

NEVADA ASSOCIATION OF COUNTIES (NACO)

Board of Directors' Meeting
January 19th, 2018, 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 and Pledge of Allegiance

1. Public Comment. Please Limit Comments to 3 Minutes.
2. Approval of Agenda. **For Possible Action.**
3. Investiture of the 2018 NACO Officers.
4. NACO President's Report.
5. NACO Executive Director's Report.
6. Approval of Minutes of the December 15th, 2017 NACO Board of Directors Meeting. **For Possible Action.**
7. Approval of NACO's 2018 Associate Members. **For Possible Action.**
8. Approval of the Appointment of NACO Executive Director Dagny Stapleton to the University of Nevada Cooperative Extension Advisory Council. **For Possible Action.**
9. Approval of NACO Resolution 18-01 Recognizing January as National Radon Action Month. **For Possible Action.**
10. Discussion and Presentation Regarding the Opioid Epidemic in Nevada and Options for Counties to Engage in Legal Action Against Opioid Manufacturers, Robert Eglet, Partner, Eglet Prince; Erin Dickinson, Partner, Crueger Dickinson. **For Possible Action.**
11. Presentation from the Nevada Association of County Human Services Administrators, *County Human Services 101*, Edrie LaVoie, Lyon County Human Services Director.
12. Update and Discussion on NACO and NACO Members' Participation in the National Association of Counties 2018 Legislative Conference in Washington D.C., including Meetings and Events Held During the Conference. **For Possible Action.**
13. Discussion Regarding the Ongoing Development of Policies and Programs Governing the use of Drones (Unmanned Aerial Systems), Including the Federal Unmanned Aerial Systems Integration Pilot Program. **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 Items #14 (b) and (d) below:

14. Update and Possible Action Regarding Public Lands and Natural Resources Issues Including:

- a. NACO's Engagement in the Bureau of Land Management's and U.S. Forest Service's Greater Sage Grouse Resource Management Plan Amendments.
 - b. The Ongoing Lawsuit Filed by the State of Nevada and Nine Nevada Counties Regarding the BLM's and U.S. Forest Service's Greater Sage Grouse Resource Management Plans.
 - c. Release of the Draft Environmental Impact Statement for the Nevada Test and Training Range Military Land Withdrawal at Nellis Air Force Base.
 - d. The Center for Biological Diversity's Lawsuit against the U.S. Fish and Wildlife Service Seeking to Vacate their Decision not to List the Bi-State Sage Grouse as an Endangered Species and NACO's Motion to Intervene on behalf of the Service.
15. NACO Committee of the Emeritus Update.
16. National Association of Counties and Western Interstate Region Board Member Updates.
17. NACO Board Member Updates.
18. 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
Elko County Manager's Office 540 Court Street #101, Elko NV 89801
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 15th, 2017, 9:30 a.m.

UNADOPTED MINUTES

ATTENDANCE: President Phillips, Vice President Waits, Mineral County Commissioner Tipton, Elko County Commissioner Dahl, Washoe County Commissioner Herman, Lincoln County Commissioner Higbee, Lyon County Commissioner Alt, Humboldt County Commissioner French, Storey County Commissioner McGuffey, Esmeralda County Commissioner Bates, Elko County Commissioner Steninger, Churchill County Commissioner Olsen and NACO Staff: (Dagny Stapleton, Amanda Evans and Tori Sundheim)

REMOTE ATTENDANCE: President Elect Weekly, Clark County Commissioner Kirkpatrick and White Pine County Commissioner Perea

OTHER ATTENDANCE: Christopher Robinson, DETR; Dr. Ivory Lyles, University of Nevada Cooperative Extension and Lee Bonner, NDOT

The meeting was called to order by President Phillips at 9:31am.

1. **Public Comment.** None was given.
2. **Approval of Agenda.** The agenda was approved on a motion by Commissioner Tipton with second by Commissioner Bates.
3. **NACO President's Report.** President Phillips thanked President Elect Weekly for conducting the November meeting in his absence.
4. **NACO Executive Director's Report.** Dagny informed the Board that the Commission on Aging is looking for a county representative and that any Commissioners interested in serving should apply for appointment directly; additional information was included in the meeting materials. She welcomed Elko County Commissioner Steninger to the Board and noted that Commissioner Dahl will still serve on the Board as a WIR Representative as outlined in the By-Laws. She reminded the Board that the counties that have NACO Officers and representatives on the NACo and WIR Boards have an automatic appointment to the NACO Board and so they could also have an additional commissioner from their counties serve on NACO. Dagny informed the Board that the NACo Legislative Conference will take place at the beginning of March in Washington D.C. She informed the Board that staff is following the interim legislative committees and the development and adoption of the regulations associated with bills approved during the 2017 session. Staff is currently working to review and weigh in on regulations associated with the implementation of recreational marijuana and renewable energy tax abatements. Amanda informed the Board of issues associated with the "end of life" status of the NACO office's current telephone system and explained that a new system has been purchased and should be functional in January. In the meantime she asked the Board to contact staff via email or cell.
5. **Approval of Minutes of the November 17, 2017 NACO Board of Directors Meeting.** The minutes were approved on a motion by Commissioner Tipton with second by Commissioner Bates.
6. **Discussion and Approval of NACO's 2018 Budget.** Dagny reminded the Board that the draft budget was presented and discussed at the November Board meeting. She provided an answer to the question posed by Commissioner Thaler at that meeting, that any bonus pay approved would not accrue retirement benefits. The budget was approved on a motion by Commissioner Tipton with second by Commissioner French.

7. **Introduction and Update from the Director of the University of Nevada Cooperative Extension, and CABNR Associate Dean for Engagement, Ivory Lyles.** Dr. Lyles distributed Cooperative Extension's Annual Report to the Board and asked that the Board call him at any time with any questions. Dr. Lyles spoke about his background and career prior to coming to Nevada. He stated that one of his top priorities is to enhance and improve communications with NACO and the individual counties and Commissioners. He informed the Board that within the next three months the Cooperative Extension Advisory Council and that Commissioner Kirkpatrick and Dagny have already been asked to serve on the Council. He informed the Board that he had met with President Johnson regarding the proposed budget enhancement and the 2019 legislative process and noted that the President asked him to relay that he intends to deliver on this promise to budget an increase in funding for Extension. He said that that proposed enhancement will go before the Board of Regents at their April meeting for approval. He also spoke about Extension programming and the institution of a small business development program in southern Nevada; he said that MOUs had already been signed with the program partners. Commissioner Kirkpatrick inquired as to his ability to give both her and Commissioner Weekly the information on the program he had just spoken of and Dr. Lyles promised to reach out immediately. Commissioner French noted that during the interview process Dr. Lyles had noted that he would be an advocate for the 4-H program and inquired as to what was being done to support the program in the rural communities. Dr. Lyles informed the Board that this was a priority for him and that he is in the process of reviewing the program. He said that staff has been instructed to provide two white papers regarding the program, one specific to individual county staff and one specific to the programs and structure of each county program. He said that his goals regarding 4-H are the reinstitution of individual county advisory committees, concentration on STEM programs and the enhancement of the camp facility to include a conference center. Commissioner Alt noted the need to educate on public lands issues and Commissioner Herman noted that while STEM programs are important to the urban areas it is vital to maintain agriculture programs in the 4-H and Extension programs. Commissioner Kirkpatrick stated the agriculture programs are just as important to Clark County as they are in the rural communities, specifically noting that existing programs in Clark County have implemented community gardens in 113 schools in cooperation with non-profit groups and that 4-H programs have helped educate kids about healthy eating and where their food comes from. President Elect Weekly thanked Commissioner Kirkpatrick for putting that information on the record and reiterated that Extension was another program that brought the urban and rural areas of the state together.
8. **Discussion Regarding the Opioid Epidemic in Nevada and Options for Counties to Engage in Legal Action Against Opioid Manufacturers.** Dagny informed the Board that the item had been placed on the agenda because of discussion regarding the potential for counties to file suits to recover damages for the costs associated with the opioid epidemic. She noted that NACo has been engaged in the issue and has a task force dedicated to the situation. Information included in the agenda packet described actions that counties across the country had taken and included a link to a Nevada database with county specific information on impacts from the epidemic. She noted that Nevada is one of the most affected states in terms of deaths from Opioids, and that in Lyon County in 2015, for example 1200 prescriptions had been written for every 1,000 citizens. She explained that she had been informed that law firms had been reaching out to some of the counties and that Clark County had recently voted to engage with a Nevada firm with experience in national class action suits to represent them in a lawsuit against the opioid manufacturers. Lawsuits like this are paid for on a contingency basis so that counties do not pay any legal fees for the representation. She went on to explain that the AG is working on this issue as well and is part of a group of over 40 state AG's that conducted an investigation into the actions of the pharmaceutical companies and have already entered into settlement talks. She shared that a group from NACO had a meeting with the AG's office to gather information about the State's efforts. The group learned that the damages the state is claiming are somewhat different than those that counties can show, and that the AG's intent is to share any settlement funds with counties; however, any funds received by the state would also have to go before the Legislature for disbursement. Commissioner Kirkpatrick noted that Clark County made the decision they did because they felt that the county needed the ability to plan ahead for long term local needs and have the ability to direct the funds received. Vice President Waits noted that a large focus of the NACO Legislative Conference will be on the epidemic. Commissioner French inquired as to other counties who had been approached by law firms and it was noted that Washoe and Elko Counties had been contacted. Commissioner Higbee inquired as to the need to sue vs. asking the pharmaceutical companies to assist in rectifying the problem. Commissioner Kirkpatrick informed the Board that the

legislature had begun working on the issue in 2013 but they received pushback from doctors and pharmacies. Commissioner McGuffey inquired as to if there is a number on non-problem usage. Commissioner Kirkpatrick noted that the focus has been and needs to be on problem usage and how prescriptions are written. Commissioner Olsen noted that there is evidence in Churchill County that 85-90% of the jail population is addicted to some form of substance and 2X as many women are jailed than 20 years ago. Commissioner French noted that he had attended the meeting with the AG's office and following the meeting he asked the 6th judicial drug court for the impacts to Humboldt County. He was told that 90% of those in the drug court system started with prescription Opioids or marijuana and then progressed to Heroin. He also noted that there are significant impacts to the cost of county services caused by the epidemic. Commissioner Tipton also noted that the Mineral County Sheriff has informed her that 50% of returning inmates have mental health issues and have addiction issues. Dagny informed the Board that some of the counties that have settled hadn't gone to court as the companies had come to the table to discuss settlement after the cases were filed. She also suggested that rural counties have their DA's take a look at the issue if there was interest. Staff was directed to inquire whether Clark County's firm would be willing to come speak to the Board and to bring additional information back to the Board at the next meeting. No action was taken beyond the direction to staff.

9. **Presentation from the Department of Employment, Training, and Rehabilitation on State Economic Data Available to Counties, Christopher Robison, Supervising Economist.**

Christopher Robinson gave the Board a high level overview on the data specific to and available to counties through the Department. Resources available include publications, presentations, trainings, online job ads and career resources as well all individual county profiles and projections. Mr. Robinson informed the Board that a business directory is being developed that will show businesses operating in the counties via several different factors and encouraged the Commissioners to reach out to the Department with any questions or to request publications or trainings. Commissioner French inquired about statistics regarding labor participation and Mr. Robinson noted that they are working in partnership with the Census Bureau on those numbers and why people are not participating in the labor market. He noted that those results would be based on survey results and the answers given by participants.

10. **Presentation and Discussion on the Coalition Against Bigger Trucks Initiative, Pam Mann.** Ms. Mann gave a presentation on the Coalition's request for support to limit the size of semi-truck and trailer combinations on federal highways. Her presentation included information on crash statistics, bridge stress, pavement damage, and service violations. She requested the Association support the initiative. Paul Enos of the Nevada Trucking Association noted that Nevada law already exceeds the parameters set forth in the Coalition's proposal. He noted that dynamics are different for small carriers vs. those that affect national highways. He requested that the Association take no action on the item. Commissioner Dahl asked how Nevada compared to Arizona and Mr. Enos stated that Arizona does not have longer combination vehicles other than a small stretch of I-15 between Nevada and Utah that required Congressional action in 2016 to allow the combination vehicles. Commissioner Olsen noted that requiring smaller trucks will drive costs up for small producers and result in higher consumer prices. He also noted that the drivers in the larger vehicles with multiple trailers are veteran drivers. Commissioner French took issue with the mandatory language of the federal proposal, and Ms. Mann noted that all state DOT's have the ability to allow larger truck/trailer combinations as needed and reiterated effects on local roads. The Board voted to take no action on a motion by Commissioner Alt with second by Commissioner Herman.

11. **Update and Possible Action Regarding Public Lands and Natural Resources Issues Including:**

- a. **NACO's Engagement in the Bureau of Land Management's and U.S. Forest Service's Greater Sage Grouse Resource Management Plan Amendments.** Tori informed the Board that BLM Scoping Comments had been submitted on the 1st and that she is collecting comments submitted by others. She noted that the Forest Service is on a different schedule and the those Scoping Comments will be submitted on January 5th. She informed the Board that she will be adjusting the comments submitted to the BLM to the requirements and of the Forest Service. She requested the Commissioners to contact her with any questions or additional information on the comments and/or how participation would look going forward in the process.

- b. **The Ongoing Lawsuit Filed by the State of Nevada and Nine Nevada Counties Regarding the BLM's and U.S. Forest Service's Greater Sage Grouse Resource Management Plans.** Tori informed the Board that there are upcoming meetings on the issue and additional information would be provided at a future meeting.
 - c. **Comments on the U.S. Fish and Wildlife Service's Proposed Mitigation Policy Revisions.** Tori noted that the Service has been ordered to rewrite their policies finalized in 2016 by Executive Order and that Comments had been submitted at that time. She referenced the submitted comments included in the agenda back up, noting that she would be conducting a review of the order and the comments prior to the Jan 5th submission date and she was instructed to submit the comments as written, or have any changes reviewed by the Public Lands Committee prior to submission, on a motion by Commissioner Tipton with second by Commissioner French.
 - d. **Cooperating Agency Status for the U.S. Forest Service's Upcoming Noxious Weed Management Plan.** Commissioner Tipton informed the Board that the Public Lands Committee recommends that each county have their own Cooperating Agency Status and name the Association and Tori as a point of contact. Staff was also directed to apply for Cooperating Agency Status as an Association on a motion by Commissioner French with second by Commissioner Tipton.
 - e. **The Center for Biological Diversity's Lawsuit against the U.S. Fish and Wildlife Service Seeking to Vacate their Decision not to List the Bi-State Sage Grouse as an Endangered Species and NACO's Motion to Intervene on behalf of the Service.** Tori reminded the Board that the reply brief was submitted previously and informed them that a reply is expected the same day. She noted that the reply will be due February 6th and that the hearing will be on March 16th at 9:30am in San Francisco.
12. **National Association of Counties and Western Interstate Region Board Member Updates.** Commissioner Tipton informed the Board that she had attended the winter meeting in Texas the previous week and that she brought materials back for the group. She noted that the winter meeting is more of a housekeeping meeting and that a lot of workshops centered around President Brooks' initiative on childhood poverty. She also noted that she attended the WGA meeting in Arizona. Commissioner Dahl reiterated the report he had previously given on the last WIR meeting and that fire will still be the number one issue of the WIR Board for the year.
13. **NACO Board Member Updates.** Updates were given by members of the Board.
14. **Public Comment.** None was given.

The meeting was adjourned at 1:55pm

The following links and/or pages are support for agenda
Item 7

2018 NACO Proposed Associate Membership Roster

Existing Member Renewals

A&H Insurance
Harris Corporation
BEC Environmental
Western Insurance Specialties
Stradling, Yocca, Carlson & Rauth
LP Insurance
Hobbs Ong & Associates
Pershing Gold
Voya
Lumos & Associates
NV Energy
POOL/PACT
Willis Towers Watson
Sherman & Howard LLC
AT&T
Nevada Mining Association
Q&D Construction
Bank of America/Merrill Lynch
Charter – Spectrum
RTC Washoe

New Member Applications

Devnet
WiFi in the Park
Newmont Mining Corp.
Switch

The following links and/or pages are support for agenda
Item 9

Nevada Association of Counties (NACO)

Resolution 18-01

Resolution in Support of National Radon Action Month

WHEREAS, many Nevada residents don't know about radon, yet need to know, for the safety and health of their families, as radon is a colorless, odorless, naturally occurring radioactive gas that is the primary cause of lung cancer among nonsmokers; the second leading cause of lung cancer in smokers and

WHEREAS, the U.S. EPA estimates 21,000 people in the U.S. die each year from lung cancer caused by indoor radon exposure, and lung and bronchus cancer kill more people in a year than any other cancer; and

WHEREAS, radon kills more people than secondhand smoke, drunk driving, choking, drowning or home fires; and

WHEREAS, any home in Nevada may have elevated levels of radon, even if neighboring homes do not, and living in a home with an average radon level of 4 picocuries per liter of air poses a similar risk of developing lung cancer as smoking half a pack of cigarettes a day; and

WHEREAS, testing is the only way to know if a home has an elevated radon level, and testing is easy and inexpensive, and when identified, homes can be fixed; and

WHEREAS, University of Nevada Cooperative Extension, the Nevada Division of Public and Behavioral Health, and the U.S. Environmental Protection Agency support efforts to encourage all Nevada residents to test their homes for radon, mitigate elevated levels of radon, and have new homes built with radon-reducing materials and features.

NOW, THEREFORE, we, the Nevada Association of Counties, do hereby proclaim January 2018, as “**NATIONAL RADON ACTION MONTH**” **In all Nevada counties**

PASSED, APPROVED AND ADOPTED this 19th day of January, 2018 by the Board of Directors of the Nevada Association of Counties.

Attests:

/ _____
Lawrence Weekly
President

/ _____
Dagny Stapleton
Executive Director

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

<https://opioid.snhd.org>

<http://www.nvnaco.org/wp-content/uploads/14ClarkOpioidComplaint.pdf>

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

<http://www.naco.org/articles/drones-latest-technology-county-radar>

<http://www.naco.org/articles/court-ruling-drones-signals-turbulence-local-rules>

<http://www.naco.org/blog/new-presidential-directive-announces-pilot-project-local-government-role-drone-integration>

The following links and/or pages are support for agenda
Item 14a



Nevada Association of Counties

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January 5, 2018

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RE: Scoping Comments on Notice of Intent to Amend Land Use Plans Regarding Greater Sage-Grouse Conservation and Prepare Associated Environmental Impact Statements or Environmental Assessments. 82 Fed. Reg. 55346 (Nov. 21, 2017).

Dear Mr. Shivik,

As the state association for all 17 of Nevada's counties, the Nevada Association of Counties ("NACO") greatly appreciates the opportunity to provide scoping comments for the U.S. Forest Service's Notice of Intent to Amend Land Management Plans for Greater Sage-Grouse Conservation 82 Fed. Reg. 55346 (Nov. 21, 2017)¹. This scoping letter is timely submitted, within the 45-day scoping period beginning on November 21, 2017 and ending January 5, 2018.

¹ This letter also applies to the Bureau of Land Management's parallel efforts, published at 82 Fed. Reg. 47248 (Oct. 11, 2017).

A plan amendment is required for the State of Nevada. The Court Order described in the Notice of Intent is a result of a lawsuit filed by nine of NACO's member counties, Humboldt, Eureka, Elko, White Pine, Lincoln, Washoe, Pershing, Churchill, and Lander Counties.² The Court Order requires that the USFS prepare a Plan Amendment for sage-grouse plans in Nevada.³

In addition to the issues outlined by Court Order, Nevada Counties request that, due to new information and circumstances, the USFS also include the additional issues outlined below in the plan amendment. A Supplemental EIS, or plan amendment, must be prepared by an agency when "(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."⁴ 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."⁵ This "rule of reason" is applied the same way the decision whether to create an EIS is applied.⁶ Significant new information has been discovered and circumstances have been identified since the final Record of Decision was signed in September 2015.

State-specific plan amendments are imperative to achieve the goal of sage-grouse conservation, as each state's geography, governmental capacity, and wildlife management plans and programs are different. The 2011 Fish and Wildlife Service Settlement Agreements resulted in an accelerated listing schedule for the greater sage-grouse, which resulted in an equally accelerated land use plan decision-making process that does not incorporate local stakeholder input.

NACO engaged throughout the Greater Sage-Grouse Plan Amendment Process finalized in 2015 at 80 Fed. Reg. 57633 (Sept. 24, 2015), and the recently cancelled Sagebrush Focal Area Mineral Withdrawal at 82 Fed. Reg. 47248 (Oct. 11, 2017). The information provided by NACO and its member counties during those NEPA processes are hereby incorporated by reference.

Issues to be Addressed

NACO has identified the following issues that should be addressed in the SEIS through this plan amendment process:

1. Sagebrush Focal Area removal or adjustment.

² 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. This engagement does not waive any of the rights of NACO's nine member counties in the ongoing litigation *W. Expl., LLC v. United States DOI*, 250 F. Supp. 3d 718 (D. Nev. 2017).

³ The Notice of Intent states that the Sagebrush Focal Areas (SFAs) are the only reason an SEIS was needed. However, the Court granted standing to Eureka County, determining that non-SFA mapping over the town of Eureka created a harm to the county. This means that all of the mapping is included in the Court Order, not just SFAs.

⁴ 23 C.F.R. § 771.130(a)

⁵ *Marsh v. Or. Nat. Res. Council*, 490 U.S. 360, 363 (1989).

⁶ *Id.* at 373-74.



2. Address Habitat Objectives to reflect reality and true ecological potential (based on Ecological Site Descriptions and associated State and Transition Models).
3. Eliminate the net conservation gain requirement because net conservation gain is premised on the previous administration's landscape-scale land use planning and mitigation policies, which the Trump administration has revoked, and implement site-specific mitigation requirements based on site-specific data on habitat conditions.
4. Address erroneous and inflexible use of landscape-scale mapping, require improved site-specific habitat mapping, and base management actions on field-verified habitat data. Consider eliminating the landscape-scale maps and instead require site-specific, field-verified habitat data for project level decision-making and any mitigation requirements.
5. Include an actual socioeconomic analysis of proposed restrictions and management actions to be adopted – which was missing from the last land use plan amendment EIS, despite the fact that NACO and its member counties provided extensive socioeconomic information during the NEPA process. The SEIS should include the socioeconomic information prepared for the proposed Sagebrush Focal Areas ("SFAs") mineral withdrawal.
6. Address the need for a consistent mitigation framework.
7. Develop clear adaptive management processes that work and provide flexibility for all land uses if they are creating the proper results on the ground (results based management).
8. Provide interim relief through policy guidance wherever appropriate.

It is essential that the SEIS evaluate the specific habitat and socioeconomic conditions in the Nevada/Northeastern California planning area, which differ from other planning areas and other states.

Examples of Impacts to Counties from the Current Land Use Plan

This section is meant to illustrate many of the harms counties in Nevada are experiencing as a result of the current land use plan to help frame the purpose and need. Nevada counties that contain greater sage-grouse habitat are directly impacted by the current sage-grouse plans. Counties on the periphery are impacted indirectly or could be subject to management actions in the future should conditions change.

Public lands are inextricably tied to the economy and culture in Nevada—and the National Forest Management Act and the National Environmental Policy Act both acknowledge this fact and require that the USFS work closely with state and local governments to ensure consistent planning and avoid wasteful governance. In interpreting these two key laws, the Ninth Circuit has held that a county has a proprietary interest in its ability to enforce land-use regulations, revenue collection and taxation, and in protecting natural resources from harm.⁷ So too, did Secretarial Order 3353 recognize these important responsibilities. The Court in the Nevada sage-grouse litigation

⁷ See *City of Sausalito v. O'Neill*, 386 F.3d 1186, 1198 (9th Cir. 2004) (citing *Scotts Valley Band of Pomo Indians of Sugar Bowl Rancheria v. United States*, 921 F.2d 924, 928 (9th Cir. 1990) (land-use); *Colorado River Indian Tribes v. Town of Parker*, 776 F.2d 846, 848-49 (9th Cir. 1985) (revenue collection and taxation); *Fireman's Fund Ins. Co. v. City of Lodi*, 302 F.3d 928, 944 (9th Cir. 2002) (natural resources). *W. Expl., LLC v. United States DOI*, 250 F. Supp. 3d 718, 732 (D. Nev. 2017).



recognized the harm of the land use plan amendments to the counties' land use planning, road maintenance and environmental plan implementation.⁸

The current land use plans are not coordinated with adopted state and local government plans, policies, and efforts, and do not incorporate local stakeholder input. This concern was expressed unanimously by the State and local governments across Nevada [throughout and following the land use planning process]. NACO requests that the USFS strive for coordination and consistency with the plans adopted by Nevada's counties in the SEIS and plan amendment, as required under NFMA,⁹ adequately explain inconsistencies among the plans as required under NEPA,¹⁰ and explain the extent to which it will reconcile its proposed action with county plans.¹¹ The USFS failed to complete the analysis necessary to implement State and local plans, policies, and proposals for conservation of USFS in Nevada. The USFS analysis failed to determine that our State and local plans, policies, and proposals would not benefit and conserve GSG and habitat in Nevada. Consistency review and local stakeholder engagement is crucial if the USFS is to produce a final product that balances national and local needs and effectively protects sage grouse habitat.

Improper Mapping: Community Development and Land Tenure

Improper mapping and inflexibility has already caused undue interference with community development and removal of lands identified for disposal by designating towns, homes, roads, landfills, and structures as high value habitat.¹² The following examples of improper mapping were immediately apparent, even though they do not all apply to USFS land:

⁸ *W. Expl., LLC v. United States DOI*, 250 F. Supp. 3d 718, 732 (D. Nev. 2017).

⁹ 16 U.S.C.S. § 1604 requires the Secretary to develop a federal plan that is coordinated with the land and resource management planning processes of State and local governments..."

¹⁰ NEPA regulations highlight in 40 CFR 1502.16 that the environmental consequences section of any EIS "shall include discussions of: (c) Possible conflicts between the proposed action and the objectives of Federal, regional, State, and local (and in the case of a reservation, Indian tribe) land use plans, policies and controls for the area concerned. (See §1506.2(d))."

¹¹ 40 CFR 1506.2 states that "(c) Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and comparable State and local requirements, unless the agencies are specifically barred from doing so by some other law...(d) To better integrate environmental impact statements into State or local planning processes, statements shall discuss any inconsistency of a proposed action with any approved State or local plan and laws (whether or not federally sanctioned). Where an inconsistency exists, the statement should describe the extent to which the agency would reconcile its proposed action with the plan or law."

¹² "...the Plan Amendments incorrectly designated the town of Eureka, US Highway 50, State Route 278, County landfill, power lines, multiple subdivisions of homes, farms with alfalfa field and irrigations systems, and hay barns, as PHMA. (*Id.*) Because there are explicit land use restrictions for PHMA, the effect of having a town and other landmarks designated as PHMA obviously will affect county land use and planning....The Court finds the evidence offered through Mr. Goicoechea's declarations sufficient to demonstrate that the Plan Amendments have injured the County's proprietary interests in maintaining its roads and utility programs, as well as protecting the local environment." *W. Expl., LLC v. United States DOI*, 250 F. Supp. 3d 718, 735 (D. Nev. 2017)



- The Washoe County School District had evaluated eighty acres of public lands for a future middle school site adjacent to a large residential community. The final map classified this land as PHMA or sage-grouse habitat.
- Humboldt County's current landfill footprint will require expansion to meet growth predictions within the next 10-15 years. The landfill and county shooting gallery is entirely surrounded by federal lands, which have been marked as PHMA in the final habitat map.
- In White Pine County, a 30-by-100 foot site was needed by the Baker Water District to replace a leaking water tank which provides drinking water to its residents. The final map classified this land as PHMA or sage-grouse habitat.
- In Eureka County, the Town of Eureka was classified as PHMA habitat.
- Areas identified for disposal to implement Congressional Acts have been removed from Land Tenure Maps.
- Improper habitat delineations in the Plan Amendments have compromised county water plans that are in advanced stages for Diamond Valley, where two-thirds of the County's residents reside.

Many of these examples had simply been improperly mapped as habitat and could be easily corrected, especially if local land use planning and needs are taken into account. Most of these conflicts remain and there are many yet to surface, including those outlined by individual county scoping comments. Rather than adopting one erroneous landscape-scale map that requires an amendment to substantially modify, NACO requests that the USFS consider not adopting any such restrictive map or perhaps, if some map is deemed necessary, using habitat zones in a manner similar to that which it has done to protect other species – with absolute clarity that such maps shall be subject to ground truthing and site-specific data relative to decision-making. This alternative has allowed the USFS to utilize ground-truthing for increased mapping and zoning flexibility, rather than try to apply a one-size-fits-all mapping approach to a highly dynamic biological and physical system. The USFS should reconsider this approach – especially in light of the decision to repeal President Obama's November 3, 2015 Presidential Memorandum, "Mitigating Impacts on Natural Resources from Development and Encouraging Related Private Investment," including its landscape-scale land use planning policies. The requirement to use site-specific habitat data rather than the landscape scale maps in making land use decisions should be considered in both interim guidance and in the SEIS/plan amendment.

Even if these examples are within de-facto sage-grouse habitat, it is our position that the USFS should have the flexibility to make some tradeoffs—especially where critical county functions are involved. In a state like Nevada, where 85 percent of the lands are public, a "net gain" as applied to land disposals is unworkable.¹³ Nevada's State and private lands are mostly small and dispersed—when more land is needed it is because there is nowhere else to grow.

¹³ For example, the Court illustrates "Under the BLM Plan, a 3 percent human disturbance cap immediately applies to lands classified as PHMA. (NV 90678 — NV 90679.) Thus, the USFS Plan essentially requires Washoe to go through



The land use plans also remove from tenure land identified as necessary to carry out established community growth plans and Congressional Land Acts. For example, the Bureau of Land Management's land tenure maps show as off limits those lands that were mutually identified over several years as the best lands available to carry out Land Acts like the Lincoln County (Lincoln County Conservation, Recreation and Development Act) and White Pine County Land Acts (White Pine County Conservation, Recreation, and Development Act). This creates internal confusion and undermines years of negotiation and relationship-building with the Forest Service and BLM.

Travel Restrictions

The Injuries to NACO's member counties and their residents as a result of the travel restrictions include: (1) ranches, hunters, recreationists, and exploration geologists will be prohibited from road-access to county lands and cross-country travel; (2) the seasonal and daily travel restrictions as well as proposed road closures may impede or even eliminate access to adjacent private land sections and deprive landowners of access to their private property; and (3) road closures interfere with the County's obligation to maintain their roads and provide for public safety.

Following the litigation, travel restrictions in the land use plan remain problematic because there are conflicts with existing county roads that do not have an underlying USFS authorization. The USFS must consider these issues and properly analyze proposed restrictions to avoid creating adverse impacts. Valid existing rights cannot be impacted under the express provisions of the ROD but questions arise around un-adjudicated ROWs (RS 2477).

Further, the inflexibility of timing restrictions on use of roads within a certain distance of leks or habitat creates unnecessary harms (especially combined with the erroneous mapping). There are not even options for net conservation gain/mitigation in the land use plan for timing restrictions. The inability to access materials needed for road repairs during this time will leave damage to washouts, drainage crossing, culverts and cattleguards, making the roads unsafe as the roads in the area are heavily traveled and the counties often need gravel material during the prohibited months. The travel restrictions also limit the counties' ability to access weed-infested roads in the springtime for their noxious and invasive weed treatment programs.

Wildfire

The three primary threats to the sage-grouse as identified in the Service's 2010 findings are "the widespread present and potential impacts of wildfire, the loss of native habitat to invasive species, and conifer encroachment." Yet the existing Plan's Habitat Objectives (Table 1. Seasonal

the additional burden of showing that the disposal of the lands that the County seeks would provide a net conservation gain to the sage-grouse or that disposal of the lands would not have any direct or indirect adverse impact on conservation of the sage-grouse. (*See NV 90707*).¹⁷ *W. Expl., LLC v. United States DOI*, 250 F. Supp. 3d 718, 737 (D. Nev. 2017)



Habitat Desired Conditions for Greater Sage-grouse at the Landscape Scale) have created a perverse incentive that has increased, rather than reduced, the occurrence of wildfire and invasive species because it allows for fuel loading and continual spread of invasive species. The changes that reduced livestock grazing and other multiple uses on federally-managed public lands that have led to habitat decadence and overgrowth ultimately leading to catastrophic wildland fires that have destroyed millions of acres of wildlife and wildlife habitat including the greater sage-grouse and its habitat.

In 2017, 933,751 greater sage-grouse habitat acres were burned in Nevada. (See Sagebrush Ecosystem Council Meeting September 14, 2017; acreage as of September 8, 2017).¹⁴ The concern that this would occur was expressed several times by counties and livestock operators but were ignored during the public comment period of both the USFS and BLM's 2015 sage-grouse plans. This was discussed in great detail during sage-grouse litigation hearings. Other tools that have proven useful for fire management have also been restricted, including prescribed fire and targeted grazing.¹⁵

The current land use plan fails to recognize that managed livestock grazing represents an important and cost-effective tool to achieve desired habitat conditions and to reduce wildfires. The livestock grazing restrictions in the land use plan have caused environmental harm in Nevada (and a nuisance and trespass) because they have increased the volume of highly flammable non-native invasive annual grasses and led to more wildfires. The increased fuels that result from the economically burdensome and technically ill-advised livestock grazing restrictions in the current land use plan place a burden upon county fire districts and result in destruction of critical GSG habitat.

Wild Horse and Burros

The one species on federal land that State and local governments do not manage is Wild Horses and Burros, or "Free-Roaming Equids" as discussed in the Fish and Wildlife Service's 2013 "Greater Sage-Grouse (*Centrocercus urophasianus*) Conservation Objectives Final Report" (COT Report).¹⁶ The failure to adequately address free-roaming equids was identified by the FWS as a high threat to the sage-grouse across every population unit in the Great Basin Region in Nevada. According to the COT Report, this threat is more widespread than mining, energy, or urbanization.¹⁷ The failure to address the overpopulation of wild horses and burros has caused irreparable damage to the range, sage-grouse habitat, and damage to counties' ability to protect natural resources from harm.

Grazing Restrictions

¹⁴ 716,455 Bureau of Land Management acres; 22,990 Bureau of Indian Affairs acres; 3,831 Forest Service Acres; 190,157 Private Land acres; 319 Other Federal Land acres.

¹⁵ USFS ROD GRSG-FM-ST-042 at 83.

¹⁶ "Greater Sage-Grouse (*Centrocercus urophasianus*) Conservation Objectives Final Report," U.S. Fish and Wildlife Service (February 2013), (COT Report).

¹⁷ COT Report at 16 (Table 2. Sage-grouse quasi-extinction risk (from Garton et al. 2011), and threats, by management zone and population.



Under current sage-grouse plans, the USFS has moved forward with allotment reductions without first reducing horse and burro populations to AML and without working with livestock operators to use grazing as a tool to improve sage-grouse habitat and reduce wildfires. To move forward with allotment reductions without first assessing other key threats within the USFS's control constitutes a significant harm to counties' local economies and community culture.

Avian Predation

Likewise, NACO requests that the USFS adequately consider information it has submitted regarding nest and youngling greater sage-grouse predation as a significant cause to loss of populations in the west and the need for management practices to reduce predation. NACO's member counties have submitted substantial information and data to the USFS from researchers who consider predation to be the primary limiting factor for the GSG populations, with avian predators cited as the primary predators in Nevada.

New scientific information

New science and information has become available and new issues have been identified since the BLM and USFS RODs were signed in 2015, especially with respect to socioeconomic impacts, impacts to county infrastructure, planning and conservation efforts, mining impacts to greater sage-grouse habitat, grazing guidelines, wildfire management tools, sage-grouse life-cycle and habitat needs, wild horse and burro population impacts, and new developments in the State Plan, among others.

Mineral Potential Report and Mining Impacts

NACO's scoping comments for the Sagebrush Focal Area EIS discusses in detail the various reasons why the science does not support the SFA boundaries.

During the EIS process, USGS developed a significant new Mineral Potential Report that should be used in determining the extent of potential impacts to sage-grouse.¹⁸ Significantly, the Report showed that in Nevada, the reasonably foreseeable mineral development amounts to only 3,326 acres of disturbance compared to the 2,766,939 acres of SFA boundaries in Nevada. These numbers reflected an even lesser impact to the sage-grouse than what the U.S. Fish and Wildlife anticipated when it stated in its October 2, 2015 decision, "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."¹⁹ Significantly, the Agency could not calculate the impact to the sage-grouse, and the Service's

¹⁸ Day, W.C., Frost, T.P., Hammarstrom, J.M., and Zientek, M.L., eds., 2016, Mineral Resources of the Sagebrush Focal Areas of Idaho, Montana, Nevada, Oregon, Utah, and Wyoming: U.S. Geological Survey Scientific Investigations Report 2016-5089, <http://dx.doi.org/10.3133/sir20165089>.

¹⁹ 80 Fed. Reg. 59858 (Oct. 2, 2015).



threats analysis from its COT Report, reflected in Table 1-2 in the BLM ROD, shows that mining poses only localized threats in four of the six Population Units found in Nevada.

Socioeconomic Data

The USFS has yet to produce any quantitative analysis outside of the mineral withdrawal process. This means there is no current data that analyzes over 20.4 million acres worth of restrictions in Nevada. The socioeconomic devastation to local economies in the land use plan includes excessive regulation and restrictions including but not limited to; nesting and lek buffers as much as 11.2 miles, seasonal restrictions and land use withdrawals that will serve severe negative impacts to local and regional cultures and economies. These actions alone will restrict or terminate natural resource uses such as utility transportation, livestock operations, mineral extraction, wind energy, oil and gas development and solar energy additionally serving negative impacts to exploration and recreational uses. The USFS must fully consider the severe socioeconomic impact of the SFA, PHMA, and GHMA designations in the faulty landscape-scale habitat maps in the EIS and USFS ROD — information which has been provided to the USFS on numerous occasions²⁰ — rather than claim that the impact could not be quantified.

Significant new socioeconomic data was produced as a result of the SFA Withdrawal process. The SFA Withdrawal alone, which covers only a piece, 2,767,552 acres, of the sage-grouse restrictions from the 2015 land use plan amendments, would eliminate *at a minimum* 1,705 jobs and \$694 million dollars of annual tax revenue in Nevada alone.²¹ Over a period of 20 years, the total economic impact to the State of Nevada is \$13.88 billion. Additionally, there would be \$117 million lost in annual labor earnings in Nevada, or a \$2.34 billion loss of labor earnings and the associated economic and tax benefits to the counties over a 20-year period.²² This lack of information prevents the USFS from making a truly informed decision about the tradeoffs involved given alternative management actions and is certain to harm counties into the foreseeable future.

The numbers articulated above may still grossly under-represent the economic impacts to Nevada exclusive to mining, as they did not include projected employment, lithium, corporate headquarters located in Washoe County, or the "substantial amounts of tax revenue from sales, use, and property tax" to the counties and the State.²³ The DEIS also did not address the fact the demand for the withdrawn minerals or for Lithium is projected to increase.

²⁰ For example, grazing restrictions will result in an annual loss to Elko County of \$31 million of agricultural productivity and the wind energy restrictions will cost the county over \$500 million. Livestock grazing restrictions will cost Eureka County \$7 to \$15 million annually.

²¹ \$845 million, 2,031 jobs under No Action Alternative less \$151 million, 326 jobs under the Proposed Action. SFA DEIS at xi.

²² SFA DEIS at xi, \$141 million under the No Action Alternative less \$24 million under the Proposed Action.

²³ SFA DEIS at 3-79, 4-43 "...does not capture 'forward linkages' that could result from the use of the commodities produced by those mines. In the case of the projected lithium mine in Humboldt County, the forward economic linkages in Nevada related to development of the projected mine could be substantial."



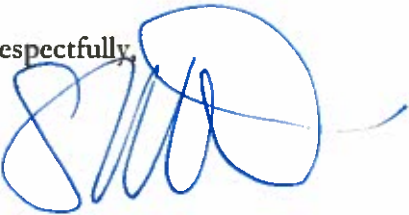
Scoping Comments
Greater Sage-Grouse Plan Amendments
January 5, 2017

NACO has requested and it is critically important that statewide socioeconomic data is collected and used for this plan amendment process.

Conclusion

Thank you for considering these important issues. If there is any additional information we can provide, or questions we can answer, please do not hesitate to contact myself, or Tori Sundheim, NACO's Public Lands and Natural Resources Coordinator, at Tsundheim@nvnaco.org.

Respectfully,



Dagny Stapleton
Executive Director

DS/ts

Cc:

Brian Sandoval, Governor

John Ruhs, Nevada State Director, Bureau of Land Management

Matt Magaletti, Sage-Grouse Project Lead, Bureau of Land Management

Nevada Sagebrush Ecosystem Council



The following links and/or pages are support for agenda
Item 14c



LAND WITHDRAWAL PROCESS AND LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT

Upcoming Public Hearings

A Draft Air Force Land Withdrawal Legislative Environmental Impact Statement (LEIS) has been prepared in accordance with the National Environmental Policy Act (NEPA) and its implementing regulations. The Draft LEIS analyzes the potential environmental consequences of the proposal to extend and potentially expand the existing military range withdrawal. Alternatives evaluated in the LEIS include proposed changes in jurisdiction and management of the NTTR and the potential expansion of withdrawn lands by up to 301,507 acres. The Draft LEIS is issued for a 90-day public and agency review and comment period. Comments on the Draft LEIS will be incorporated into the Final LEIS as required by the regulations implementing NEPA. These comments, in addition to the analysis and other factors, will be considered in the decision-making process regarding this project.

The Air Force will host a series of public hearings to allow members of the public to have an opportunity to provide formal comments on the Draft LEIS. The hearings also serve to provide the public and representatives of organizations that have a demonstrated interest in historic properties an opportunity to comment on the potential impacts of the proposed action as per the requirements of the National Historic Preservation Act. Each public hearing will have the following agenda:

5:30 PM to 6:15 PM	Open house and comment submission
6:15 PM to 7:00 PM	Air Force presentation
7:00 PM to 9:00 PM	Public hearing and oral comments

The hearings will be held at these dates and locations:

Wednesday, January 17, 2018

Caliente Elementary School
289 Lincoln Street
Caliente, Nevada 89008

Thursday, January 18, 2018

Pahrnagat Valley High School
151 S. Main Street
Alamo, Nevada 89001

Tuesday, January 23, 2018

Aliante Hotel
7300 Aliante Parkway
North Las Vegas, Nevada 89084

Wednesday, January 24, 2018

Beatty Community Center
100 A Avenue South
Beatty, Nevada 89003

Thursday, January 25, 2018

Tonopah Convention Center
301 Brougner Ave
Tonopah, Nevada 89049