400 acres within the NV/CA sub-region, as SFAs because of the importance of these areas to the conservation of the species range-wide. Specifically, SFAs include characteristics such as existing high-quality sagebrush habitat; highest breeding densities; have been identified as essential to conservation and persistence of the species; represent a preponderance of current federal ownership and in some cases are adjacent to protected areas that serve to anchor the conservation importance of the landscape. In light of the landscape level approach to GRSG conservation provided through this planning effort and as defined by the characteristics set forth above, as well as additional considerations, including potential for impacts from climate change, fire and invasives, these areas have been identified.”²⁹

The FWS Memo Cites Only to Unpublished “Strongholds”

According to the BLM, the SFAs were designated as requested by the FWS to provide the needed regulatory certainty to avoid a listing under the ESA. Supposedly, the FWS asked for this withdrawal because of the “strongholds” identified in the October 27, 2014 memo that identified “a subset of priority habitat most vital to the species persistence within which we recommend the strongest levels of protection.”³⁰ This is according to maps the FWS acknowledged were prepared by the conservation community.

The BLM cites only to the FWS memo, yet the FWS in that memo does not cite to any scientific literature to support the SFAs, or, what the FWS refers to as “strongholds.” Nor does the FWS cite to any scientific literature to support the SFAs in its listing decision.³¹ The SFAs *only* appear in the maps attached to the memo, which are cited as “Pre-Decisional; For Internal Review Purposes Only.

²⁷ 40 C.F.R. § 1502.24.

²⁸ *A Report on National Greater Sage-Grouse Conservation Measures*, Sage-grouse National Technical Team (December 21, 2011) (NTT Report); *Greater Sage-grouse (Centrocercus urophasianus) Conservation Objectives: Final Report*, U.S. Fish and Wildlife Service (February 2013) (COT Report); ARMPA at Appendix A; Coates et al. 2015.

²⁹ ARMPA at 2-2.

³⁰ FWS Memo.

³¹ *Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition To List Greater Sage-Grouse (Centrocercus urophasianus) as an Endangered or Threatened Species; Proposed Rule*, 80 F.R. 59875 (October 2, 2015).



Do Not Distribute. PHMA current as of October, 2014.”³² Figure 13.1 identifies strongholds for breeding populations, and does not identify any SFA. Therefore, the SFAs as proposed are not supported by *any* science, let alone the best available science.

The COT Report Supports Only Localized, Not Widespread Risk of Mining in SFAs

Even if a withdrawal is a preferred method of protection, the reports that the BLM relies on do not support the withdrawal boundaries as proposed. The withdrawals that appeared first in the FEIS then the ARMPA rely on the recommendations from *A Report on National Greater Sage-Grouse Conservation Measures*, Sage-grouse National Technical Team (December 21, 2011) (NTT Report) and *Greater Sage-grouse (Centrocercus urophasianus) Conservation Objectives: Final Report*, U.S. Fish and Wildlife Service (February 2013) (COT Report). NACO and Nevada’s Counties have in the past expressed many concerns with the ARMPA’s reliance on the NTT and COT Reports as conflicting with the Council and Sagebrush Ecosystem Technical Team (“SETT”) findings supporting the State of Nevada’s Action Plan. Nevertheless, the ARMPA cites to those reports, and therefore they should be used to determine whether the scale of the SFAs and the widespread proposed withdrawal were supported by the science cited.

The NTT Report does propose a “withdrawal from mineral entry based on risk to the sage-grouse and its habitat from conflicting locatable mineral potential and development.”³³ However, the NTT report does not discuss where a withdrawal might be most appropriate or imply that it should cover 10 million acres of habitat nationwide. Rather, the ARMPA relies upon the COT Report to determine the NTT’s request to evaluate risk from conflicting locatable mineral potential and development.

The COT Report does not contain SFAs or suggest withdrawals. It only provides management zones and Priority Areas for Conservation (“PACs”).³⁴ The terms PHMA, GHMA, and OHMA are adopted from the State Plan. Looking to the COT report map, the areas that would fall within SFAs do not represent the areas at greatest risk from mining.

The COT Report shows that threats from mining within the ARMPA’s SFA areas are only localized and not widespread. Figure 3 is a map that designates Sage-grouse Management Zones (“MZs”), populations, and PACs. These MZs correlate to the threats listed in Table 2, as defined by Garton *et al.* 2011.³⁵ Threats are characterized as (Y = threat is present and widespread), (L = threat present but localized), (N = threat is not known to be present), and (U = unknown).³⁶ If the SFAs are overlayed onto the COT Map, the areas that encompass the SFAs are numbered 26a (“Northern Great Basin”)(“L”) and 31 (“Western Great Basin”)(“L”). The threat of mining is designated “L,” or “threat present but localized” in every management zone within Nevada, except for area 14 (“Northwest Interior”)(“Y”) where the threat of mining is elevated to “present and widespread”. The only area that is designated (Y) is not within the SFA.³⁷

³² FWS Memo.

³³ NTT Report at 24.

³⁴ COT Report at 14.

³⁵ COT Report at 16, 30.

³⁶ *Id.*

³⁷ COT Report at 24, 26, 30



This means the SFA Withdrawal does not include the *only* (Y) area in the COT Report with a widespread threat of mining in Nevada. This area, the Northwest Interior, is home to mining operations run by Newmont Mining Corporation, a company engaged in an Enabling Agreement that allows for mitigation and net conservation gains from mining threats to Greater Sage Grouse (See Section C on Cooperating Agreements).³⁸ Another Enabling Agreement between the BLM and Barrick Gold Corporation (“Barrick Enabling Agreement”) covers Sage-Grouse habitat in an area with the exact same characteristics as those subject to the SFAs.³⁹

Newmont even highlights both of these agreements, and boasts that mitigation and conservation efforts will help improve the Greater sage-grouse population:

“As far as country that **Newmont has influence over**, either direct management or operational management, in the case of the allotments, is **about 1.8 million acres**,” White said. “So that’s a **significant chunk of country from a sage grouse conservation standpoint**. Especially if you look at the land position that Newmont has and the land position that Barrick has, and our combined conservation efforts, we’re able to do significant good on the landscape for greater sage grouse.”⁴⁰

What this highlights is that these millions of acres are high priority habitat, that the BLM entered into private agreements after the LUPA FEIS was published, and that this acreage is not subject to withdrawals even though the habitat characteristics would suggest that they should be compared to the SFAs.

Most importantly, however, is that these agreements tout the benefit of project owners funding mitigation and conservation while greatly reducing the ability of the State Conservation Credit program to be implemented in the most important areas using the most important potential funders.

If the *only* area in the COT Report with a widespread threat of mining in Nevada is outside of the SFA, then it is insufficient to conclude that that some areas labeled as having a “localized” threat of mining should be subject to a widespread withdrawal lasting twenty plus years. Therefore, the COT Report does not support a need for widespread withdrawal above and beyond the many measures being implemented in the Northern or Western Great Basin Priority Areas.

The FWS Listing Decision Does Not Support the SFA Boundaries

³⁸ Partnering with The Nature Conservancy to Protect the Greater Sage-Grouse, Newmont Mining Corporation (2015)(“Newmont retrieved at <http://www.newmont.com/resources/Case-Study-Library/Case-Study-Library/2015/Partnering-with-The-Nature-Conservancy-to-Protect-the-Greater-Sage-Grouse/default.aspx#sthash.TnkdA7NV.dpuf>; see also Mining, wildlife coexist in Nevada: Newmont has conservation program to benefit sage grouse habitat, Elko Daily Free Press (Dec. 2, 2015 6:00 pm) (“Newmont Agreement”), retrieved at: http://elkodaily.com/mining/mining-wildlife-coexist-in-nevada-newmont-has-conservation-program-to/article_fa4e915c-40a2-5af5-96c4-7347292fe210.html (Together, “Newmont Mining Agreement”)

³⁹ Barrick Nevada Sage-Grouse Bank Enabling Agreement, Department of the Interior, Bureau of Land Management, U.S. Fish and Wildlife Service, and Barrick Gold of North America (Mar. 25, 2015)

⁴⁰ *Id.*



The FWS published on October 2, 2015 its “12-Month Finding on a Petition To List Greater Sage-Grouse as an Endangered or Threatened Species.”⁴¹ It found that listing the Greater-Sage Grouse is *not warranted* because existing regulatory mechanisms are sufficient to ensure the species’ protection. It cites to all of the protections afforded to the primary and general habitat as sufficient before discussing the threat of mining and withdrawals. With respect to mining, this notice cites only to its 2010 Findings, the COT Report, and the FWS Memo. Again, the 2010 Findings and the COT Report do not discuss a threat that warrants a withdrawal.

Thus the FWS listing decision only provides support for the “strongholds” with reference to the FWS Memo. An Agency may not adopt wholesale another Agency’s conclusions unless those conclusions are supported by the best available science. 40 C.F.R. § 1502.24. The FWS listing decision at 80 FR 59872 discusses the COT Report and new scientific information. Even here the findings reference the FWS Memo to support the strongholds.⁴² At a recent federal court hearing the USFS Supervisor testified that they did not independent due diligence of their own relative to the request for withdrawal but instead relied entirely on the USFWS determination and request for the “strongholds.”⁴³

This Memo, as discussed above, does not support the strongholds with any citation to science or supporting analysis. Because the FWS has not supported its request to add the strongholds with scientific citation or analysis, the BLM may not rely on the FWS’s conclusion or request to support the strongholds. This is particularly true given the 3809 regulations the BLM can use to prevent undue and unnecessary degradation.

There is no science-based concern that supports a withdrawal. The science only supports localized withdrawal of 63,000 total acres in comparison with the 10 million being withdrawn. In 2010 the FWS was aware only “of approximately 63,000 acres of existing mining related disturbance within the range of sage-grouse.”⁴⁴ The notice indicates that mining related disturbance has not changed. Yet the FWS supports its own “recommendations for mineral withdrawal in SFAs that would remove potential impacts on approximately 10 million acres of sage-grouse habitat.”⁴⁵ This is woefully inconsistent with the finding that “...Overall, the extent of [mining] projects **directly affects less than 0.1 percent of the sage-grouse occupied range**. Although direct and indirect effects may disturb local populations, **ongoing mining operations do not affect the sage-grouse range wide.**”⁴⁶

The FWS only concludes with reference to the FWS Memo that “The Federal Plans designate the most important sagebrush habitat as SFAs where locatable mineral withdrawal is recommended... Within the areas of greatest conservation importance (SFAs), DOI will recommend withdrawal from

⁴¹ 80 FR 59858 (Oct. 2, 2015).

⁴² *Id.*

⁴³ *Western Exploration, LLC et al. v. U.S. Dept. of the Interior, et al.*, Transcript of Plaintiff’s Motion for Preliminary Injunction (#4), pgs. 353-356 (Nov. 18, 2015).

⁴⁴ *Id.*

⁴⁵ *Id.* at 59916.

⁴⁶ *Id.* at 59915.



locatable mineral entry.”⁴⁷ The findings again state that the threat of mining is localized rather than widespread. The FWS notes its findings are consistent with the recommendations in the COT Report, that “Minerals are not distributed evenly across the sage-grouse landscape, and as a result, mining activities tend to be localized or regional.”⁴⁸

The FWS reasons only that the threat of widespread mining across those 10 million acres is that there *might* be a threat in the future: “Based on what we know today, no mining activities are likely to result in loss of these important areas for conservation, but we recognize that economic changes or technological advances may increase the risk of development in the future. Therefore, the long-term protection of the sage-grouse habitat in the SFAs from locatable mineral development will ensure that these important populations are conserved into the future.”⁴⁹ The long-term protection of the sage-grouse habitat across management zones are numerous. Regulatory tools currently mitigate impacts to the sage-grouse. These protections include those provided by the Nevada State Plan, Council, and SETT, or by the ARMPA. These include, but are not limited to: permit and license restrictions, exclusion areas, habitat designations, seasonal travel restrictions, lek buffers, mitigation requirements, and the Conservation Credit System. Thus, the risk of development remains curbed by other means whether or not the Mining Act remains in effect.

The State Plan Does Not Support the SFAs or Withdrawals

The State Plan does not support the SFA Boundaries or withdrawals, and implementation of withdrawals will significantly undermine the potential effectiveness of the State Plan’s Conservation Credit System.⁵⁰ In 2014, Nevada’s Sagebrush Ecosystem council adopted the Nevada Conservation Credit System.⁵¹ The credit system is designed to offset impacts from human-caused disturbances through enhancements and protections that result in a net benefit for greater sage-grouse habitat in Nevada. The State has invested \$650,000 so far to create this system.⁵²

The State system presumes that mining and other industry will occur, but only with mitigation that results in net conservation gain for equivalent habitat. The SFAs still fall largely within the PHMAs according to Coates et al. 2014, 2015. These maps are used to trigger project-level land evaluations whereby the State calculates the debits owed by the project owner depending on the quality of habitat used. The State Conservation Credit System creates a market to purchase credits which provides substantial mitigation for projects in this area:

“The Nevada Conservation Credit System (CCS)⁴ is a pro-active solution that provides net conservation benefits for sage-grouse, while balancing the need for continued human activities vital to the Nevada economy and way of life. The CCS creates new incentives for private landowners and public land managers to preserve, enhance, restore, and reduce impacts to important habitat for the species.

⁴⁷ FWS Memo.

⁴⁸ *Id.*

⁴⁹ *Id.* at 59916.

⁵⁰ 2014 Greater Sage-Grouse Conservation Plan, Nevada Sagebrush Ecosystem Program (Oct. 1, 2014)(“State Plan”)

⁵¹ *Id.* at 68.

⁵² Inventory at 21.



The CCS is a market-based mechanism that quantifies conservation outcomes (credits) and impacts from new anthropogenic disturbances (debits), defines standards for market transactions, and reports the overall progress from implementation of conservation actions throughout the sage-grouse range within Nevada. The CCS establishes the policy, operations, and tools necessary to facilitate effective and efficient conservation investments. The CCS is intended to provide regulatory certainty for industries by addressing compensatory mitigation needs whether or not the species is listed under the ESA.”⁵³

Further, Dean Payne addressed the fact that “Nevada-specific data was not included in the delineation of SFAs, and no experts in the State were consulted. Overall, these are in conflict with federal policy, and design principles for CPR management (Ostrom, 1990; NAS, 2013).”⁵⁴ He continues, “Criteria used to delineate SFAs do not match the State's assessment of breeding densities or its mapping using resistance and resilience concepts. The poorly justified SFAs constitute a major change from the DEIS, and insufficient time and information were given for review. They also ignore inter-national norms regarding use of local knowledge in sustainable CPR management (UNCCD, 2015).”⁵⁵

In fact, the Withdrawals will greatly impact the effectiveness and ability to implement the State Plan, which comes with significant funding to implement the State’s Conservation and mapping efforts:

“Nevada Gov. Brian Sandoval has requested legislative approval in his FY 15-17 Biennial Budget for over \$5.1 million for Sagebrush Ecosystem Program efforts, including a commitment of \$1 million each year for critical habitat protection and restoration projects in sage-grouse management areas. The state has requested an additional \$8.6 million to support statewide programs like its Wildland Fire Protection Program (WFPP) that address the threats to greater sage-grouse. Since 2012, Nevada’s resource agencies have spent over \$7.4 million (a compilation of state, federal and local funds) in support of greater sage-grouse conservation efforts to treat 28,000 acres of state, private and federal lands. Nevada is also working on a new mapping layer due out in May 2015 to identify locations of core habitat being threatened by pinyon-juniper encroachment; the map will be used to guide future decisions regarding removal projects.”⁵⁶

Biological Opinions within the SFAs Do Not Support SFA Boundaries

Finally, the FWS’s own Biological Evaluations for projects within SFA boundaries are incompatible with the SFAs. For example, the “Jarbidge Minerals Exploration Biological Evaluation and Specialist Report,” Jarbidge Ranger District, Humboldt-Toiyabe National Forest, Elko County, Nevada (August 2015)(“Jarbidge Report”) states that this project, which sits squarely within the SFA boundary, covers only GHMA, OHMA and non-habitat. The FWS determined that the effects of the project were “No Impact” because:

“Surveys have not found any sign of greater sage-grouse in the project area and there is no habitat available. Recent mapping by USGS and BLM shows a mixture of non-habitat and general habitat in the project area. Maps are being further refined and it will be

⁵³ *State Plan* at 68.

⁵⁴ CABNR Memo at Table 1.

⁵⁵ CABNR Memo at Table 1.

⁵⁶ Inventory at 24.



recommended that the area be classified as entirely non-habitat.”⁵⁷

The FWS in these findings proves the BLM and FWS knew that maps were being refined at the time the ROD was signed, and therefore knew there was new information available that would warrant a revisiting of the rough habitat maps. This highlights the need to adopt the “further refined maps” within an SEIS due to information-based differences in the PHMA footprint. Yet even without the adoption of the new map, new information continuously becomes available. The comparison of the Coates Map with the Jarbidge Report illustrates that these program-level maps were created for a program-level purpose. These maps were created in the context of a planning exercise that considers all areas within the United States that could possibly support Greater Sage-grouse in the future. That information can only be appropriately used to inform where the Greater Sage-grouse actually live compared to where they could live to drive policy decisions aimed at manipulating the population’s behavior and potential growth. Again, the State’s policy decision was to manipulate the population using the Conservation Credit System to encourage breeding and movement.

Therefore, the SFA boundaries wholly lack scientific support or explanation. Further, while the State maps are more accurate and should be adopted, these maps as generated are only appropriate to use at a planning level to gauge important habitat areas before then then reviewing specific project boundaries to determine what mitigation measures, if any, need to be implemented.

Request I-B-3-(1): That the BLM work with the State Plan developers to adopt the Coates 2015 map as it was intended—to then ground-truth project areas and use the Conservation Credit System for mitigation.

Request I-B-3-(2): That the BLM cite to the science and provide an explanation that supports the SFA strongholds (other than the un-citable maps in the FWS Memo), and that the BLM and FWS point to each contradiction highlighted above and explain how the decision to adopt the FWS Memo strongholds is not arbitrary and capricious.

4. There Are Available Alternatives to a Withdrawal

The notice summarily states “there are no suitable alternative sites for the withdrawal.”⁵⁸ NACO urges the Agencies to reconsider this conclusion and to ensure that an active analysis of potential alternatives to a withdrawal occurs during the preparation of this application. The application requires “A statement as to whether any suitable alternative sites are available for the proposed use or for uses which the requested withdrawal action would displace. The statement shall include a study comparing the projected costs of obtaining each alternative site in suitable condition for the intended use, as well as the projected costs of obtaining and developing each alternative site for uses that the requested withdrawal action would displace.”⁵⁹

⁵⁷ Jarbidge Report at 8, 27.

⁵⁸ 80 F.R. 57637

⁵⁹ 43 CFR 2310.3-1 (12).



The alternatives analysis is the heart of the environmental impact statement, and in this case is required under both NEPA and FLPMA. These alternatives should sharply define the issues and provide a clear basis for choice among options by the decision-maker and public.⁶⁰ Besides the adoption of Nevada's State Plan as a viable alternative, an SEIS would have provided withdrawal alternatives. The SFAs and associated "withdrawal" did not appear until the FEIS, and the Withdrawals as proposed were not truly analyzed. The withdrawal notice lacks projected costs for both an alternative for either the conservation or the displaced use. This analysis requires the mineral information that has not been analyzed. The conclusion in the notice suggests the Secretary is relying on the ARMPA and LUPA FEIS for mineral information that was not analyzed in either document.

Population increases of nearly two-thirds from 2013 to 2015 *cannot* be attributed to land management plans finalized in October of 2015.⁶¹ Rather, these increases are, and *must* be, attributable to local and State efforts. These efforts are sufficient alternatives. The Nevada Division of Minerals also provided potential alternatives to a withdrawal.⁶²

What the ARMPA and notice also lack is any analysis of the added benefit of having a withdrawal, especially considering the key identified threats to Greater Sage-Grouse Habitat in ARMPA and COT Reports are wildfire and invasive species. For example, that a withdrawal might be appropriate appeared only in one alternative in the DEIS and FEIS. There was no analysis of alternative options looking to the Withdrawal specifically and no final cumulative impacts analysis using the options chosen.

The BLM should wait to withdraw this land to give the State Plan time to be implemented. In the meantime, the ARMPA already imposes exclusion zones, restoration goals, grazing standards, and project guidelines that greatly limit what industry can do within prime habitat.

Request I-B-4: To look to alternative options to a withdrawal, specifically to provide at least enough time to ensure the complete implementation of the State Plan. This might mean entering into a Coordinated Agreement and MOU to work with the State to implement the Conservation Credit Program. The Bi-State Action Plan is a prime example for how local, State, and federal Agencies can work together. If mining and industry were to continue with mitigation measures, the money could be used to fund habitat restoration resulting in a net conservation gain. This is not possible if potential funders like mineral exploration and mining companies are no longer in business.

⁶⁰ 40 CFR 1502.14

⁶¹ *Greater Sage-Grouse Population Trends: An Analysis of Lek Count Databases 1965-2015*, Western Association of Fish and Wildlife Agencies (August 2015) (WAWFA Trend Analysis); see also Lori Valadez, *Greater Sage-Grouse Population on the Rise*, Natural Resources Conservation Service, (August 17, 2015), retrieved at <http://blogs.usda.gov/2015/08/17/greater-sage-grouse-population-on-the-rise/>.

⁶²Division of Minerals Site, *infra* at n. 18.



If the Agencies still feel the State cannot adequately protect against the threat of mining, then we would ask that the BLM work with the State to identify alternative areas that might be better suited for withdrawals that do not include areas of great mineral potential.

(C) Existing Cooperative Agreements to Protect Greater Sage-Grouse in Equally Valuable Habitat Proves a Cooperative Agreement Can Adequately Constrain Nondiscretionary Uses Within SFAs.

A cooperative agreement and right-of-way *would* adequately constrain nondiscretionary uses for the area encompassed by the Nevada SFA. As discussed above, the quality of habitat is equal or better and the threat of mining is higher (Y) in areas outside of the SFA boundaries. This statement is not meant to imply the SFA boundaries should change. Rather, that SFAs and withdrawals are *not needed* as shown by recent cooperative agreements. This is further supported by the mining threat assessments in the COT Report and FWS Greater sage-grouse Findings coupled with the Barrick Enabling Agreement and the Newmont Agreement, and potentially others.⁶³

FLPMA requires “An analysis and explanation of why neither a right-of-way under section 507 of the Act (43 U.S.C. 1767), nor a cooperative agreement under sections 302(b) (43 U.S.C. 1732(b)) and 307(b) (43 U.S.C. 1737(b)) of the act would adequately provide for the proposed use.” 43 CFR 2310.3-1 (c)(10). In response, the BLM claims “The use of a right-of-way, interagency or cooperative agreement, or surface management by the BLM under 43 CFR part 3715 or 43 CFR part 3809 regulations or by the Forest Service under 36 CFR part 228 would not adequately constrain nondiscretionary uses, which could result in loss of critical sage-grouse habitat.”⁶⁴

On March 25, 2015, the FWS and BLM entered into the “Barrick Nevada Sage-Grouse Enabling Agreement” across 250,000 acres of private lands within the Southern Great Basin management area. This Agreement cites to 43 CFR part 3809 regulations for authority. Therefore it would qualify as a cooperative agreement under 43 CFR 2310.3-1(c)(10).

With language nearly mirroring that found within the Barrick Enabling Agreement, the Newmont Mining Corporation:

“In partnership with The Nature Conservancy and others, Newmont is developing a multi-species, landscape-level Sagebrush Ecosystem Conservation Plan and Conservation Bank Program, including approximately 400,000 acres of private lands and large aspects of about 1.4 million acres of federal grazing allotments,’ Newmont stated in its Nevada Sagebrush Ecosystem Conservation Program.”⁶⁵

According to the COT Report, the land covered by the Newmont Agreement is *superior*, and the land covered by the Barrick Enabling Agreement is *equal* in biological significance to the Greater sage-grouse compared to the land within the SFAs. The threat of mining to both areas is *exactly the same or greater*. Management zone 14 (Northwest Interior)(Y) is more important, and 15c (Southern Great

⁶³ Barrick Enabling Agreement; COT Report at 30; Newmont Mining Agreement, *infra*. at n. 44.;

⁶⁴ 80 F.R. 57635,57637 (Sept. 24, 2015).

⁶⁵ Newmont Mining Agreement, *infra*. at n. 44.;



Basin) (L) could be considered even more important than the zones covered by the SFAs as it contains most of the Priority Area for Conservation (PAC) in Nevada.

If according to the COT Report the threat of mining is exactly the same within the SFAs as it is for the area covered by the Barrick Enabling Agreement, and higher for areas covered by the Newmont or other Agreements, then it logically follows that cooperative agreements *would* adequately provide for the proposed use to protect the Greater Sage-Grouse.

The adoption of the Barrick Enabling Agreement and Newmont Agreement only proves that the BLM could enter into a Cooperating Agreement to implement the State Plan and Conservation Credit System. The Agreement also shows that a credit system is a *preferred* approach with supporting funding and conservation efforts. This is especially true if it is adequate for the surface area covered by the existing agreements, at about 2 million acres. The Enabling Agreement contains mitigation standards, a credit banking system, more widespread goals for a broader area, encourages co-location, permits regulation of federal and state land, and satisfies multiple use standards. This addresses the fact that Current mining activity within the SFA renders some pieces of land better suited for co-location. Further, the important measures in these Agreements are only achievable because the Barrick and Newmont mining companies are *exempt* from ARMPA Regulations.

Entering into a Cooperating Agreement to implement the State Plan is preferred over entering into Cooperative Agreements with individual private entities on a piecemeal basis. These entities provide substantial funding and partnerships across the most important habitat that would support the success of the State Plan. Instead, they now potentially reduce the effectiveness of the Conservation Credit System and further stratify what should be a collaborative conservation effort. Such an Agreement would greatly enhance the mitigation bank and credit program developed by the State.

Request I-A-C: To enter into a Cooperating Agreement with the State of Nevada to implement the State Conservation Credit System similar to what was provided for the Barrick Gold and Newmont Mining Corporations.

(D) Water Rights Would Be Needed to Fulfill the Purpose of the Requested Withdrawal

The application states “No water rights would be needed to fulfill the purpose of the requested withdrawal.” 80 CFR 57637. Water availability is the most powerful predictor of brood rearing. Segregation and withdrawal will result in the expiration of private water rights, and will also implicate the water rights associated with grazing permits. Thus, the water the Sage-grouse currently uses is a result of those water rights.

Without access to water supplies, the BLM may need to obtain water rights for the Greater Sage-Grouse, whether state or federal. The application only requires a “statement as to whether water will or will not be needed to fulfill the purpose of the requested withdrawal action.” 43 CFR 2310.3-1 (c) (13) That water rights will be evaluated as a preliminary issue for the EIS is telling that this issue is inaccurately represented in the application. Thus, water rights *would* be needed to fulfill the purpose of the requested withdrawal.



Request I-D: That the notice be revised to restate that water will be needed to fulfill the purpose of the requested withdrawal action, as required by 43 CFR 2310.3-1 (c) (13). This remedy will allow the public to more accurately comment on the water-related consequences of the withdrawal.

II. Scoping Comments

Please accept this section as NACO's response to provide scoping comments for an Environmental Impact Statement (EIS) to analyze and disclose impacts of the proposed withdrawal.⁶⁶ The purpose of the public scoping process is to determine the relevant issues that will influence the scope of the environmental analysis, including alternatives, and guide the process for developing the EIS. Withdrawal Mandates under FLPMA § 204(c) Control the Withdrawal Process, which must also remain consistent with Multiple Use Principles under FLPMA as well as with NEPA. Acceptance of the withdrawals by the Secretary are predicated upon compliance with FLPMA § 202 and NEPA.

To show that the BLM is not basing its decision on a predetermined "anti-mining agenda," the Department of Interior (DOI) in its required "notification of withdrawal" sent to Congress, must fairly consider all 12 factors listed in 43 USCS § 1714(c)(2), explaining in detail proposed withdrawal's effects on current natural resource uses, current land users, incompatibility with current land uses, and effect on state and local government interests and regional economy.

The BLM's guiding principle in this action is multiple use as defined by the Federal Land Policy and Management Act (1976) (FLPMA), or the:

"...management of public lands and their various resource values so that they are utilized in combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output."⁶⁷

A. Legal Requirements

Draft environmental impact statements ("DEISs") are prepared according to the scope determined in the scoping process. For FLPMA Withdrawal purposes, it is important that the analysis provide a thorough estimate of the costs and benefits of the proposed withdrawal. An application may be cancelled or denied if the withdrawal is not needed or the costs are excessive.⁶⁸ The costs are defined

⁶⁶ 50 CFR 57635; 80 FR 57635.

⁶⁷ FLPMA, 43 U.S.C. 1701 et al.; 43 U.S.C. 1702(c).

⁶⁸ 43 C.F.R. § 2310.1-4 (a), (b).



by 43 U.S.C. 1734(b) and are analyzed compared to available funds appropriated for processing applications.⁶⁹

Before an authorized officer can take action on a withdrawal proposal, a supporting withdrawal application shall be submitted along with the documents as needed to meet NEPA Requirements.⁷⁰ This process also requires the BLM to develop and process the FLPMA Withdrawal case file for submission. The information, studies, analyses and reports must include:

“(1) A report identifying the present users of the lands involved, explaining how the users will be affected by the proposed use and analyzing the manner in which existing and potential resource uses are incompatible with or conflict with the proposed use of the lands and resources that would be affected by the requested action. The report shall also specify the provisions that are to be made for, and an economic analysis of, the continuation, alteration or termination of existing uses. If the provisions of § 2310.3-5 of this title are applicable to the proposed withdrawal, the applicant shall also furnish a certification that the requirements of that section shall be satisfied promptly if the withdrawal is allowed or authorized.

(2) If the application states that the use of water in any State will be necessary to fulfill the purposes of the requested withdrawal, extension or modification, a report specifying that the applicant or using agency has acquired, or proposes to acquire, rights to the use of the water in conformity with applicable State laws and procedures relating to the control, appropriation, use and distribution of water, or whether the withdrawal is intended to reserve, pursuant to Federal law, sufficient unappropriated water to fulfill the purposes of the withdrawal. Water shall be reserved pursuant to Federal law for use in carrying out the purposes of the withdrawal only if specifically so stated in the relevant withdrawal order, as provided in § 2310.3-3(b) of this title and only to the extent needed for the purpose or purposes of the withdrawal as expressed in the withdrawal order. The applicant shall also provide proof of notification of the involved State's department of water resources when a land use needed to carry out the purposes of the requested withdrawal will involve utilization of the water resources in a State. As a condition to the allowance of an order reserving water, the applicant shall certify to the Secretary that it shall quantify the amount of water to be reserved by the order.

(3) (See NEPA Analysis) An environmental assessment, an environmental impact statement or any other documents as are needed to meet the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), and the regulations applicable thereto. The authorized officer shall participate in the development of environmental assessments or impact statements. The applicant shall designate the Bureau of Land Management as a cooperating agency and shall comply with the requirements of the regulations of the Council on Environmental Quality. The Bureau of Land Management shall, at a minimum, independently evaluate and review the final product. The following items shall either be included in the assessment or impact statement, or they may be submitted separately, with appropriate cross references.

(i) A report on the identification of cultural resources prepared in accordance with the requirements of 36 CFR part 800, and other applicable regulations.

(ii) An identification of the roadless areas or roadless islands having wilderness characteristics, as described in the Wilderness Act of 1964 (16 U.S.C. 1131, et seq.), which exist within the area covered by the requested withdrawal action.

(iii) A mineral resource analysis prepared by a qualified mining engineer, engineering geologist or geologist which shall include, but shall not be limited to, information on: General geology, known mineral deposits, past and present mineral production, mining claims, mineral leases, evaluation of future mineral potential and present and potential market demands.

(iv) A biological assessment of any listed or proposed endangered or threatened species, and their critical habitat, which may occur on or in the vicinity of the involved lands, prepared in accordance with the provisions of section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1536), and regulations applicable thereto, if the Secretary determines that assessment is required by law.

⁶⁹ 43 C.F.R. § 2310.1-4 (b).

⁷⁰ 43 C.F.R. § 2310.1-2(b). 43 U.S.C.S. § 1714(b)(1); 43 U.S.C.S. §§ 1701-1782; 43 C.F.R. § 2300.0-5(q); 43 C.F.R. § 2300.0-5(p); 43 CFR 2310.3-2; The National Environmental Protection Act, 42 USCS §§ 4341 et seq. (NEPA)



(v) An analysis of the economic impact of the proposed uses and changes in use associated with the requested action on individuals, local communities, State and local government interests, the regional economy and the Nation as a whole.

(vi) A statement as to the extent and manner in which the public participated in the environmental review process.

(4) A statement with specific supporting data, as to:

(i) Whether the lands involved are floodplains or are considered wetlands; and

(ii) Whether the existing and proposed uses would affect or be affected by such floodplains or wetlands and, if so, to what degree and in what manner. The statement shall indicate whether, if the requested action is allowed, it will comply with the provisions of Executive Orders 11988 and 11990 of May 24, 1977 (42 FR 26951; 26961).

(5) A statement of the consultation which has been or will be conducted with other Federal departments or agencies; with regional, State and local Government bodies; and with individuals and nongovernmental groups regarding the requested action.⁷¹

B. Applying the Legal Standards

1. Purpose and Need

The BLM should adopt a different purpose and need from what is written in the withdrawal notice at 80 CFR 57637. The withdrawal notice states: “The purpose of the proposed withdrawal of the Sagebrush Focal Areas in Priority Habitat Management Areas is to protect the Greater Sage-Grouse and its habitat from adverse effects of locatable mineral exploration and mining subject to valid existing rights.” 80 CFR 57637.

Instead, the purpose and need should read, “The purpose of the proposed withdrawal of the Sagebrush Focal Areas in Priority Habitat Management Areas is to protect the Greater Sage-Grouse and its habitat from adverse effects of locatable mineral exploration and mining subject to valid existing rights above and beyond the protections outlined in the 2015 Amended Resource Management Plan to achieve the greatest level of conservation in a manner that leaves as many lands with mineral potential open for mineral entry pursuant to FLPMA multiple use and sustained yield mandates.”

The purpose and need statement is key to developing the alternatives “shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action.”⁷² Further, “Project alternatives derive from an Environmental Impact Statement’s “Purpose and Need” section, which briefly defines the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action.”⁷³

The underlying need as identified in the ARMPA is to provide *additional protection* to areas the BLM has identified as “Sagebrush Focal Areas,” or deserving of the highest level of protection. What sets SFAs apart from other priority habitat areas within the ARMPA is the withdrawals. This implies that the withdrawals provide additional protection above and beyond what the ARMPA provides for all

⁷¹43 C.F.R. 2310.3-2(b),

⁷² 40 C.F.R. 1502.13.

⁷³ 40 C.F.R. 1502.13



priority habitat. Therefore, the alternatives must be crafted based on this statement of purpose and need. If there is no additional protection, then the withdrawal provides no benefit at a great cost. Therefore, the statement of purpose and need should be framed to highlight the additional protection that will be provided within the SFA.

Request II-B-1: That the Agencies adopt the Purpose and Need as expressed in this section.

2. Reasonable Range of Alternatives

Again, the alternatives analysis is at the heart of NEPA. NEPA was enacted to ensure that Agencies provide to the public enough information to show a fully informed decision-making process. The reasonable range of alternatives should allow the BLM to analyze in detail the environmental impacts of the proposal and provide a clear basis for choice among options.⁷⁴ The Alternatives are supposed to reflect a balance between multiple uses and needs. To the extent that these needs conflict, the Agency must choose one over the other.

It is NACO's position that many of the needs and requests expressed throughout this process do not conflict *so long as* the alternatives provide options that honestly compare and contrast these needs. Each alternative should present a realistic choice, otherwise the analysis is wasteful and simply "going through the motions" required by law. See I-B-C "There Are Available Alternatives to a Withdrawal," which urges the incorporation of the State Plan's Conservation Credit System and considers alternatives to the entire concept of the SFAs and the resulting Withdrawal. Alternatives to the decision to withdraw the SFA is distinguishable from the alternatives below, which presuppose that the SFA boundaries will be used to support the Withdrawal.

Please accept the following as NACO's suggested range of alternatives for the Withdrawal process:

No Action Alternative

The BLM must include an alternative of "no action."⁷⁵ In the context of land management planning, no action means no change from the current management direction.⁷⁶ Because the 2015 ARMPA and the State Plan are in effect, this alternative should contain the protections outlined in the 2015 Amended Resource Management Plan and the State Plan.

Proposed Action

The BLM's Proposed Action is to withdraw the SFAs as outlined in the 2015 ARMPA. The BLM should reconsider this, as discussed in Section I.

Suggested Alternative

NACO suggests that the BLM evaluate an alternative to the Proposed Action that adopts a Modified Proposed Action whereby withdrawals would occur only upon adaptive management and ground-truthing on a project by project basis. The SFA boundaries could be used as trigger for consultation

⁷⁴ 40 C.F.R. 1502.14

⁷⁵ 40 C.F.R. 1502.14(d)

⁷⁶ *Am. Rivers v. Fed. Energy Regulatory Comm'n*, 201 F.3d 1186, 1200-01 (9th Cir. 200)



for an on the ground proposal which would warrant review for withdrawal. This Alternative might also incorporate the State Conservation Credit system within the SFAs. This way, the Conservation Credit system is an option for project proponents and funding will become available to support on-the-ground conservation projects as defined by the Sagebrush Ecosystem Council and associated Nevada State Planners. If no credits exist, then a withdrawal would be warranted for that area.

As defined by the ARMPA at 5-1, “Adaptive management” is “A type of natural resource management in which decisions are made as part of an ongoing science-based process. Adaptive management involves testing, monitoring, and evaluating applied strategies and incorporating new knowledge into management approaches that are based on scientific findings and the needs of society. Results are used to modify management policy, strategies, and practices.”

Request II-B-2: That the Agencies adopt at a minimum NACO’s Modified Alternative and reconsider as the agency’s Preferred Alternative.

3. Economic Impacts Analysis

The County economies within the SFA are driven by mining, farming, and ranching, all of which will be impacted by the SFA Withdrawals. FLPMA Requires “An analysis of the economic impact of the proposed uses and changes in use associated with the requested action on individuals, local communities, State and local government interests, the regional economy and the Nation as a whole.”⁷⁷

In anticipation of the requisite economic impacts analysis, NACO requested from the University of Nevada, Reno’s Center for Economic Development a process for regional economic impact modeling for sage grouse habitat studies. This request was made specifically for the withdrawals, and contains “suggestions for what a regional impact modeling and mining study should have and address.”

The December 15, 2015 Memorandum from Thomas R. Harris, Director of the Center for Economic Development at the University of Nevada, Reno titled “Regional Economic Impact Modeling for Sage Grouse Studies” is attached as “Appendix A” for your reference and use throughout this process.

NACO also recommends that this analysis consider, at a minimum: (1) Industry responses to a withdrawal (2) Lack of certain minerals and their national and international use (3) Increased fires due to less people in the area (4) The cost to initiate and conduct all at once Priority Grazing Permit reviews for the Segregation (5) The cost to counties’ key industries (6) Tax base impacts to Counties and the State (7) The cost to the State for loss of valuable Conservation Credit Program habitat and potential debtor projects (8) The cost to the State for mineral companies moving to other states or countries, and (9) The loss of employment opportunities locally and Statewide.

Request II-B-3: That the Agencies refer to the December 15, 2015 Memorandum from Thomas R.

⁷⁷43 CFR 2310.3-2(b).



Harris, Director of the Center for Economic Development at the University of Nevada, Reno titled “Regional Economic Impact Modeling for Sage Grouse Studies” attached as “Appendix A” during the Economic Impacts Analysis to analyze the short- and long-term impacts, as well as the direct and indirect impacts of each alternative. The final costs should be factored into the Secretary’s ultimate decision whether or not to accept the Application as proposed.

4. Valid Existing Rights and Claims Validity Tests

The SFA Withdrawals are subject to Valid Existing Rights (“VERs”). Yet it is difficult to understand what that means in this context. As part of the segregation, the BLM has begun to initiate a claim validity analysis to determine what are VERs. This is a legal term of art, yet it is defined in the ARPMA as “Documented legal rights or interests in the land that allow a person or entity to use said land for a specific purpose and that are still in effect. Such rights include fee title ownership, mineral rights, rights of way, easements, permits, and licenses. Such rights may have been reserved, acquired, leased, granted, permitted, or otherwise authorized over time.”⁷⁸

Specifically, NACO wonders whether any documented legal rights or interests, according to the ARPMA definition of VERs, will be extinguished when the land is withdrawn. NACO recommends that the BLM develop Claims Validity Analysis procedures for the other VER elements that need clarification. This should include a public review and comment for each claim subject to claims validity proceedings.

Request II-B-4: That the BLM clarify Valid Existing Rights and develop procedures for VER elements that need clarification. This should include a public review and comment for each claim subject to extinction.

5. Coordination with State and Local Governments

Counties have land use planning and police powers, including an obligation to maintain transportation system and provide emergency services. It is this fact that drives the FLPMA directive that the BLM work closely with local and State governments to ensure consistency and implementation of planning efforts. Thus, it is very important that land management decisions be integrated with County planning efforts.

Importantly, the FLPMA Section 204(c)(2) analysis requirements and associated regulations include several criteria that require BLM to evaluate the effect of the withdrawal on local communities and local governments. The BLM must furnish:

- (2) an inventory and evaluation of the current natural resource uses and values of the site and adjacent public and nonpublic land and how it appears they will be affected by the proposed use, including particularly aspects of use that might cause degradation of the environment, and also the economic impact of the change in use on individuals, local communities, and the Nation; (7) a statement of the consultation which has been or will be had with other Federal U.S. and

⁷⁸ ARPMA Glossary at 5-24.



agencies, with regional, State, and local government bodies, and with other appropriate individuals and groups; (8) a statement indicating the effect of the proposed uses, if any, on State and local government interests and the regional economy.”

During land use planning, the BLM must also “coordinate … with the land use planning and management programs of the States and local governments within which lands are located.” These plans include, “the statewide outdoor recreation plans … considering the policies of approved State and tribal land resource management programs....the Secretary shall… keep apprised of State, local, and tribal land use plans; assure that consideration is given to those State, local, and tribal plans that are germane in the development of land use plans for public lands; assist in resolving, to the extent practical, inconsistencies between Federal and non- Federal Government plans, and shall provide for meaningful public involvement of State and local government officials, both elected and appointed, in the development of land use programs, land use regulations, and land use decisions for public lands, including early public notice of proposed decisions which may have a significant impact on non-Federal lands.”⁷⁹

If the BLM determines that provisions of land use plans are not “consistent with the laws governing the administration of public lands,” then NACO asks for a description of the differences and an explanation for why these differences or inconsistencies should not be resolved for the land use plans in the three counties where the SFA are located (e.g., Elko, Humboldt, and Washoe Counties).

Elko County Land Use Plans

Elko County General Open Space Plan, Nevada (Elko County 2003); Elko County Public Lands Policy Plan, Nevada (Elko County 2008); Elko County Water Resource Management Plan, Nevada (Elko County 2007)

Humboldt County Land Use Plans

Please consult with Humboldt County’s Land Use Planning Department and with the County Ordinances to determine inconsistencies.

Washoe County Land Use Plans

Truckee Meadows Regional Plan (Washoe County Only), Nevada (TMRPA 2007), Washoe County Comprehensive Plan, Nevada (Washoe County 2005a); Washoe County Open Space & Natural Resource Management Plan, Nevada (Washoe County 2008); Washoe County Water Resources Management Plan, Nevada (Washoe County 2005b)

Request II-B-5: NACO requests that the BLM pay special attention to local and State conservation and land use plans and laws, and to highlight and explain inconsistencies with those plans. It will be important to analyze the economic impacts to counties as a result of these inconsistencies.

6. Environmental Consequences Under Each Alternative

⁷⁹ 43 U.S.C. 1712(a)(9).



The Environmental Consequences analyzed under each alternative, coupled with the economic impacts analysis, drives the result of the decision-making process. It is important to fully consider and analyze those consequences which naturally result from any given action. At present, the BLM has identified the following preliminary issues: Air quality/climate, American Indian resources, cultural resources, wilderness, mineral resources, public health and safety, recreation, socioeconomic conditions, soil resources, soundscapes, special status species, vegetation resources, visual resources, water resources, and fish and wildlife resources.⁸⁰

Agencies must follow the National Environmental Policy Act (NEPA), 42 U.S.C.S. § 4321 et seq., which “requires that an environmental impact statement itself shall identify any methodologies used and shall make explicit reference by footnote to the scientific and other sources relied upon for conclusions in the statement. An agency may place discussion of methodology in an appendix.” This is the standard even when those conclusions come from another Agency’s analysis or Protest Letters.

a. Preliminary Issue Analysis

NACO preliminarily requests that specific analyses be conducted for the following issues:

Air Quality/Climate

It is important to analyze the impacts to Air Quality and the Climate and GSG Emissions and impacts from (i) Increased driving distances (ii) Energy consumption from re-routing infrastructure (iii) Increase in fire impacts from additional fuel (iv) Impacts to the viability of renewable energy across Nevada and California.

Cultural Resources

Cultural resources should be defined pursuant to 43 CFR 2300.0-5(e).

Mineral Resources

FLPMA requires for a Withdrawal that the BLM conduct “A mineral resource analysis prepared by a qualified mining engineer, engineering geologist or geologist which shall include, but shall not be limited to, information on: General geology, known mineral deposits, past and present mineral production, mining claims, mineral leases, evaluation of future mineral potential and present and potential market demands.”⁸¹

NACO recommends that the BLM ensure that the NDOM become a Cooperating Agency, and that both NDOM and the Nevada Bureau of Mines and Geology assist with this analysis. For Valid

⁸⁰ 80 F.R. 57637.

⁸¹ 43 CFR 2310.3-2(b),



Existing Rights, NDOM counts a total of 3,762 claims in the mineral withdrawal area.⁸² The BLM should list what it believes are the existing, valid, pre-existing claims. This includes locatable minerals, leasable minerals, and salable minerals. These should be respected and listed to assist with public notice and understanding of the impacts.

NDOM also developed a “Distribution and Density of Unpatented Claims in Nevada 2016 Assessment Year as of 10/16/2015”. This assessment and the supporting data should be used to analyze existing and potential mineral deposits found within the SFA boundaries. To begin, please also refer to the “Mineral, Geothermal and Oil & Gas Potential Maps of Sagebrush Focal Areas, 6/24/2015.

These studies should only be used as a starting point for working with the Nevada Bureau of Minerals. Any conclusions must be supported by studies and data.

Public Health and Safety

This analysis should include the following preliminary issues: (1) Fires and fuels (cost, increased fire incidents), (2) Food supply and domestic food security (3) Mineral supply and national security (4) National security impacts from reduced agriculture and mining.

Socioeconomic Conditions

When an EIS is prepared, and social or economic impacts are “interrelated” with physical impacts, the EIS must include a discussion of the social and/or economic impacts of the proposed action.⁸³ The impacts of a withdrawal from mining are certainly interrelated with the physical sociological impacts on the local communities.

Mining drives the economy for both Elko and Humboldt Counties. To the people who live in these counties, mining is not just a job. Rather, it is a way of life that has existed for multiple generations. The culture and daily lives of the people who live in this region revolves around the mining industry. The impacts to the mining industry could potentially devastate the community not only economically, but also psychologically.

Humboldt County’s economy “is derived in large part from its main industries: Mining, Agriculture and Agricultural Services, Tourism and Construction. The County is located in the rich gold mining center of the Western U.S. and is the leading agricultural county in the State of Nevada with over 100,000 acres under cultivation. Tourism is also a large part of the County’s economic base due to the large numbers of visitors the gaming industry brings to the area and the draw of the beautiful wide open spaces, historical sites, and great hunting and fishing.”⁸⁴

⁸² *Assessment Year 2016 Active Mining Claims as of 10/16/2015*, Nevada Division of Minerals, Lucia M. Patterson (11/10/2015).

⁸³ *Metropolitan Edison Co. v. People Against Nuclear Energy*, 460 U.S. 766 (1983).

⁸⁴ Humboldt County, Nevada Website, retrieved at <http://www.hcnv.us>



For Elko County, the economy is nearly identical: "Nearly 45,000 people live in its 17,181 square miles... The county enjoys a diversified economy built on mining, ranching, and tourism. One of Nevada's most scenic areas, it offers outdoor enthusiasts opportunities to camp, hike, fish and hunt... In addition, it has much to offer businesses seeking a central location among the Western states with ample natural resources."⁸⁵

In fact, Elko County is so propelled by mining that it was designated a "Micropolitan Statistical Area ("S.A") because it is the primary area of the state's mining industry. During First Quarter 2007, the Elko Micropolitan S.A. employed 5,202 mining employees, which consists of 44.07% of the total state of Nevada mining employment. Also for the Elko Micropolitan S.A., the mineral industry accounted for 20.42 percent of total area employment... Using the IMPLAN input-output model database, sectoral location quotient values show which sectors are importers, self-sufficient, and exporters..."⁸⁶

Because of the way of life that will be impacted by a mineral withdrawal from this mineral-rich area, it is of the utmost importance that the BLM take a hard look at the sociological, psychological, and socioeconomic impacts that are likely to result from these mineral withdrawals. NACO urges the BLM to work very closely with Counties to gather this important information.

Water Resources

The application should state that water is required, as stated above, because the best indicator of Sage Grouse presence is water. There is a huge benefit to the Sage Grouse from ranching and agricultural uses that promote riparian areas used for watering. If there is a co-benefit of stock watering in a particular area, then the impact of reducing the associated use may be detrimental to Sage Grouse. Another consideration is the indirect impact on fire occurrences if stock watering and other water uses are reduced as a result of the Withdrawal.

The BLM should also be aware that FLPMA requires "a report specifying that the applicant or using agency has acquired, or proposes to acquire, rights to the use of the water in conformity with applicable State laws and procedures relating to the control, appropriation, use and distribution of water, or whether the withdrawal is intended to reserve, pursuant to Federal law, sufficient unappropriated water to fulfill the purposes of the withdrawal. Water shall be reserved pursuant to Federal law for use in carrying out the purposes of the withdrawal only if specifically so stated in the relevant withdrawal order, as provided in § 2310.3-3(b) of this title and only to the extent needed for the purpose or purposes of the withdrawal as expressed in the withdrawal order. The applicant shall also provide proof of notification of the involved State's department of water resources when a land use needed to carry out the purposes of the requested withdrawal will involve utilization of the water resources in a State. As a condition to the allowance of an order reserving water, the applicant shall certify to the Secretary that it shall quantify the amount of water to be reserved by the order."⁸⁷

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ 43 CFR 2310.3-2(b).



Finally, a withdrawal requires a statement with specific supporting data as to: (i) Whether the lands involved are floodplains or are considered wetlands; and (ii) Whether the existing and proposed uses would affect or be affected by such floodplains or wetlands and, if so, to what degree and in what manner. The statement shall indicate whether, if the requested action is allowed, it will comply with the provisions of Executive Orders 11988 and 11990 of May 24, 1977 (42 FR 26951; 26961).⁸⁸ Because the new rules are under federal litigation, this analysis must be performed using the definition of floodplains under the newer and older CWA rules and regulations.

The Priority Grazing Permits are up for review as a result of the SFA and part of this process. As part of the impacts analysis to wetlands, it is important that the BLM acknowledge the importance of grazing to vernal pools. In fact, one of the active management techniques used for maintaining vernal pools is grazing. The BLM should strongly consider studies that analyze this key symbiotic relationship.

Special Status Species and Fish and Wildlife Resources

Like the mineral resource analysis, the Sagebrush Ecosystem Council and Technical Team should be invited to be a Cooperating Agency. The analysis of impacts to fish and wildlife resources should be performed with the State program. NACO supports any analysis provided by the Nevada Sagebrush Ecosystem Programs.

Mitigation of the Effects of a Withdrawal from Public Lands

Consistent with 40 CFR 1502.14, the BLM must consider whether and what kind of mitigation measures may be appropriate to address the reasonably foreseeable impacts to resources from the approval of this proposed withdrawal. The BLM states “Because of the nature of a withdrawal of public lands from operation of the mining law, mitigation of its effects is not likely to be an issue requiring detailed analysis. However, consistent with Council on Environmental Quality regulations implementing NEPA (40 CFR 1502.14), the BLM must consider whether and what kind of mitigation measures may be appropriate to address the reasonably foreseeable impacts to resources from the approval of this proposed withdrawal.”⁸⁹

This statement is inconsistent with NEPA and with FLPMA, which both require a detailed impacts analysis of the proposed activity. If anything, the nature of a withdrawal of public lands from operation of the mining law *does* require a detailed analysis regarding the mitigation of its effects, even more than other actions. The purpose of NEPA is to “encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man;”⁹⁰ and FLPMA is to balance the protection of “the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values” with a recognition of “the Nation’s need for domestic sources of minerals... from the public lands including

⁸⁸43 CFR 2310.3-2(b),

⁸⁹ 80 CFR 57637.

⁹⁰ 43 U.S.C.A. § 4321.



implementation of the Mining and Minerals Policy Act of 1970 (84 Sts. 1876, 30 U.S.C. 21a) as it pertains to the public lands.”⁹¹ That the purpose of FLPMA expressly mentions mining and minerals elevates the importance of mitigation.

A mineral withdrawal is a policy decision made at the explicit expense of the humans living in that environment. This is an extreme policy decision, and one which requires a complete and informed analysis of the potential impacts and possible mitigation strategies. It is such an impactful action that NEPA and FLPMA Sections 202 and 204 exist exclusively to ensure that agencies fully analyze and attempt to mitigate potential effects of mineral withdrawal. Therefore, NACO insists that the BLM provide a full analysis with a plan for the mitigation of the effects of a withdrawal from public lands.

b. Additional Issues Should Be Analyzed

Takings Analysis

The BLM must engage in a takings analysis as part of a Withdrawal pursuant to Exec. Order No. 12,630, 53 Fed. Reg. 8859 (Mar. 15, 1988). Although this withdrawal is subject to “Valid Existing Rights,” (“VER”) this does not take into account potential regulatory takings. Given that the definition of VER is a legal term of art, it is important to distinguish that definition from the one defined in the ARMPA at 5-24. Still, the definition provided in the ARMPA should be used to clarify what permit, license, lease, or claims holders possess and what they should expect through this process. NACO requests that the BLM pay special attention to Valid Existing Rights with no access or that become prohibitively expensive as a result of the SFA and Withdrawals.

Also, the BLM must compensate “the holder of record of each permit, license or lease lawfully terminated or revoked after the allowance of an application, for all authorized improvements placed on the lands under the terms and conditions of the permit, license or lease, before the lands were segregated or withdrawn.” Further, “The amount of such compensation shall be determined by an appraisal as of the date of revocation or termination of the permit, license or lease, but shall not exceed fair market value. To the extent such improvements were constructed with Federal funds, they shall not be compensable unless the United States has been reimbursed for such funds prior to the allowance of the application and then only to the extent of the sum that the United States has received. (b) When an application is allowed that affects public lands which are subject to permits or leases for the grazing of domestic livestock and that is required to be terminated, the applicant shall comply with the cancellation notice and compensation requirements of section 402(g) of the Act (43 U.S.C. 1752(g)), to the extent applicable.”⁹²

Agricultural Resources

Because the SFA triggers evaluations for “Priority Grazing Permits,” the BLM should also include impacts to agricultural resources. This should include the economic cost of uncertainty, and consider the extent to which these actions discourage agriculture.

⁹¹ 43 U.S.C.A. § 1701.

⁹² 43 CFR 2310.3-4 § 2310.3-5.



The BLM should provide the process for determining the economic impacts for priority grazing permits. Within the SFAs, grazing permits are required to be reevaluated whether or not they are up for renewal. They will be evaluated using Table 2-2 and for consistency with the RMPs (and with the withdrawals).

Request II-B-6: That the BLM conduct the requested analyses, and include the additional issues listed.

III. Conclusion

NACO respectfully requests that the BLM call upon its local and State partners for meaningful participation and staff support to assist with the above outlined analyses. As the BLM is aware, agency cooperation is key to a successful NEPA process, especially as it relates to State and local governments.⁹³ Federal agencies are required to invite the participation of impacted states and governmental entities and provide them with an opportunity for participation in preparing an environmental impact statement.⁹⁴

The BLM, as the lead agency, must request the participation of each cooperating agency at the earliest possible time, use the proposals of cooperating agencies, and meet with cooperating agencies by request.⁹⁵ When a federal agency is required to invite the participation of other governmental entities and allocate responsibilities to those governmental entities, that participation and delegation of duty must be meaningful.⁹⁶

All three of the impacted counties, as well as surrounding counties and State Departments have staff and invaluable local information that will help to ensure a thoroughly deliberated planning document. The BLM may request that an agency provide staff support to enhance the BLM's interdisciplinary capability, and to request information and portions of the environmental impact statement for development.⁹⁷ NACO urges the BLM to do so, and if would be happy to assist with obtaining county-specific information upon request.

Sincerely,



Jeffrey Fontaine
Executive Director

JL/ts
CC: file

⁹³ 40 CFR 1501.6; 40 CFR 1501.6.

⁹⁴ 40 CFR 1501.7 (2004).

⁹⁵ 40 CFR 1501.6(a).

⁹⁶ Int'l Snowmobile Mfrs. Ass'n v. Norton, 304 F. Supp. 2d 1278, 2004 U.S. Dist. Lexis 1796 (D Wyo Feb. 10, 2004).

⁹⁷ 40 CFR 1501.6.





December 15, 2015

To: Tori Sundheim
Public Lands and Natural Resources Coordinator
Nevada Association of Counties

From: 
Thomas R. Harris, Professor and Director
Department of Economics
University Center for Economic Development

Re: Regional Economic Impact Modeling for Sage Grouse Studies

Below are my bullet points concerning regional economic impact modeling for sage grouse habitat studies. My comments are separated into short-run and long-run suggestions. The section of bullet points are for short-run suggestions for what a regional economic impact modeling and mining study should have and address for sage grouse habitat designation studies:

- When developing a regional study, one of the most important decisions is the designation of a study area. A study area can be one county or an aggregation of numerous counties. When doing a regional impact analysis, the extent of the impacts of a study will be dependent on the size or aggregation of counties for a study area. If a study area is too small then all aspects of the impacts from sage grouse designation may not be covered. Alternatively if the study area is too large, the impacts of sage grouse designation will be masked by extraneous economic activity of a large study area. Additional when doing a multi-county study area, a multi-regional interindustry model may be appropriate to derive impact linkages between counties or areas.

- Counties aggregated into a study area can follow the following aggregation techniques which are by functional economic area, forward and backward economic linkages, predefined study areas, standard county classification, or mathematical aggregation. Functional Economic Areas are defined as a semi-sufficient economic unit. Functional Economic Areas includes where people live, work, and shop and can sometimes be identified by physical or other characteristics. The U.S. Bureau of Economic Analysis has derived functional areas in the U.S. Forward and backward economic linkage procedures aggregated counties by expenditures and purchases by economic sectors in a study area. Backward linkages are purchases of goods and services to produce a product while forward linkages are purchases between economic sectors that are later purchased by consumers. A cluster of these counties would include a majority of backward and forward linkages. Predetermined clusters are counties aggregated by the private or public entities. A private entity may aggregate counties by market trade area. Examples of public sector clusters are those developed by U.S. Bureau of Census, Department of Commerce, Department of Labor and/or Bureau of Economic Analysis. U.S. Bureau of Census and Department of Commerce predefine areas such as Census Commuting Areas or Metropolitan Statistical Areas. Tolbert and Sizer (1990) defined 382 labor markets for the U.S. based on county level journey-to-work data based on 1990 Census. The Bureau of Economic Analysis also defines Functional Areas using similar procedures. Mathematical clustering employs mathematical procedures to cluster counties based on socio-economic data. Given the type of socio-economic data that is used and the objective of the cluster, the mathematical programs will cluster counties that have similar socio-economic characteristics. Whatever technique is used, the aggregation procedure should be outlined and detailed for assisting in interpreting the results.
- A popular model to derive economic impacts for a study area is input-output models. These models show the economic linkages between all sectors in an economy and can be used to estimate county-wide or study

area wide impacts. One popular input-output modeling framework is the IMPLAN modeling system. This out-of-the-box model derives economic, employment, and labor income impacts for various economic studies. However before using these microcomputer models, the data should be verified and validated. After addressing the study area, the validation and verification of a microcomputer generated interindustry model should be the next step in the analysis. Procedures to verify and validate a national and regional IMPLAN model are detailed in a study by Holland et al. (1997) and Lahr (1993).

- For estimation of impacts, the IMPLAN microcomputer input-output model has developed sectors to derive the differential impacts of different types of mining. The mining sectors for IMPLAN are the Coal Mining Sector, the Iron Ore Mining Sector, the Gold Ore Mining Sector, the Silver Ore Mining Sector, the Lead and Zinc Mining Sector, the Copper Ore Mining Sector, the Uranium-Radium-Vanadium Ore Mining Sector and the Other Mining Ore Mining Sector. In using the Gold Ore Sector, the IMPLAN model derives a national average production function. However for Nevada, the Gold Ore Mining Sector may not reflect the national average production. It is a combination of open pit and underground mining which together yield a production function that could differ from the national average. Therefore before estimating impacts for the mining sectors, researchers need to verify and validate the Nevada mining sectors production function.
- Also for the analysis of impacts of withdrawals of land for sage grouse habitat, input-output models are often employed. These models are excellent in estimating impacts to the different economic sectors in an economy but do not yield information as to the differential impacts of changes in the economy. Differential impacts would be changes to employee compensation, proprietor income, other property income, indirect business taxes, household incomes and state and local government revenue. To complete the differential impacts a Social Accounting Matrix can be used. IMPLAN yields information to develop a Social Accounting Matrix but like input-output models the data needs to be verified and

validated before it can be used. Therefore a Social Accounting Matrix should be employed for estimating impacts of sage grouse habitat designation.

- Often demand-driven input-output analysis is employed to estimate impacts to a study area economy from changes in final demand. However with sage grouse habitat withdrawals, output levels are determined and associated changes in final demand are not usually known. For the supply-determined analysis, procedures outlined by Seung and Waters (2013) should be employed with to derive impacts of land removal from sage grouse habitat designation. These procedures would yield a supply determined-Social Accounting Matrix analysis.
- However a criticism of the above models is that they are fixed priced models. Fixed price models have the inability to calculate welfare impacts, substitutability of inputs, and difficulty in addressing supply-constrained effects. Therefore a Computable General equilibrium model should be employed. These models are complex but base data can be derived from IMPLAN to estimate the impacts. Papers by Seung and Waters (2010) and Seung et al. (1997) show differences in impact results from fixed priced and Computable General equilibrium models.

The next set of bullet points address long-run objectives:

- A detailed analysis employing Computable General Equilibrium models should be employed to derive the differential impacts of land withdrawal from sage grouse habitat designation.
- First a study area should be developed that is agreed upon by a study group.
- Second, the IMPLAN model data should be validated and verified.
- Third, the production function for different mining sectors should be developed to be sure they reflect the areas mining industry.
- Fourth, a Social Accounting Matrix should be developed and verified and validated.

- Fifth, a Computable General Equilibrium model should be developed and scenarios as to land withdrawals for sage grouse habitat should be developed and applied.
- This would take approximately a year to develop and would cost approximately \$80,000.

If you have questions about this memorandum please call me at 775-784-1681.

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The following links and/or pages are support for agenda
Item 21



December 30, 2015

The Honorable Mark Amodei
United States House of Representatives
332 Cannon House Office Building
Washington, D.C. 20515-2802

Subject: USDA – APHIS – Wildlife Services

Dear Congressman Amodei:

I would first like to wish you a very Happy New Year as you continue your excellent work in representing the people of Nevada in the Congress.

As you are aware, the appropriate conservation of greater sage-grouse has been a front burner issue over the past several years, particularly in Nevada where these birds are considered an important indicator species, and which experienced a near ESA listing in recent months.

Over the past 35 years of working with natural resources and Agriculture throughout Nevada, I have come to realize the extreme importance of USDA Wildlife Services in their ongoing work to help maintain a controlled population of predator species that cause serious losses and concerns for Agricultural operations, as well as other wildlife species. The Livestock Industry, through State Grazing Boards and other means, have contributed significant funding to the efforts of Wildlife Services to address localized predation problems as they become apparent. Today, the challenge of predator control has increased significantly with the need for sage-grouse protection on our rangelands.

I have enclosed correspondence received from Mark Jensen, Nevada State Director, USDA -APHIS -Wildlife Services, in response to questions I posed to him while attending the Nevada Cattlemen's and Woolgrowers' meeting in Winnemucca in November. In addition, I've included a summary of the Nevada Wildlife Services Program (NWSP) 2015 report for your information. I am concerned that the predator population and identified problems, as related by Nevada grazing interests, appear to be increasing while the funding for predator control is becoming precariously low. The State Grazing Boards are experiencing less and less revenue from grazing fees which severely limits the amount of funds that they can contribute to Wildlife Services for predator management.

Today the threat to agriculture, particularly with respect to public land grazing, is increased significantly due to the sage-grouse issue. Severe standards are being imposed on grazing permittees by BLM/USFS to help attain ideal nesting and habitat conditions for sage-grouse. If the sage-grouse population does not increase as a result of grazing standards, then more drastic restrictions will be applied that might result in complete forfeiture of grazing rights on some allotments.

It appears that the best of grazing management can occur, with or without restrictions, and sage-grouse populations still decrease as a result of predation by a rapidly growing population of ravens and in many instances coyotes. Agriculture will then take the hit and our state and rural economies will also suffer.

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The Honorable Mark Amodei

December 30, 2015

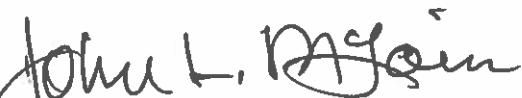
Page 2

Mr. Jensen's summary bullets point out the obvious avoidance of BLM, USFS, and USFWs to become participants in control efforts for rangeland problems such as ravens. It's also ironic that ravens are protected to the extent that they are by the Migratory Bird Treaty Act, given they are the number one, and rapidly increasing predator of sage-grouse. Also, it seems questionable that APHIS has no funding allocated to "protect natural resources such as the sage-grouse".

I am hopeful that you, like myself, will find the information provided by Mr. Jensen of interest and certainly worthy of exploring alternatives to determine if additional funding and resources might be directed to APHIS – Wildlife Services for enhanced predator (raven and coyote) control in our state.

I greatly appreciate your attention to this concern and would welcome the opportunity to visit with you regarding your concern the next time you are in the Carson City area. Please don't hesitate to notify me at 775 / 742-8603 if you have questions regarding this correspondence. Thank you.

Sincerely,



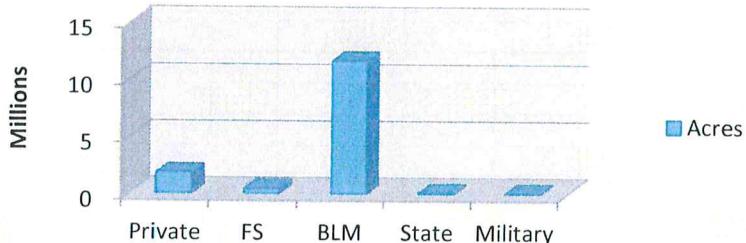
John L. McLain, Principal
Certified Range Management Consultant

JLM:jm
Enclosure(s)

Acreage Worked

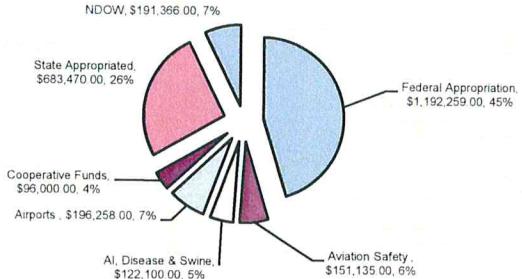
Private	1,831,278
FS	445,234
BLM	11,667,686
State	68,830
Military	49,500
Total	14,062,528

Acreage Worked



Federal Appropriation	\$1,192,259.00
Aviation Safety	\$151,135.00
AI, Disease & Swine	\$122,100.00
Airports	\$196,258.00
Cooperative Funds	\$96,000.00
State Appropriated	\$683,470.00
NDOW	\$191,366.00
	\$2,632,588.00

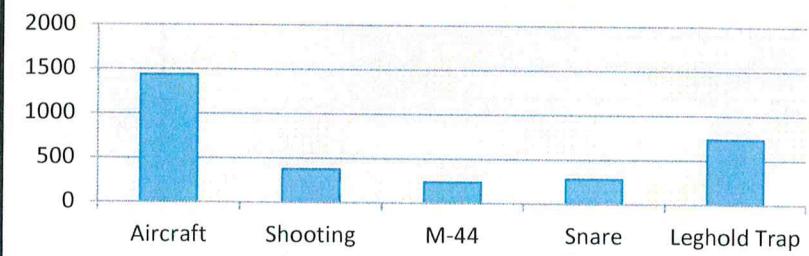
Nevada State and Federal Funding



Coyote Take by Method

Aircraft	1435
Shooting	376
M-44	239
Snare	281
Leghold Trap	736
Total	3067

Coyote Take by Method



Aerial Hours Worked

978 hours from October 1, 2014 thru September 30, 2015

Damage by Resource	Verified by WS	Reported
Landscaping, Turf	\$50,000	\$58,750
Livestock	\$166,660	\$105,270
Other Agriculture	\$105,937	\$0
Other Property	\$0	\$50,000
Field Crops	\$64,640	\$0
Structures	\$318,000	\$10,700
Pets	\$1,850	\$37,402
Total	\$707,087	\$262,122

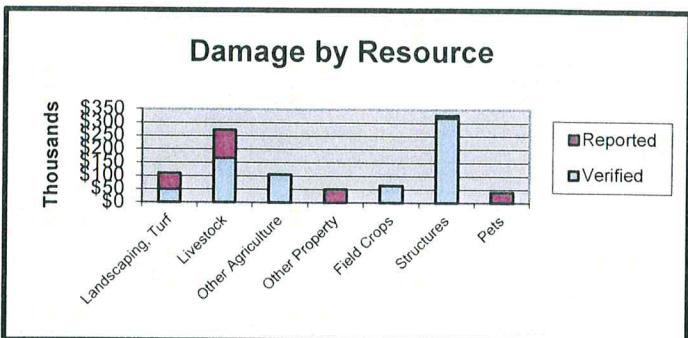
\$\$\$ damage would be much higher without an effective wildlife damage management program

Raven Take

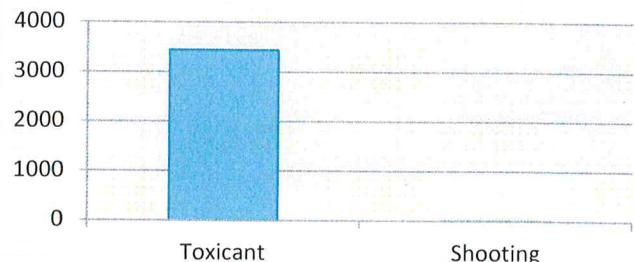
Toxicant	3433
Shooting	4
Total	3437

Disease Sampling 576 samples taken

Technical Assistance Provided 7,408 people



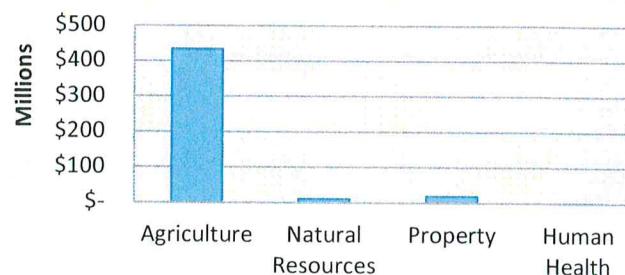
Raven Take by Method



Resources Protected

Agriculture	\$433,389,175.00
Natural Resources	\$10,506,106.00
Property	\$18,607,912.00
Human Health	\$625.00
Total	\$462,503,818.00

Resources Protected



The Nevada Wildlife Services Program helped Nevada's ranchers, farmers, wildlife managers, and the general public protect over \$462 million in resources in FY 2015

Federal 2016 Federal Budget- continuing resolution



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Programs

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Plant Health
Inspection
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Wildlife
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December 03, 2015

John McLain
Resource Concepts Inc.
340 N. Minnesota Street
Carson City, Nevada 89703-4152

Dear John,

It was good talking with you at the Nevada Cattlemen's and Woolgrowers meeting this year in Winnemucca. I appreciate your questions regarding the Nevada Wildlife Services Program and our current predator management efforts to protect sage-grouse in Nevada. Since our conversation was cut short and this is a complicated subject, this letter is intended to hopefully answer your questions.

As you know the Nevada Department of Agriculture (State) and the USDA-APHIS (federal) collectively form the Nevada Wildlife Services Program (NWSP). The mission of the NWSP is to provide leadership in managing problems caused by wildlife. NWSP has been protecting agriculture in Nevada for over 80 years.

The primary federal authority for the NWSP is the Act of March 2, 1931, as amended (7 U.S.C. 426-426c; 46 Stat. 1468). State authority resides in NRS Chapter 567. NWSP activities are conducted in cooperation with other federal, State, and local agencies, as well as private organizations and individuals.

The Nevada Department of Wildlife (NDOW) is the State entity that has wildlife management authority for resident wildlife and it is NDOW that makes decisions for the management of resident species such as the sage-grouse. Since the U.S. Fish and Wildlife Service (FWS) did not list the sage-grouse, the sage-grouse still remains under State management authority.

The BLM and Forest Service manage lands under their federal jurisdiction. In Nevada, approximately 87% of Nevada is public lands. Since neither the BLM nor the Forest Service conduct predator management both recognize APHIS-WS's authority to conduct wildlife damage management activities on the public lands they administer. These agreements have been formalized with national MOUs with both the BLM and Forest Service. The NWSP holds coordination meetings with the BLM and Forest Service annually.

The 2014 Nevada Sage-grouse Conservation Plan identifies predation as the third most important threat to sage-grouse with the common raven identified as the most proficient nest predator. Research shows that with high raven densities (17 ravens/10km) sage-grouse nest success goes to zero. Removing ravens near sage-grouse leks during nesting has shown to increase nest success. The raven is followed by the coyote and badger as the most efficient nest predators.



United States Department of Agriculture
Animal and Plant Health Inspection Service
Safeguarding American Agriculture

The common raven is a migratory bird protected by the Migratory Bird Treaty Act which is administered and enforced by the FWS. In order to legally kill a raven, one must have a permit to do so and for Nevada that permit would be issued by the FWS permitting office in Sacramento. To protect sage-grouse, NDOW maintains a permit from the FWS to take 2,500 ravens. NDOW requests and pays for the NWSP to conduct the raven removal. The relationship with NDOW and the NWSP is also formalized in an MOU.

The NWSP maintains another state-wide permit to remove ravens damaging livestock (mostly by pecking the eyes and orifices of newborn calves and lambs). The NWSP permit is for 1,500 ravens but the number of ravens removed fluctuates with the number of calls for assistance. Sometimes more, sometimes less. The NDOW permit is maxed out every year. Some power or utility companies and landfills also have permits to remove ravens causing damage. Again, since the NWSP has the expertise and infrastructure to do this protection work, most of these entities rely on the NWSP to conduct the removal activities. The total number of ravens removed annually in Nevada usually does not exceed 5,000 birds (less than 3% of the state-wide raven population).

So here are some bullet points to sum up where we are today:

- The BLM and Forest Service manage the land; however, they do not conduct or pay for any predator management to protect sage-grouse.
- The FWS manages the common raven but they do not conduct or pay for any predator management to protect sage-grouse.
- NDOW uses sportsman's fees and spends approximately \$50,000 annually to remove 2,500 ravens statewide to protect the sage-grouse (the FWS does not allow NDOW Pitman-Robertson matching funds to conduct lethal raven control).
- APHIS-WS's mission in Nevada is to protect agriculture and Congress has not allocated funds to APHIS to protect natural resources such as the sage-grouse.
- No federal funds or State general funds are available to the NWSP for predator management to protect sage-grouse.
- In 2015, the common raven population was estimated at 190,000 ravens. That is a 73% increase from our 2011 estimate of 110,000 ravens.

I hope I have answered some of your questions regarding sage-grouse protection efforts in Nevada. This is a very complicated problem with multiple agencies with various missions and authorities. If I have misrepresented any of my partners in State or federal government I apologize in advance. If you need any additional information please contact me. If you would like to sit down and discuss please contact me anytime.

Regards,



Mark Jensen,
State Director
USDA-APHIS-Wildlife Services, Nevada