

NEVADA ASSOCIATION OF COUNTIES (NACO)

Board of Director's Meeting and
Association Meeting

February 27, 2015 – 9:30 a.m.

NACO Office

304 S. Minnesota Street

Carson City, NV 89703

Some members may participate in the meeting via teleconference or videoconference.

NACO Board of Directors

AGENDA

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, Pledge of Allegiance

1. Public Comment. Please Limit Comments to 3 Minutes
2. Approval of Agenda. **For Possible Action.**
3. Approval of Minutes of the October 31, 2014, November 19, 2014, December 3, 2014 and, January 16, 2015 Meetings of the NACO Board of Directors. **For Possible Action.**
4. Acceptance of NACO's December 2014 Financial Statement and Investment Reports. **For Possible Action.**
5. President's Report.
6. Executive Director's Report.
7. Appointment of NACO's Fiscal Officer. **For Possible Action.**
8. Briefing on the National Association of Counties Legislative Conference in Washington D.C., February 21-25, 2015 including NACO's meetings with Nevada's Congressional Members and Staff and Federal Agency Officials.
9. Discussion and Possible Action regarding Joint Position Statements with the Nevada League of Cities and Municipalities. **For Possible Action.**
10. Presentations on Bills and Other Issues related to the 2015 Legislative Session by Members of the Nevada Legislature and the Executive Branch.
11. Discussion and Possible Action regarding Bills in the 2015 Legislative Session of Interest to Nevada's Counties and Other Actions regarding NACO's Participation in the Legislative Session. **For Possible Action.**

12. Discussion and Possible Action on Public Lands and Natural Resources Issues Including but Not Limited to:

- a. Update on the Complaint Filed by NACO and Others on December 30, 2013 Against the Department of Interior and Bureau of Land Management Seeking to Compel the BLM to Comply with the Provisions of the Wild Free-Roaming Horse and Burro Act. **For Possible Action.**
- b. Update on the Complaint Filed by NACO and Others on December 4, 2014 Against the U.S. Fish & Wildlife Service (USFWS) Seeking Declaratory and Injunctive Relief for Violations of the Endangered Species Act, the Administrative Procedure Act, and the United States Constitution for Entering into Private Settlement Agreements with Special Interest Litigants that Established Deadlines by which USFWS Must Make Listing Determinations for Certain Candidate Species, including the Greater Sage-Grouse (GSG) and Bi-State Distinct Population of the GSG. **For Possible Action.**
- c. Update and Possible Action regarding U.S. Fish and Wildlife Service's Listing Determination of the Greater Sage-Grouse and Proposed Plans for Protection of Greater Sage-Grouse Habitat in Nevada. **For Possible Action.**
- d. Discussion and Possible Action regarding Rangeland Management Issues in Nevada. **For Possible Action.**

13. Discussion regarding Centrally Assessed Property Taxes.

14. NACO Board Member Updates.

15. Public Comment - Please Limit Comments to 3 Minutes

Adjourn

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.

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 pages are support
Documentation for agenda
Item 3

NEVADA ASSOCIATION OF COUNTIES (NACO)

Board of Directors' Meeting

October 31, 2014, 9:30 a.m.

NACO Office

304 S. Minnesota Street

Carson City, NV 89703

UNADOPTED MINUTES

Attendance (NACO staff, Jeff Fontaine and Dagny Stapleton): President Pat Irwin, President Elect Lorinda Wichman, Vice President Vida Keller, Clark County Commissioner Tom Collins, Douglas County Commissioner Doug Johnson, Fiscal Officer Mike Rebaleati, Humboldt County Commissioner Jim French, Lyon County Commissioner Bob Hastings, Mineral County Commissioner Jerrie Tipton, White Pine County Commissioner Laurie Carson, Lander County Commissioner Pat Waits, Eureka County Commissioner Jim Ithurrealde, Washoe County Commissioner Bonnie Weber and Lincoln County Commissioner Ed Higbee, consisting of a Quorum.

1. **Public Comment.** Pat Waits noted her attendance at an Open Meeting Law Presentation given by the Attorney General's office where she was informed the Legislature has changed the rules allowing for response to public comment without specific discussion of the item or issue being commented on by a member of the public.
2. **Approval of Agenda.** The agenda was approved on a motion from Commissioner Tipton and second by Commissioner Carson with unanimous approval.
3. **NACO President's Report.** Was moved by President Irwin to the end of the agenda. The President of NACO appointed President Irwin to the SafeCom committee and discussed that there was never any 911 funds coming in because there was no single point of contact. He discussed the improvement of the infrastructure and the quick action that will be seen in the first part of the year. He discussed the imminent parade and invited the Board to come and watch the hot air balloons if they are able to fly and if not to tailgate and enjoy the parade.
4. **NACO Executive Director's Report.** Jeff apologized for the tardiness of the meeting packets due to Elise Monroy's leaving and the coordination of the Annual Conference. Jeff discussed the receipt of 11 or 12 applications for the Office Manager Position and contact being made with 5 candidates for interviews. Jeff noted the importance of taking the time to ensure finding the best qualified candidate and informed the Board hiring might not occur prior to the conference.

Jeff acknowledged White Pine, Eureka and Lincoln counties specifically Commissioner's Higbee, Carson and Ithurrealde for all the work they have done to work with staff to ensure a successful conference. Despite setbacks caused by the lack of an Office Manager planning is going well and to date there are 18-19 sponsors and approximately 125 registrants not including guests and speakers. Although there were concerns regarding attendance based upon the elections and the distance Jeff said everyone he has spoken with is excited about the event. It was noted that the counties do not need to bring their own flags as the Nevada 150th Committee had flags made which we will be using. Members were however asked to bring silent auction items. Assistance with the conference and its planning has been contracted on an hourly basis.

Jeff spoke to the organization of the office building and noted the need to empty the conex box as well as the need to get rid of surplus, obsolete and unneeded items based on the Surplus Property Policy approved by the Board. Jeff invited the Board to look at the contents of the conex box to see if there is anything of use for their counties. It was decided to use the antique chain pull toilet as the Association's silent auction item at the conference.

A binder was provided for each county outlining the wildfire threat assessment as developed in 2009.

Jeff closed his report recognizing the passing of Commissioner Grant Gerber of Elko County and although he was not a member of the NACO Board, spoke to the great contributions he made to his county and the state. The family requested stories for inclusion into a book and acknowledgement of his accomplishments. Jeff suggested a resolution to be presented at the conference banquet for Commissioner Gerber as well as the acknowledgment of other commissioners or officials who passed in 2014.

5. **Approval of Minutes of the September 19 and 20, 2014 NACO Board of Directors Meetings.** The minutes were approved unanimously on a motion by Commissioner Johnson with second by Commissioner Ithurrealde.
6. **Acceptance of NACO's September 2014 Financial Statements and September 30, 2014 Investment Reports.** Jeff made specific mention of the Associate Membership line item on page 5 of the report under revenue with a budget amount of \$15,000.00 of which yearly actuals run between \$12,000.00 - \$15,000.00. Due to an oversight the invoices did not go out and the situation was not discovered until July or August. It was decided not to invoice the Associate Members because it is so late in the year. During the course of requesting sponsorships for the conference the issue has come up and some members have requested invoices for payment but we will not receive the annual membership fees from most. Jeff indicated that conference sponsorship fees were increased in an attempt to recoup some of the funds. The reports were accepted unanimously with a motion by Commissioner Tipton and second by Commissioner Wichman.
7. **Appointment of One of NACO's Two Representatives to the National Association of Counties (NACo) Board of Directors and Payment of Travel Costs to Attend the NACo Board of Directors Meeting which will be Held December 3-6, 2014.** Commissioners Tipton and Irwin are not able to attend however Bonnie Weber volunteered to attend. It was noted that she may be a City Council Woman at the time of the meeting if elected and not a Commissioner however President Irwin noted a lack of conflict and stated he didn't feel it required a motion but a simple consensus of support. An email was sent to all Commissioners regarding appointment to the national board and only one response was received. . Commissioner Pat Irwin was nominated by Commissioner Johnson and the motion was made to be effective upon Commissioner Weber no longer being able to serve and set to expire July 2016. The motion passed unanimously on a second by Commissioner Weber.
8. **Discussion and Possible Action Regarding NACO Employee Health Insurance Coverage Effective December 1, 2014.** Jeff explained we are a member of the Nevada League of Cities & Municipalities group benefit plan and have been for many years. The League worked to extend the current plan through the end of November. Because of the Affordable Care Act as a 'small employer' we are not pooled with all the other entities tied to the plan. Jeff is working with LP Insurance to outline plan options but a decision needs to be made for coverage ASAP. While he looked into the state's benefit option he does not feel it is the right fit for NACO. Jeff requested the Board allow entrance to a plan with no higher than a 10% increase with the understanding he will continue searching for options. Commissioner Carson moved to allow Jeff the discretion to move forward with the decision, with a second by Commissioner Wichman. The motion passed.
9. **Discussion and Possible Approval to Increase the Maximum Salary for NACO's Office Manager Position from \$45,000 to \$50,000 Per Year.** Motion for approval was made by Commissioner Wichman and seconded by Commissioner Weber. The motion was approved unanimously with no discussion.
10. **Presentation of NACO's Preliminary Budget for 2015.** Jeff disbursed the dues schedule and explained the tiered schedule for the basis of the individual County annual fees. A comparison was made between the 2014 Budget and the proposed 2015 budget as well as the proposed carry over. Highlights included explanation of items of change including the possibility of adding a staff member to work on public lands. Discussion included the options of contract, part time and possibility of retired state workers as well as possible issues with retiree's and the limitations set by PERS. Bank charges were questioned and Jeff noted he does not believe they will amount to the budget amount. Jeff requested a decision to be made regarding work done on the interior of the building and noted he

believes the repairs and upgrades will come in under budget. A transfer of the funds needed for construction will need to be transferred to make the 2015 budget work. Jeff led a discussion on the Dues and Professional fee's line item. He requested feedback for review and adjustment to bring a final budget to the November Board meeting. Board comments and discussion included Western Counties Alliance fees and the Association not receiving the "bang for the buck" as a member. Background was given on the Alliance and its membership as well as the fact NACO is the only or one of the only State associations paying dues. No staff salary increases are included in the preliminary budget. Jeff will make adjustments based upon the discussion during the meeting for review in November.

11. **Discussion and Possible Approval of NACO's Communications Plan.** The plan presented was a refinement of the preliminary plan as discussed at the previous Board meeting. Dagny outlined the goals set forth for increasing communication and outreach as well as increasing engagement and outreach. The plan covered communication between the board and NACO staff, outreach to member counties and outreach to those outside the Board and staff i.e.: Legislators, affiliate members etc. The plan includes the message we want to get across and communications tools to do so. A main component of the plan is to engage as many Commissioners as possible to attend NACO events beyond just the Board members as well as increasing email communications and media presence. Social media is also a great tool to begin utilizing in the future to increase the presence and understanding of NACO. The Board commented on the aggressiveness of the plan and it was noted by Dagny many of the components included the language as resources become available to implement some of the more complicated and time sensitive components. Jeff noted his recent attendance at a presentation on social media and noted the wide age demographic of use. Jeff also noted the importance of the use of social media as a tool for communicating with legislators quickly and efficiently when phone calls etc. are not feasible. Dagny noted the addition of training on the use of social media and the do's and don'ts of use. Dagny also discussed the need to add updating the NACO website and using it as tool for engagement as well. A motion was made by Commissioner Wichman to approve the document in its current form as a "living document" with a second by Commissioner Carson and was approved unanimously.
12. **Discussion and Possible Approval of NACO Resolution 14-01, "Urging Congress to Fix the Highway Trust Fund."** Jeff noted the trust is reaching a critical budget situation and is an issue for all the states and counties. The motion was made, seconded and passed.
13. **Discussion and Possible Action Regarding the Nevada Supreme Court's December 4, 2014 Hearing Regarding Recommendations from the Indigent Defense Commission's Rural Subcommittee.** As a member of the committee Jeff outlined the hearing and its components including draft language for a BDR by Senator Segerblom, chair of the Judiciary Committee. Jeff and Dagny traveled to Las Vegas to meet with the Senator and two former Federal Public Defenders to discuss the NACO Indigent Defense BDR. While the original plan was to have NACO review the language the BDR was submitted without NACO review and that is of concern. Jeff plans to attend and participate in the hearing and wants to make sure everyone is on the same page as to the official position on the Senator's BDR. The issue will also be discussed at the Annual Conference. The intent of the original discussion was to hold the rural counties harmless to any future cost increases for indigent defense. Additional financial requirements would revert to the state. Flat fee contracts are a large concern within the issue and can affect some counties greatly especially as the ACLU considers them unconstitutional. Commissioner Johnson noted the need to discuss the situation with his contractors prior to offering an opinion. It was also noted the protection of the counties budgets at the possibility of a challenge by the ACLU is paramount. It was also noted a point of negotiation would be to absolve the counties of liability as it is a state mandated cost and the Federal Constitution holds the responsibility at the state level. It was decided the Board would take the draft language to their prospective DA's for review and discussion prior to developing an adopted opinion by NACO.

14. **Discussion and Possible Action to Co-Sponsor a Local Government Summit Prior to the 2015 Legislative Session.** Jeff discussed expressed desire to continue the Summit based upon discussion at the previous Summit. The League of Cities membership is very interested in partnering in the event. A few dates were discussed and the best date to accommodate Council and Commission schedules is January 23rd. A motion of support was made by Commissioner Johnson and passed on a second by Commissioner Tipton.
15. **Update and Possible Action on Public Lands and Natural Resources Issues Including;**
- a) **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 provided an update to the Board noting no significant change in the status of this item.
 - b) **U.S. Environmental Protection Agency's Proposed Guidance on the Clean Water Act.** The comment period was extended to November and NACo staff is still fighting the issue but the Administration has indicated it is a done deal even though they are still trying to get more definitions. Commissioner Dahl commented on a discussion with Senator Heller's staff who noted that when time is repeatedly extended it means they don't know how to get out of a situation gracefully. Commissioner Wichman noted the removal of support by the Core of Engineers at one point and the last communication with WIR the SBA had come out against the ACT and reiterated that even with all the removal and/or lack of support the Administration has indicated to NACo staff it is a done deal and is only working on definitions. Commissioner Johnson noted Douglas County's adoption of a resolution against the Act in conjunction with others. Commissioner Wichman noted the specific definition of a Tributary that they are struggling with. It was noted that even if the Administration passes the Act, implementation will not occur until after a change in office and as an Executive Order it will almost assuredly not stand.
 - c) **The Discussion Draft Document, "Nevada Sagebrush Landscape Conservation and Economic Development Act of 2013."** Commissioner Wichman noted the letters between Sacramento and Congressman Amodei are available for review. No action was taken.
 - d) **County and NACO Capacity for Addressing Public Lands and Natural Resources Issues, including Policies and Actions Proposed by Federal Agencies.** Commissioner Wichman noted it was previously agreed that NACo is going to handle a great deal of this and future developments will be addressed as necessary.
 - e) **United States Forest Service's Proposed Groundwater Resource Management Directive.** Dagny noted the drafting of a letter in opposition to the item. The comments were sent and discussion is that the Directive has even less support than the Clean Water Act and the hope is the issue will simply dissolve.
 - f) **Update on Potential Litigation Challenging the 2011 Settlement between the U.S. Department of Interior and U.S. Fish and Wildlife Service, and Environmental Groups that Established Deadlines by which USFWS Must Make Listing Determinations for 290 Candidate Species, including the Greater Sage- Grouse (GSG) and Bi-State Distinct Population of the GSG, Without Utilizing the Option of Maintaining the Species as a Candidate Species Under the Endangered Species Act, and Possible Direction to Staff.** Jeff noted an August meeting in Gerlach in which the Board approved participation in the Suit. The letter of intent was sent in conjunction with the Mining Exploration Association. The suit will be filed on December 1. An attempt is being made to obtain more co-plaintiffs. Jeff noted the agreement to participate with no financial contribution from NACO and the need for financial aid commitments prior to the filing date which preliminarily will include Elko County. Review of the draft complaint is imminent and a subcommittee was created. The Subcommittee will include Commissioner Wichman as well as Commissioner French and Commissioner Keller for the review on or about November 10th for comments and discussion at the November Board meeting. Commissioner Wichman also noted that Oklahoma and Texas have already filed on the issue as well.

g) **Discussion and Possible Action Regarding the State Engineer's Ruling Against the U.S. Forest Service's Claims to Vested Stock Water Rights Located within the East Fork of the Ohwyee River Basin.** Dagny updated the Board as to the adjudication of the stock water rights. The State ruled the rights were owned by the stockmen which the Forest Service challenged and were denied in district court. All items have been filed and the issue is on hold until the district court rules and one party or the other appeals in which case it will go to the Supreme Court. Discussion included the same situation occurring in Arizona a number of years ago in which the Supreme Court ruled in favor of the State. The last time the issue came up 20 years ago the district court ruled in favor of the State and the BLM backed off.

h) **Proposed Federal Legislation to Withdraw 805,100 Acres of Federal Land in Garden Valley and Coal Valley in Lincoln and Nye Counties.** Commissioner Higbee lead the discussion on the item and the The perceived issue is their desire to drill for oil and the possibility of trading to protect the view shed. Commissioner Collins discussed a site visitation and his observations of the bill. Commissioner Wichman noted the last time this issue came up was when Yucca Mountain funding was removed. Now that Yucca Mountain is again a possibility it is on the table once again.

16. **Update on NACO Legislative Committee Activities and Possible Action Regarding NACO's Bill Draft Requests.** Commissioner Johnson discussed the meeting of the committee and invited Dagny to give the update. The indigent defense and longevity pay bills were discussed. The committee is effectively in a holding pattern until the release of bill and BDR filings and it is too close to the election to have communication with legislators. Net proceeds and how they would affect the counties was also discussed. Commissioner Wichman discussed a recent meeting with Assemblyman Hansen and his desire to meet with the counties to discuss a possible MOU similar to what Pershing County has with the BLM to assist in law enforcement activities, also regarding clarification that the Sheriff is the highest law enforcement official as per State law.

17. **Update on the NACO Committee of the Emeritus Activities.** Dagny announced the Committee's plan to hold a training work shop at the Annual Conference to train incoming Commissioners. She also reported that Commissioner Eastley is authoring a handbook for County Commissioners. A digital draft is available for review and comment prior to going to print and the final will be available in both print and on thumb drive. She also noted the Committee's plan to distribute thumb drives with a number of other publications on budgets, Open Meeting Laws, ethics etc. which can then be shared with appropriate county officials. They are also waiting on information back from Pool Pac as to how the members of the committee are covered for liability etc. Discussion also included how PERS regulations affect Commissioners.

18. **Presentation on Calendar of County Responsibilities Required by Nevada Law.** Dagny noted copies enclosed in the packets and the effectiveness of the resource, which is a calendar of all county activities required by statute throughout the year. Joni Eastley completed the calendar "for fun" and it includes information and responsibilities that a number of officials were unaware of.

19. **National Association of Counties and Western Interstate Region Board Member Updates.** Commissioner French noted that Commissioner Dahl and he attended the meeting where there were a number of platform discussions including wild horse issues, ESA reauthorization and reintroduction of Bison on public lands in Montana. Conversations also included the Highway Trust Fund and transportation. He also noted that it is apparent all the states are dealing with similar if not the same issues.

20. **NACO Board Member Updates.** The members gave updates on what is occurring in their respective counties and projects on the horizon.

21. **Public Comment** – None was given.

Adjournment.

NEVADA ASSOCIATION OF COUNTIES (NACO)

Board of Director's Meeting

November 19, 2014

Immediately upon adjournment of the NACO Membership Meeting,
but no earlier than 8:15 a.m.

Bristlecone Convention Center

150, 6th St.

Ely, NV 89301

UNADOPTED MINUTES

Attendance (NACO Staff Jeff Fontaine and Dagny Stapleton): President Irwin, President Elect Wichman, Vice President Keller, Clark county Commissioner Tom Collins, Churchill County Commissioner Pete Olsen, Douglas County Commissioner Doug Johnson, Elko County Commissioner Demar Dahl, Eureka County Commissioner Jim Ithurralde, Humboldt County Commissioner Jim French, Lander County Commissioner Patsy Waits, Lincoln County Commissioner Ed Higbee, Mineral County Commissioner Jerry Tipton, Nye County Commissioner Dan Schinhofen, Storey County Commissioner Bill Sjovangen, Fiscal Officer Mike Rebaletti.

A quorum was present.

Other Attendees: Bob Roshak-Sheriff's & Chief's Association, Al Kramer-Nevada Association of County Treasurer's, Larry Burtness-County Fiscal Officers Association and Katrinka Russell, Nevada Assessors Association

- 1. Public Comment.** Comment was given by Sarah Adlar, State Director of USDA Rural Development who discussed their announcement of the input of \$161,000,000 into affordable housing, business development and community infrastructure. She let the Board know they are here and provide funding and assistance and work specifically in rural Nevada.
- 2. Approval of Agenda.** The agenda was approved on a motion by Commissioner Tipton with a second by Commissioner Johnson.

Self-introductions were made by the attendees and Executive Board Member and Commissioner Weber joined the meeting at 8:22 AM
- 3. Approval of Resolution #14-01, "To Honor the Memory of Elko County Commissioner Grant Gerber."** President Irwin introduced the resolution outlining the many amazing and heroic accomplishments of the late Commissioner Gerber. The resolution was unanimously approved and adopted by the Board on a motion from Commissioner Tipton and second by Commissioner Collins. Following the adoption of the resolution a moment of silence was conducted in honor of fallen Commissioner Gerber.
- 4. Approval of NACO Resolution #14-02, "Urging Congress to Fix the Highway Trust Fund."** As the resolution had been previously provided and reviewed by the Board it was passed on a motion by Commissioner Olson and second from Commissioner Sjovangen.
- 5. Approval of the 2014 NACO Honor Roll and 2014 Participatory Democracy Award.** Jeff announced the awards would be presented at the evening's banquet and asked the Board to ratify the selections made by the Executive Committee. The selections were ratified on the motion by Commissioner Tipton with second by Vice President Carson.

Item 10 was taken out of order as time certain.

Item 9 was taken out of order as it involved a conference call with BLM director Neil Kornze.

- 6. Selection of Host Counties and Dates for NACO's 2015 and 2016 Annual Conferences.** Jeff noted the sending of information soliciting interest in hosting and noted the receipt of a proposal from Nye County for 2016 for hosting in Pahrump. It was noted there were no proposals submitted for 2015. Commissioner Collins noted a discussion being held in Clark County for hosting in 2015.

7. **Discussion and Possible Approval of NACO's 2015 Budget.** Item moved to a secondary conference call meeting.
8. **Update and Possible Action on Legislative Matters, Including but Not Limited to: NACO's Bill Draft Requests, BDR's Submitted by Others that May be of Interest to Nevada's Counties, Legislative Leadership and Committee Chairmanships, and the State Budget.** Item moved to a secondary conference call meeting.
9. **Update on Public Lands and Natural Resources Issues.** Commissioner Tipton announced the search for new members to the Wild Horse and Burro Advisory Committee as several members were cycling out and President Elect Wichman noted the fact they would assuredly receive several applications. Commissioner Tipton inquired as to if they were specific seats and it was noted that there was: one seat was specific to wild horse and burros, one specific to veterinary medicine, and a seat specific to special interest with focus on horses and burros as well as public land management. Commissioner Collins inquired if there was a conversation regarding meat processing and it was noted that it would probably be a part of the discussion. Director Kornze noted that, in his years of working on Nevada land issues there have been some 'bumps' in the road - he requested the understanding of the Board and stated that he personally values productive relationships and that despite some disagreements he trusts production can continue. He noted the work of Congress on a number of bills regarding BLM and land issues. He spoke to wild horses and burros noting that Nevada has the majority of the horses and the with the size of the program issues being run into are birth control and with all the years and funds put into the project he was surprised to learn there was no real data to support the program and therefore he asked staff to 'hit refresh' and obtain real scientific data to develop and support the issue and outlined the efforts being taken to that end. In the meantime costs will continue to go up and efforts are being made to determine how to manage populations without the assistance of private land owners who no longer are willing to range the animals due to the increase in beef prices. He spoke to the BLM's long term practice of using the Land Management Act which states there must be a plan developed for every acre managed and spoke to several planning efforts occurring in the State and encouraged the affected counties to assign persons to work with them on these plans. The discussion also included the desire and need to speed up processes. He spoke to Sage Grouse and noted there are a lot of issues and how to ensure balance with the traditional land use and traditions of the areas involved. He spoke to fire issues and noted they are attempting to place emphasis on range land fires.

Commissioner Wichman inquired as to how many land bills were brought by private organizations and local representatives and how many were forced. Director Kornze noted that there is a distinct lack of involvement by the BLM in the bills being brought and that he believes the leverage of local representatives is still key in the discussions.

Commissioner Collins asked about the given costs associated with horses and inquired as to why they don't sell them and allow for the processing of the animals. In response he noted the sales authority in place and spoke to the outlawing of horse slaughter by the Administration causing a large inventory of domestic animals and therefore causing a lack of interest in mustangs. Commissioner Collins noted it is not against the law that the government will not provide resources for inspection.

Commissioner French asked about international adoption as a solution to the population issue. A discussion is being held with the Defense Department which has been somewhat halted by lawyers and it was determined that option was more costly than effective.

Commissioner Tipton inquired as to a suggestion made in the past to take the older horses to places like Yellowstone where they could be seen and not continue to impact the population areas as well as solve some of the parks issues with predators. He acknowledged the benefit of the suggestion and agreed to open the discussion.

Director Kornze suggested the cooperation of the stake holders to determine a prioritized list of the issues for discussion in Washington.

10. **Discussion and Possible Approval to Petition Congressman Mark Amodei to Hold a Field Hearing in Nevada Concerning Bureau of Land Management Actions Detrimental to the Livestock Industry and Economy in Nevada.** Approval was granted to petition Congressman Amodei on a motion by Commissioner Ithurralde and second by Commissioner Keller.
11. **Public Comment.** Commissioner Keller welcomed, thanked and gave a vote of confidence to newly elected Vice President Carson.

12. Adjourn

NEVADA ASSOCIATION OF COUNTIES (NACO)

Board of Directors' Meeting
December 3, 2014, 3:30 p.m.

This meeting will be conducted via teleconference.

Members of the public can participate in the meeting at the NACO Office
304 S. Minnesota Street, Carson City, NV 89703

UNADOPTED MINUTES

Attendance: (NACO staff Jeff Fontaine) President Pat Irwin, President Elect Lorinda Wichman, Vice President Vida Keller, Carson City Mayor Bob Crowell, Douglas County Commissioner Doug Johnson, Humboldt County Commissioner Jim French, Lyon County Commissioner Bob Hastings, Mineral County Commissioner Jerrie Tipton, White Pine County Commissioner Laurie Carson, Lander County Commissioner Pat Waits, Eureka County Commissioner Jim Ithurralde, Lincoln County Commissioner Ed Higbee, and Elko County Commissioner Demar Dahl consisting of a Quorum.

Guests: Debra Struhsacker, Pershing Gold Corporation and Laura Granier, Davis, Graham & Stubbs LLP

1. **Public Comment.** None was given
2. **Approval of Agenda.**
3. **Approval for NACO to be a Co-plaintiff in a Complaint Against the U.S. Fish & Wildlife Service (USFWS) Seeking Declaratory and Injunctive Relief for Violations of the Endangered Species Act, the Administrative Procedure Act, and the United States Constitution for Entering into Private Settlement Agreements with Special Interest Litigants that Established Deadlines by which USFWS Must Make Listing Determinations for Certain Candidate Species, including the Greater Sage-Grouse (GSG) and Bi-State Distinct Population of the GSG, and Direction to NACO Staff to Work with Legal Counsel on Finalizing the Language in the Complaint.** Jeff explained that this issue was first raised at the NACO Board meeting in Gerlach in August 22, 2014. The Board agreed to be listed as a party on the letter of intent to sue the federal government but that formally becoming a party on the complaint would require a separate action of the Board and would be contingent upon NACO not incurring any expenses as a result. Jeff further explained that several Board members had reviewed the draft complaint and found it to be comprehensive and very well written, and that the plan was to file the complaint the following day. Commissioner Wichman also stated that the draft complaint was well written and easy to understand and that it did not contain a lot of legal terminology. Debra Struhsacker thanked the Board for their support and asked Laura Granier if she had anything to add. Laura also thanked the Board. Commissioner Wichman made a motion for NACO to be a party to the lawsuit. Jeff asked if the motion could include that NACO would be a party to the lawsuit with the condition that there is no financial obligation and that NACO staff could work with legal counsel in drafting the final complaint. Commissioner Wichman amended her motion which was seconded by Commissioner Dahl. The motion was passed unanimously.
4. **Public Comment** – None was given

Adjournment.

NEVADA ASSOCIATION OF COUNTIES (NACO)

Board of Director's Meeting and
Association Meeting

January 16, 2015 – 9:30 a.m.

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

UNADOPTED MINUTES

Attendance: (NACO Staff Jeff Fontaine, Dagny Stapleton and Amanda Evans) President Wichman, President Elect Carson, Past President Irwin, Clark County Commissioner Collins, Carson City Mayor Crowell, Churchill County Commissioner Olsen, Douglas County Commissioner Johnson, Elko County Commissioner Dahl, Esmeralda Commissioner Bates, Eureka Commissioner Goicoechea, Humboldt County Commissioner French, Lander County Commissioner Waits, Lincoln County Commissioner Phillips, Lyon County Commissioner Hastings, , Washoe County Commissioner Herman.

A quorum was present

Other Attendees: Larry Burtness, County Fiscal Officers Association and Tammi Davis, County Treasurer's Association

1. **Public Comment.** Samuel Crampton from Senator Dean Heller's office presented and read a letter of congratulations to President Wichman on her election and the many accomplishments and she has made through her course of public service to Nye County and the State of Nevada.
2. **Approval of Agenda.** The agenda was unanimously approved on a motion from Commissioner Johnson and second by Commissioner Dahl.
3. **Presentation on the Carson City Health and Human Services Cross Jurisdictional Sharing Project.** Marina Works spoke to the Board about the project which was funded on a two year grant from the Robert Johnson Foundation in 2012. She outlined the collaboration between Carson City and Douglas County specifically noting the program exceeded the estimated cost savings for the first year. A 'tool kit' was developed as a portion of the grant requirement and provides a step by step outline of how the program was created for use by other counties and entities interested in a cross jurisdictional relationship. Commissioner Waits inquired as to the next step and as both Lyon and Storey Counties had expressed an interest in the program and entering into a similar relationship the program model can provide a guideline on how to create a program that will work for all involved including the possibility of relationships with hospitals and other applicable entities.
4. **Election of the 2015 NACO Vice President.** Jeff outlined the rules per the adopted NACO By Laws regarding the ascension of the Vice President to the office of President Elect should a vacancy occur leaving the office of Vice President unfilled. Commissioner Kevin Phillips of Lincoln County expressed interest in filling the void and he was elected unanimously on a motion by Commissioner Collins and second by Commissioner Dahl. Commissioner Phillips expressed his gratitude at the support of the Board for the nomination.
5. Recess.

NACO Association

AGENDA

Commissioner Irwin called the meeting of the NACO Association to order with a suspended roll call as all members as noted above were present.

1. **Public Comment.** None was presented.
2. **Approval of Agenda.** The agenda was unanimously approved on a motion by Commissioner Carson with a second by Commissioner Wichman.
3. **Ratification of the Board of Director's Election of the 2015 NACO Vice President.** Commissioner Phillips' election was ratified unanimously on a motion from Commissioner Wichman and second from Commissioner Dahl and was therefore "so railroaded".
4. **Public Comment.** None was presented.
5. Adjourn

Reconvene NACO Board of Directors

6. **Investiture of 2015 NACO Officers.** President Irwin began the ceremony with remarks regarding the honor and pleasure of serving as commissioner and the trust and privilege associated with being elected by the elected to represent not only themselves but the members of their communities on a broader stage. President Irwin then swore in the 2015 NACO officers beginning with newly elected Vice President, Kevin Phillips followed by President Elect, Laurie Carson and concluding the ceremony with President Lorinda Wichman. Jeff presented the newly invested officers with silver NACO officer pin and the gavel was handed over to President Wichman.
7. **President's Report.** President Wichman discussed the submission of her reports in writing to help maintain the time frame of future meetings though she will entertain questions and comments. She then shared a letter sent to Riki Hokama, President of NACo on behalf of the Department of Homeland Security. This letter outlined the improvement and enhancement of inoperable communication, emergency communications and implementation of new technologies. The letter specifically called out Commissioner Irwin as a member SafeCom and lauded Pat for his contributions to the 2014 NECP plan update. Commissioner Waits requested a copy of the letter and staff assured distribution of the communication to all Board members.
8. **Executive Director's Report.** Jeff discussed the upcoming NACo's annual Legislative Conference February 21-25th at the Marriott in Washington D.C. Brochures are available and the conference is earlier than normal. Jeff encouraged all members to attend noting the meetings with our Legislative delegation are both important and impressive. Specifically, Senator Reid brings key staff to brief and discuss all items as they are questioned and presented which can't be completed through discussions with our legislators at home. There is one free registration available through NACo and anyone who would like to exercise this option is welcome to contact Jeff. All delegation meetings will be coordinated by staff.

The County Leadership Institute is accepting nominations for the next training in June. Jeff noted several Board members who have attended the week long institute in the past. If you are interested in being nominated please contact Jeff as soon as possible. Nominations must be sent to NACo by February 16th. The current budget covers the registration, hotel and meals leaving the attendee responsible for air fare. CLI alumni Commissioner Irwin spoke to the quality of the program and desired to see Jeff and/or Commissioner Phillips attend. While honored for the consideration Jeff noted the conference dates being at the end of session and this not being the most opportune year for his attendance. President Wichman noted there were five attendees from her CLI class at the NCCAC conference she recently attended and attendance at the CLI is a source of pride.

9. **Approval of Dates and Locations for 2015 NACO Board Meetings.** President Wichman noted no obvious challenges to the current meeting schedule while Jeff noted the usual lack of meetings in July due to the National Association Conference and in September due to the NACO Annual Conference. As it is a legislative year Jeff noted the potential for special Board meetings on single and/or legislative issues.
10. **Approval of Minutes of the October 31, 2014, November 19, 2014 and December 3, 2014 Meetings of the NACO Board of Directors.** Item removed for lack of completion.
11. **Approval of NACO Resolution #15-01 Thanking White Pine County, Eureka County and Lincoln County for Hosting NACO's 2014 Annual Conference .** President Wichman noted the phenomenal job done by the three counties and the resolution was approved unanimously on a motion by Commissioner French and second by Commissioner Johnson.
12. **Selection of Host Counties and Dates for NACO's 2015 and 2016 Annual Conferences.** Commissioner French indicated Humbolt Counties desire to step up to host the 2015 event and would invite Lander and Pershing Counties to participate. Commissioner Collins stated he had spoken to his fellow Commissioners and staff and was prepared to host this year's event in Clark County. Commissioner French noted that Humbolt was open to hosting 2017 and President Wichman suggested a progression of Clark, Nye and Humbolt. It was suggested that hosting duties be given to Clark County in 2015, Nye County in 2016 and Humbolt County in 2017 with a second by Commissioner Irwin. The motion passed unanimously. Jeff led the discussion on dates noting the 2016 Conference will be after the General election the week of November 15th. This year's event has far more flexibility and Jeff's preference would be to have it on or about the week of September 28th dependent on the various County Commission meetings. Commissioner Hastings noted Lyon County's desire to host the conference as well.
13. **Approval of NACO's 2015 Budget, Including Authorization to Establish a New Public Lands and Natural Resources Staff Position.** Jeff led the discussion regarding adjustments made since the preliminary discussion in November. The 2015 budget is less than that of 2014's due to the buy down of the mortgage and the improvements on the building. He also outlined the income and expense changes due to the Nevada Lands Management Task Force (NLMTF) report, although there is an estimated \$5,000.00 in expenses during the legislative session in relation to the NLMTF report. Jeff also discussed the changes to health benefits and the addition of the approved staff position. The other changes more accurately reflect the actual costs associated with the building, utilities etc., the inclusion of interest income and expenses associated with the investment accounts and a retroactive salary increase for Deputy Director Stapleton. Jeff noted his contract calls for an annual evaluation which hasn't been completed for 2014 due to time and staffing changes and he is not requesting a salary increase. President Wichman noted decisions for salary increases not only rest on the recommendations of staff as well as budget constraints. Commissioner Johnson discussed the importance of ensuring all Commissions especially those with new members know the importance of the organization. Jeff discussed the importance of ensuring the budget is not only balanced but sustainable over time and the invariable increase of costs and the need to plan for a discussion regarding sustainability of future budgets and the possible future need for additional income. The budget was approved on a motion by Commissioner Irwin and second by Commissioner Phillips.
14. **Appointment of At Large Members to the NACO Executive Committee.** Commissioner Marsha Berkgigler of Washoe County was unanimously approved as the Member at Large from Washoe County on a motion by Commissioner Phillips with the second provided by Commissioner Phillips.
15. **Appointment of NACO's Fiscal Officer.** Jeff outlined the duties of the office to review the Organizations financial records monthly, internal control policy and to recommend changes etc. Jeff suggested the Board look to the County Fiscal Officers Association for possible nominees.

Staff was directed to work with CFOA Board Representative Larry Burtness for recommendations to bring to the next Board meeting for consideration.

16. **Nomination of a List of Two County Commissioners for Submittal to the Governor for Appointment to Fill a Vacancy on the Board of Trustees of the Fund for Hospital Care to Indigent Persons (NRS 428.195).** Jeff discussed the purpose of the Board to oversee the approximately \$12,000,000.00 per year and the review of claims for funding by hospitals. Statute requires the recommendation to the Governor of two Commissioners to replace the one vacancy. Commissioners French and Boland were nominated by Commissioner Dahl and Johnson. Nominations were closed on motion and second by Commissioners Collins and Bates and were passed.
17. **Presentation and Possible Action on Proposed Changes to Chapter 287 of the Nevada Administrative Code Regarding the Calculation of the Portion of the Cost of Coverage a Local Governing Body of Any County, School District, Municipal Corporation, Political Subdivision, Public Corporation or Other Local Government Agency of this State Must Pay for Retired Persons Covered Under the Group Health Insurance Plans Administered by the Public Employees' Benefits Program (Nevada Revised Statute 287.023(4)(b)).** Jeff noted the changes may impact the amount of subsidies to the counties for any retired employees covered in the system. Jim Wells, Executive Officer of PEBS presented the details and history of the program and the proposed regulations. Discussion revolved around the complex nature of the program and the possible costs to various counties depending upon the number of employees within the system. The Board noted the need for more time to reflect on the issue and meet with their individual commissions before to providing comment prior to the PEBS Board hearing in April.
18. **Discussion and Possible Action Regarding Governor Sandoval's State of the State Address and Proposed 2015-2017 Biennial Budget.** Jeff gave a brief synopsis of the Governor's concentration on Education during his address. Having looked at the proposed budget online Jeff noted a few items of concern as it relates to the bills introduced by NACO and factors to be determined during session. Based on preliminary evaluations there are no significant increases in cost assessments currently in place or proposed and this is consistent with discussions with the Governor's office.

Dagny updated the Board on Legislative items and meetings being held with Legislators, key staff and interested parties prior to the start of session. Senator Goicoechea wants to hear the home rule bill as close to the start of session as possible. She noted the Legislative Committee meetings on Friday the 30th and every Friday during session as well as encouraging member participation. Dagny explained the bill tracking spreadsheet and how it will work and be dispersed during session.

19. **Discussion and Possible Action regarding Bills Submitted for the 2015 Legislative Session that are of Interest to Nevada's Counties and Other Actions Regarding NACO's Participation in the Legislative Session.** Commissioner Johnson reiterated the need for participation on the Legislative Committee as well as the desire to have members with more experience and/or knowledge of specific issues to participate and testify on those issues. He also encouraged the use of the Nelis system for tracking.

Dagny also discussed the Local Government Day presented in conjunction with the League of Cities on March 30 as well as the importance of submitting Fiscal Impact Notes when requested by the LCB.

Mayor Crowell invited the Board to the joint meeting of Carson, Douglas, Lyon and Storey Counties on February 5th.

Former Lyon County Commissioner Virgil Arellano brought up discussion the States need for water and the possibility of a comprehensive water study and requested the members to forward any legislation they become aware of to the counties.

Jeff added that during the meetings he and Dagny have had over the last few weeks that there will be a lot of deference to local governments this session especially with the freshmen.

Commissioner's Collis and Dahl expressed concern with the Governor's comments on appointing school board members during the State of the State Address.

Board Representative's Larry Burtness – CFOA and Tammi Davis – NACT expressed concern the language of the Longevity bill and it was clarified by Commissioner Johnson that the bill provides the option for elected officials to forgo their longevity pay by a 2/3 majority vote of the commission. It was further noted by President Elect Carson that it is up to the individual counties to determine the economic trigger associated with calling for the vote and that it would be a decision made annually. Ms. Davis noted her association's concern with their salaries being set by statute and concern with the commissions being in charge which was echoed by Mr. Burtness. Jeff noted the ability to amend the language of the bill making each individual elected official being able to make the decision on refusing longevity pay. Both Association representatives agreed to the clarifications and discussion alleviated their concerns. They will go back to their Boards and coordinate with NACO on possible word 'smithing' for the bill to assist in gaining the associations' support for the bill on the recommendation of the Board.

20. **Discussion and Possible Action on Public Lands and Natural Resources Issues Including but Not Limited to:**

Assemblyman James Oscarson stopped by to congratulate President Wichman and spoke to the challenges to be faced in session. He also informed the Board on some items he is working on to assist in providing medical services to the rural counties. He was emphatic about his willingness to work with the Board and its members and expressed his gratitude for the sacrifices made by the Board and he is looking forward to a cohesive discussion.

- a. **Resolution of Support for the Public Lands Renewable Energy Development Act, H.R. 596.** Jeff explained this item is an affirmation of NACO support to the bill which will provide 25% of the revenue from leases on public lands for wind and solar projects, 25% to the state, 15% to the agencies for permitting and 35% for county conservation projects and transitions the leases into royalty payments. President Wichman moved for acceptance as she turned this portion of the meeting over to Committee Chairman Dahl, the motion was seconded and passed unanimously.
- b. **Update on the Complaint Filed by NACO and Others on December 4, 2014 Against the U.S. Fish & Wildlife Service (USFWS) Seeking Declaratory and Injunctive Relief for Violations of the Endangered Species Act, the Administrative Procedure Act, and the United States Constitution for Entering into Private Settlement Agreements with Special Interest Litigants that Established Deadlines by which USFWS Must Make Listing Determinations for Certain Candidate Species, including the Greater Sage-Grouse (GSG) and Bi-State Distinct Population of the GSG.** Jeff updated the Board on the status of the item. The original judge (Hicks) recused himself and it was assigned to Judge Miranda Du, the same judge who will hear the wild horse suit. The only real update is the fact a call was placed by a faction in Oklahoma to withdraw as they were having a venue disagreement on a similar suit and feared the Federal parties would move to consolidate the similar suits and moved it to DC. After speaking with our partners in the complaint it was decided there was no time to withdraw and the timeframe for the declaration of the Sage-Grouse is coming to an end.

- c. **Update on the Complaint Filed by NACO and Others on December 30, 2013 Against the Department of Interior and Bureau of Land Management Seeking to Compel the BLM to Comply with the Provisions of the Wild Free-Roaming Horse and Burro Act.** Committee Chair Dahl received an update that nothing is really going on other than a shuffling of legal councils on the opposing sides. Jeff updated the Board on the finances associated with the suit noting there was a projected cost of \$90,200.00 with expenses to date of almost \$89,000.00 contributions in the amount of \$70,000.00+ have been received but approximately \$14,200.00 is still needed.

Commissioner Collins brought up a resolution he received on Thursday evening which would change the designation of wild horses and burros from feral to wildlife and after speaking to Senator Settelmeyer he was assured enough signatures had been collected to put the item on the ballot if action is not taken by the Legislature within the first 40 days of session. Commissioner Goicoechea reminded the initiative changes the makeup of the Wildlife Commission and it will still go to the ballot if it is killed in the Legislature.

- d. **Update on the U.S. Environmental Protection Agency's Proposed Guidance on the Clean Water Act.** Dagny spoke to the item noting the comment period closed in November and the agency received over 700,000 comments including many from Nevada and a 19 page letter from NACO. EPA and the court will now review the comments and a final rule is expected in April unless Congress moves on the Act. There is bicameral hearing on the item planned for February and focus is expected to be on the state and local impacts of the bill. Encouragement was given to get our message to our Federal delegation.
- e. **Discussion and Possible Action Regarding a Draft Resolution Declaring an Emergency in Idaho County, Idaho Due to Degraded Conditions, Under-Utilization, Management Curtailments and Imminent Threat from Catastrophic Fire and Insect Infestation on Federally Managed Lands.** This item was pulled from the agenda at the request of the State of Idaho who pulled the item from their agenda as well.
- f. **Update on the Great Basin Landscape Conservation Cooperative.** Jeff discussed the Co-op and its inception including the opportunity for a local government representative on the steering committee. President Wichman was the initial appointment for Nevada with Jeff as the alternate. After attending a meeting she and Jeff determined it was not the right fit for the policy standpoint we bring to the table while the group is currently more science based and to offer the seat to another state. President Wichman inquired as to the opportunity to appoint the member if someone from the Board shows an interest. Jeff will reach out to the group to see about the opportunity.

Commissioner Collins spoke to the Clark and Nye County Resource Management Plan and his commission introducing a resolution to request more time specifically three months. Issues included in the request for a time extension include the BLM not taking into account utility issues and off road areas being closed resulting in vandalism.

Commissioner Dahl backed up a bit and discussed meeting with the National Riparian Service team hired by the BLM to "make nice" and the fact there is no easy solution to the issue. In the meetings with the National Riparian Service Team, the Team was surprised and receptive to hear about the discussion on land transfers..

21. **Approval of Issues for Discussion with Nevada's Congressional Delegation during the National Association of Counties Legislative Conference in Washington D.C. February 21-25, 2015.** Jeff discussed the scheduling of Hill visits so as not to miss the conference as much as possible. He discussed the need to have very specific issues and talking points for those issues when meeting with our Legislators, specifically 3-5. He also spoke to NACO's priorities and other

than immigration reform following their platform. Jeff outlined a number of specific issues of importance including PILT, Sage Grouse, wild horse and burros, land transfers, the Highway Trust Fund, municipal bonds, internet taxes, water, energy, Medicaid. The discussion on Medicaid included the loss of benefits pretrial if arrested which would revert medical costs to the counties. Commissioner Dahl discussed the need to not be timid on land transfers and Jeff clarified the task force recommendations getting lost in the discussion if not phrased correctly for certain offices. President Wichman recommended Commissioner Dahl handle the topic in DC. Commissioner Johnson suggested the framing of the title of the issue at hand to the office in which it is being presented. Commissioner Irwin reminded of the success NACO has had and to remind them of these successes with a specific thank you to the delegates.

Further discussion included the possibility to creating a brochure modeled on the State of Washington, attempting to obtain meetings with the chairs of critical committees as well as attempting a meeting with BLM.

22. **NACO Board Member Updates.** Updates were given on recent news, discoveries and ongoing discussions in their counties.

23. **Public Comment** – None was given

President Wichman adjourned her first meeting of the NACO Board at roughly 2:30 PM

The following pages are support
Documentation for agenda
Item 4

Nevada Association of Counties
Balance Sheet
December 31, 2014



ASSETS

Current Assets		
Cash - Bank of America	\$	74,082.41
Cash - NV State Bank		7,587.48
Money Market		109,923.40
Investments Cash Equivalents		2,330.27
Investments Cash Equivalents		8,906.92
Accounts Receivable		8,255.08
Receivable IAF/Supplemental Fund		30,000.00
A/R National Programs		573.20
Prepaid Expenses		<u>1,893.90</u>
Total Current Assets		243,552.66
Property and Equipment		
Office Equipment		167,265.95
Building		447,906.18
Land		131,000.00
Building Improvements		90,311.78
Fixed Assets - Vehicle		32,878.25
Accumulated Depreciation		<u>(189,808.63)</u>
Total Property and Equipment		679,553.53
Other Assets		
Investments - RJ Equity		195,677.50
Investments - RJ Securities		<u>429,690.99</u>
Total Other Assets		<u>625,368.49</u>
Total Assets		<u>\$ 1,548,474.68</u>

LIABILITIES AND CAPITAL

Current Liabilities		
Accounts Payable	\$	7,751.89
Accrued Payroll Benefits		<u>15,022.83</u>
Total Current Liabilities		22,774.72
Long-Term Liabilities		<u> </u>
Total Long-Term Liabilities		<u>0.00</u>
Total Liabilities		22,774.72
Capital		
Retained Earnings		1,640,319.91
Net Income		<u>(114,619.95)</u>
Total Capital		<u>1,525,699.96</u>
Total Liabilities & Capital		<u>\$ 1,548,474.68</u>

Nevada Association of Counties
Income Statement
For the Twelve Months Ending December 31, 2014

	Current Month		Year to Date	
Revenues				
Investment Revenue - EQ	\$ 1,019.22	2.00	\$ 6,462.55	1.05
Investment Revenue - HQT	569.07	1.12	13,098.46	2.14
Membership Dues	0.00	0.00	350,104.86	57.15
Conference Registration Fees	4,375.00	8.59	25,375.00	4.14
Conference Sponsorship Fees	11,550.00	22.67	32,300.00	5.27
Conference Raffle Proceeds	1,565.00	3.07	2,445.00	0.40
Conference POWER Reg Fees	1,800.00	3.53	5,850.00	0.95
Conf Registration-Spouse/Guest	525.00	1.03	1,575.00	0.26
IAF/Supplemental Funds	30,000.00	58.89	60,000.00	9.79
NV Division of Forestry Grant	0.00	0.00	29,825.32	4.87
Wild Horse Burro Legal Contrib	0.00	0.00	25,000.00	4.08
Land Management Taskforce	0.00	0.00	7,793.00	1.27
Interest Income	18.09	0.04	218.94	0.04
National Programs	2,312.90	4.54	44,435.60	7.25
Unrealized Gain/(Loss)-EQINC	(680.90)	(1.34)	14,757.36	2.41
Unrealized Gain/(Loss)-HQTAX	<u>(2,110.94)</u>	<u>(4.14)</u>	<u>(6,628.86)</u>	<u>(1.08)</u>
 Total Revenues	 <u>50,942.44</u>	 100.00	 <u>612,612.23</u>	 100.00
 Cost of Sales				
 Total Cost of Sales	 <u>0.00</u>	 0.00	 <u>0.00</u>	 0.00
 Gross Profit	 <u>50,942.44</u>	 100.00	 <u>612,612.23</u>	 100.00
 Expenses				
Salaries	16,809.29	33.00	226,224.74	36.93
Retirement	7,638.90	15.00	57,987.69	9.47
Employee Health Insurance	3,305.00	6.49	44,122.50	7.20
Employee Life Insurance	42.50	0.08	832.07	0.14
FICA and Medicare Expense	247.32	0.49	3,283.12	0.54
ESD Expense	13.35	0.03	649.17	0.11
PEBP Expenses	591.40	1.16	1,103.88	0.18
Equipment Maint/Lease	1,046.11	2.05	16,807.77	2.74
Office Supplies	266.35	0.52	14,031.84	2.29
Telephone	700.54	1.38	11,049.51	1.80
Postage	68.99	0.14	819.85	0.13
Liability/Auto Insurance	315.00	0.62	4,631.02	0.76
Vehicle Maint/Registration	0.00	0.00	160.00	0.03
Publications/Subscriptions/Due	83.67	0.16	6,533.91	1.07
Printing	0.00	0.00	1,110.62	0.18
Staff Travel	2,057.43	4.04	20,716.82	3.38
Representative Travel	2,428.77	4.77	22,969.23	3.75
WIR Dues/Travel	0.00	0.00	10,316.46	1.68
Property Taxes	770.00	1.51	3,075.74	0.50
Depreciation Expense	36,365.87	71.39	36,365.87	5.94
Donations/Sponsorship	0.00	0.00	6,012.23	0.98
NACO Conference Meals	1,067.50	2.10	15,252.25	2.49

Nevada Association of Counties
Income Statement
For the Twelve Months Ending December 31, 2014

	Current Month		Year to Date	
NACO Conference Speakers	92.13	0.18	6,592.13	1.08
NACO Conference Facility	2,595.60	5.10	2,595.60	0.42
NACO Conference Entertainment	200.00	0.39	700.00	0.11
NACO Conference Gifts/Prizes	0.00	0.00	1,965.84	0.32
NACO Conference Printing	546.55	1.07	1,249.60	0.20
NACO Conference Supplies	310.46	0.61	310.46	0.05
NACO Conference Transportation	154.20	0.30	154.20	0.03
NACO Conference POWER Program	9,000.00	17.67	9,000.00	1.47
NACO Conference Other Expenses	1,900.00	3.73	1,900.00	0.31
NACO Conference PayPal Fees	3.50	0.01	652.45	0.11
Prior Year Conference Expenses	0.00	0.00	5,330.00	0.87
Board Meetings	214.12	0.42	2,333.24	0.38
Legislative Expense	950.00	1.86	1,289.09	0.21
Audit	0.00	0.00	6,925.00	1.13
Professional Fees	4,000.00	7.85	12,268.00	2.00
Payroll Processing Service	207.08	0.41	2,818.12	0.46
NV Division of Forestry Grant	0.00	0.00	26,825.32	4.38
Wild Horse Burro Legal Service	0.00	0.00	50,498.05	8.24
NV Land Management Task Force	1,170.00	2.30	55,662.90	9.09
Bank Charges	10.74	0.02	153.25	0.03
Investment Expense	0.00	0.00	8,373.90	1.37
Utilities	909.63	1.79	6,348.10	1.04
Maintenance & Repairs	334.00	0.66	5,866.50	0.96
Janitorial Expenses	865.00	1.70	4,215.00	0.69
Mortgage Interest Expense	0.00	0.00	9,149.14	1.49
Building Improvements	(49,417.65)	(97.01)	0.00	0.00
	<u>47,863.35</u>	<u>93.96</u>	<u>727,232.18</u>	<u>118.71</u>
Total Expenses				
Net Income	<u>\$ 3,079.09</u>	<u>6.04</u>	<u>(\$ 114,619.95)</u>	<u>(18.71)</u>

Nevada Association of Counties
Budget to Actual Comparison
As of December 31, 2014

Account Description	Budget Amount	YTD	Remaining Budget	This Month Last Year	% of Change
Revenues:					
Associate Memberships	15,000.00	-	15,000.00	15,750.00	-100.00%
Conference Revenue	70,000.00	67,545.00	2,455.00	55,035.00	18.52%
Conference Registration Fees		25,375.00		34,785.00	-37.08%
Conference Sponsorship Fees		32,300.00		9,000.00	72.14%
Conference Raffle Proceeds		2,445.00		3,285.00	-34.36%
Conference POWER Reg Fees		5,850.00		4,875.00	16.67%
Conference Golf Proceeds		-		455.00	-100.00%
Conference Registration-Spouse/Guest		1,575.00		2,635.00	-67.30%
IAF/Supplemental Funds	60,000.00	60,000.00	-	60,000.00	0.00%
Interest Income:	2,000.00	19,779.95	(17,779.95)	25,565.24	-29.25%
Interest Income	2,000.00	218.94		232.99	-6.42%
Investment Revenue - EQ		6,462.55		9,334.73	-44.44%
Investment Revenue - HQT		13,098.46		15,997.52	-22.13%
Membership Dues	354,604.00	350,104.86	4,499.14	346,345.33	1.07%
National Programs	41,000.00	44,435.60	(3,435.60)	44,722.27	-0.65%
Unbudgeted Income:		70,746.82		148,569.90	-110.00%
Nevada Division of Forestry Grant		29,825.32		1,603.49	94.62%
USDA/NRCS Wildfire Grant		-		53,997.52	-100.00%
Net Investment Income		8,128.50		32,279.39	-297.11%
Wild Horse Burro Legal Contribution		25,000.00		36,000.00	-44.00%
Land Management Task Force		7,793.00		11,689.50	-50.00%
Grant Admin. Fees				13,000.00	-100.00%
Miscellaneous Income		-		-	0.00%
TOTAL Revenues	542,604.00	612,612.23	738.59	695,987.74	-13.61%
Expenses:					
Salaries	227,725.00	226,224.74	1,500.26	202,364.40	10.55%
Benefits:	113,524.00	106,874.55	6,649.45	91,413.51	14.47%
Retirement	58,639.00	57,987.69	651.31	50,076.34	13.64%
Employee Health Insurance	48,499.00	44,122.50	4,376.50	36,885.54	16.40%
Employee Life Insurance	1,386.00	832.07	553.93	858.20	-3.14%
ESD, FICA and Medicare Expense	5,000.00	3,932.29	1,067.71	3,593.43	8.62%
Audit	7,500.00	6,925.00	575.00	6,335.00	8.52%
Bank Charges	1,000.00	153.25	846.75	159.39	-4.01%
Board Meetings	3,000.00	2,333.24	666.76	3,905.63	-67.39%
Building Expenses	29,599.20	28,654.48	944.72	31,150.23	-8.71%
Utilities	6,500.00	6,348.10		4,535.79	28.55%
Building Maint. & Repairs	8,063.00	5,866.50		2,278.00	61.17%
Office Cleaning Service	3,840.00	4,215.00		3,840.00	8.90%
Mortgage Interest Expense		-		17,477.63	-91.03%
Mortgage Payoff Amount	11,196.20				0.00%
Property Taxes		3,075.74		3,018.81	1.85%
Conference Expenses	40,000.00	40,372.53	(372.53)	9,782.48	-100.00%
Conference Meals		15,252.25		(440.00)	102.88%

Nevada Association of Counties
Budget to Actual Comparison
As of December 31, 2014

Account Description	Budget Amount	YTD	Remaining Budget	This Month Last Year	% of Change
Conference Speakers		6,592.13		4,661.60	29.29%
Conference Facility		2,595.60		-	100.00%
Conference Hotel				698.04	-100.00%
Conference Audio/Visual				2,250.00	-100.00%
Conference Entertainment		700.00		-	100.00%
Conference Staff Meals				185.84	-100.00%
Conference Gifts/Prizes		1,965.84		403.69	79.46%
Conference Printing		1,249.60		-	100.00%
Conference Supplies		310.46		1,379.13	-344.22%
Conference Transportation		154.20		-	100.00%
Conference POWER Program		9,000.00		-	100.00%
Conference Other Expenses		1,900.00		-	100.00%
Conference PayPal Fees		652.45		644.18	1.27%
Donations / Sponsorships	1,500.00	6,012.23	(4,512.23)	500.00	91.68%
Equipment Maint/Lease	22,558.00	16,807.77	5,750.23	4,043.53	75.94%
Equipment Purchases	9,000.00	-	9,000.00	-	0.00%
Elected Officials Training Program	1,800.00	-	1,800.00	-	0.00%
Registration Seminars/Conferences	1,800.00	-		-	0.00%
Legislative Expenses	4,000.00	1,289.09	2,710.91	1,787.97	-38.70%
Liability and Auto Insurance	3,500.00	4,631.02	(1,131.02)	4,516.24	2.48%
Member Services	40,000.00		40,000.00	20,893.12	-100.00%
Office Supplies	6,000.00	14,031.84	(8,031.84)	13,754.61	1.98%
PEPB Liability	1,183.00	1,103.88	79.12	1,962.72	-77.80%
Postage	1,250.00	819.85	430.15	669.40	18.35%
Printing	4,000.00	1,110.62	2,889.38	543.84	51.03%
Professional Services	12,000.00	15,086.12	(3,086.12)	42,282.38	-180.27%
Professional Fees	12,000.00	12,268.00		39,500.00	-221.98%
Payroll Processing Service	-	2,818.12		2,782.38	1.27%
Publications/ Dues / Professional Fees	7,500.00	6,533.91	966.09	4,853.52	25.72%
Representative Travel	30,000.00	22,969.23	7,030.77	17,246.54	24.91%
Staff Travel	20,000.00	20,716.82	(716.82)	10,938.25	47.20%
Telephone	8,000.00	11,049.51	(3,049.51)	9,694.71	12.26%
Vehicle Maint/Registration	3,000.00	160.00	2,840.00	282.70	-76.69%
WIR Dues/Travel	6,500.00	10,316.46	(3,816.46)	7,967.83	22.77%
Unbudgeted Expenses:		183,056.04		147,352.61	19.50%
Prior Year Conference Expenses		5,330.00		-	100.00%
Wildlife Support Group		-		51,977.55	-100.00%
NV Division of Forestry Grant		26,825.32		2,927.16	89.09%
Wild Horse Burro Legal Services		50,498.05		36,000.00	28.71%
NV Land Management Task Force		55,662.90		11,689.50	79.00%
Depreciation Expense		36,365.87		34,309.86	5.65%
Investment Expense		8,373.90		10,448.54	-24.78%

Nevada Association of Counties
 Budget to Actual Comparison
 As of December 31, 2014

Account Description	Budget Amount	YTD	Remaining Budget	This Month Last Year	% of Change
Miscellaneous Expense		-			0.00%
TOTAL Expenses	604,139.20	727,232.18	59,963.06	634,400.61	12.77%
Net Income	(61,535.20)	(114,619.95)	(59,224.47)	61,587.13	153.73%
Reserve Income Forward					
Unreserved Fund Balance	129,329.00	-	129,329.00	-	0.00%
Transfer From Investments	329,694.00	325,000.00	4,694.00		0.00%
Capital Projects Carried Forward	-	-	-	-	0.00%
Equipment & Vehicle Reserve	119,133.00	-	119,133.00	-	0.00%
Vacation & Sick Leave Reserve	16,385.00	-	16,385.00	-	0.00%
SUBTOTAL	594,541.00	-	129,329.00	-	-
Reserve Expenses Forward					
Unreserved Fund Balance	119,133.00	-	119,133.00	-	0.00%
Equipment Reserve	-	-	-	-	0.00%
Vacation / Sick Leave Reserve	16,385.00	-	16,385.00	-	0.00%
SUBTOTAL	135,518.00	-	135,518.00	-	-
NET INCOME WITH RESERVES	397,487.80	(114,619.95)	(65,413.47)	61,587.13	153.73%

Nevada Association of Counties
General Ledger Trial Balance
As of Dec 31, 2014

Filter Criteria includes: Report order is by ID. Report is printed in Detail Format.

Account ID	Account Description	Debit Amt	Credit Amt
1000	Cash - Bank of America	74,082.41	
1010	Cash - NV State Bank	7,587.48	
1020	Money Market	109,923.40	
1030	Investments - RJ Equity	195,677.50	
1031	Investments Cash Equivalents	2,330.27	
1040	Investments - RJ Securities	429,690.99	
1041	Investments Cash Equivalents	8,906.92	
1250	Accounts Receivable	8,255.08	
1255	Rec IAF/Supplemental Fund	30,000.00	
1259	A/R National Programs	573.20	
1500	Office Equipment	167,265.95	
1525	Building	447,906.18	
1527	Land	131,000.00	
1528	Building Improvements	90,311.78	
1550	Fixed Assets - Vehicle	32,878.25	
2000	Prepaid Expenses	1,893.90	
2500	Accumulated Depreciation		189,808.63
3100	Accounts Payable		7,751.89
3160	Accrued Payroll Benefits		15,022.83
4000	Retained Earnings		1,640,319.91
4200	Investment Revenue - EQ		6,462.55
4220	Investment Revenue - HQT		13,098.46
4500	Membership Dues		350,104.86
4501	Conference Registration Fees		25,375.00
4502	Conference Sponsorship Fees		32,300.00
4504	Conference Raffle Proceeds		2,445.00
4505	Conference POWER Reg Fees		5,850.00
4508	Conf Registration-Spouse/Guest		1,575.00
4602	IAF/Supplemental Funds		60,000.00
4604	NV Division of Forestry Grant		29,825.32
4610	Wild Horse Burro Legal Contrib		25,000.00
4615	Land Management Taskforce		7,793.00
4650	Interest Income		218.94
4700	National Programs		44,435.60
4740	Unrealized Gain/(Loss)-EQINC		14,757.36
4741	Unrealized Gain/(Loss)-HQTAX	6,628.86	
7100	Salaries	226,224.74	
7103	Retirement	57,987.69	
7104	Employee Health Insurance	44,122.50	
7105	Employee Life Insurance	832.07	
7106	FICA and Medicare Expense	3,283.12	
7108	ESD Expense	649.17	
7109	PEBP Expenses	1,103.88	
7202	Equipment Maint/Lease	16,807.77	
7204	Office Supplies	14,031.84	
7207	Telephone	11,049.51	
7210	Postage	819.85	
7212	Liability/Auto Insurance	4,631.02	
7214	Vehicle Maint/Registration	160.00	
7216	Publications/Subscriptions/Due	6,533.91	
7218	Printing	1,110.62	
7219	Staff Travel	20,716.82	
7222	Representative Travel	22,969.23	
7224	WIR Dues/Travel	10,316.46	
7229	Property Taxes	3,075.74	
7230	Depreciation Expense	36,365.87	
7234	Donations/Sponsorship	6,012.23	
7300-02	NACO Conference Meals	15,252.25	
7300-03	NACO Conference Speakers	6,592.13	

Nevada Association of Counties
General Ledger Trial Balance
 As of Dec 31, 2014

Filter Criteria includes: Report order is by ID. Report is printed in Detail Format.

Account ID	Account Description	Debit Amt	Credit Amt
7300-04	NACO Conference Facility	2,595.60	
7300-07	NACO Conference Entertainment	700.00	
7300-09	NACO Conference Gifts/Prizes	1,965.84	
7300-10	NACO Conference Printing	1,249.60	
7300-11	NACO Conference Supplies	310.46	
7300-13	NACO Conference Transportation	154.20	
7300-14	NACO Conference POWER Program	9,000.00	
7300-15	NACO Conference Other Expenses	1,900.00	
7300-17	NACO Conference PayPal Fees	652.45	
7300-19	Prior Year Conference Expenses	5,330.00	
7303	Board Meetings	2,333.24	
7304	Legislative Expense	1,289.09	
7305	Audit	6,925.00	
7308	Professional Fees	12,268.00	
7309	Payroll Processing Service	2,818.12	
7323	NV Division of Forestry Grant	26,825.32	
7325	Wild Horse Burro Legal Service	50,498.05	
7327	NV Land Management Task Force	55,662.90	
7404	Bank Charges	153.25	
7406	Investment Expense	8,373.90	
8000-BLD	Utilities	6,348.10	
8100-BLD	Maintenance & Repairs	5,866.50	
8200-BLD	Janitorial Expenses	4,215.00	
8300-BLD	Mortgage Interest Expense	9,149.14	
Total:		2,472,144.35	2,472,144.35

Nevada Assoc Of Counties Account Summary

Account No. Closing Value \$198,007.77

00000045 04 SP 1 610 04 TR 00001 RJ5675M1 000100
NEVADA ASSOC OF COUNTIES (NACO)
EAM EOINC
304 S MINNESOTA ST
CARSON CITY NV 89703-4270046



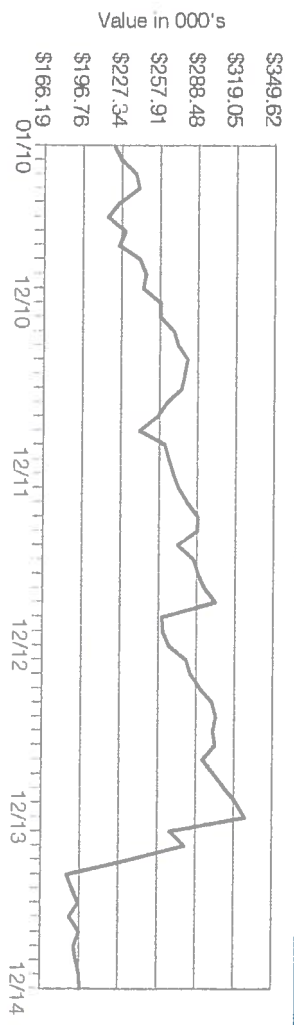
JOE WOODS II
Raymond James Financial Services, Inc.
RAYMOND JAMES FINANCIAL SVCS. | 1203 2ND ST | SUITE_A | CORONADO, CA 92118 |
(619) 435-1693
Raymondjames.com/SanDiego | Joe.Woods@Raymondjames.com

Raymond James Client Services | 800-647-SERV (7378)
Monday - Friday 8 a.m. to 6 p.m. ET
Online Account Access | raymondjames.com/investoraccess

Investment Objectives

Primary: Growth with a medium risk tolerance and a time horizon exceeding 10 years.

Value Over Time



Activity

	This Statement	Year to Date
Beginning Balance	\$ 197,669.45	\$ 328,456.90
Deposits	\$ 0.00	\$ 0.00
Income	\$ 1,019.22	\$ 6,462.55
Withdrawals	\$ 0.00	\$ (145,613.06)
Expenses	\$ 0.00	\$ (6,055.98)
Change in Value	\$ (80.90)	\$ 14,757.36
Ending Balance	\$ 198,007.77	\$ 198,007.77
Purchases	\$ (4,126.33)	\$ (28,863.75)
Sales/Redemptions	\$ 134.39	\$ 167,647.34

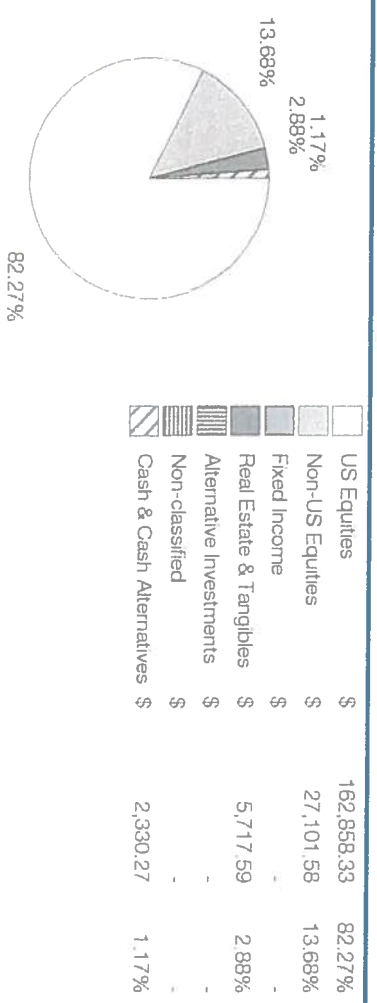
Time-Weighted Performance

See Understanding Your Statement for important information about these calculations.

Performance Inception	This Quarter	YTD	2013	2012	Annualized Since 08/26/1996
08/26/96	2.29%	7.86%	26.96%	11.67%	6.68%

Excludes some limited partnerships, unpriced securities and annuity history prior to the annuity being linked to the account.

Asset Allocation Analysis



Nevada Assoc Of Counties Account Summary

Account No. 0006869 05 MB 1 611 05 TR 00114 RUCP4T03 000100

Closing Value **\$438,597.91**

NEVADA ASSOC OF COUNTIES (NACO)
EAM HQ TAX
304 S MINNESOTA ST
CARSON CITY NV 89703-4270046

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Investment Objectives

Primary: Income with a medium risk tolerance and a time horizon exceeding 10 years.

Value Over Time



Activity

	This Statement	Year to Date
Beginning Balance	\$ 440,139.78	\$ 613,833.17
Deposits	\$ 0.00	\$ 95,613.06
Income	\$ 569.07	\$ 13,098.49
Withdrawals	\$ 0.00	\$ (275,000.00)
Expenses	\$ 0.00	\$ (2,318.12)
Change in Value	\$ (2,110.94)	\$ (6,628.69)
Ending Balance	\$ 438,597.91	\$ 438,597.91
Purchases	\$ (6,707.25)	\$ (282,509.95)
Sales/Redemptions	\$ 9,698.62	\$ 439,789.39

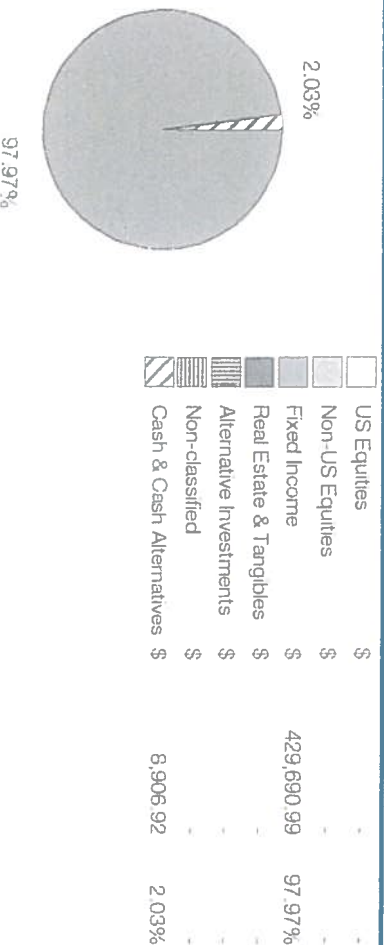
Time-Weighted Performance

See Understanding Your Statement for important information about these calculations.

Performance Inception	This Quarter	YTD	2013	2012	Annualized Since 08/26/1996
08/26/96	0.66%	0.26%	(3.71)%	1.94%	3.95%

Excludes some limited partnerships, unpriced securities and annuity history prior to the annuity being linked to the account.

Asset Allocation Analysis



The following pages are support
Documentation for agenda
Item 11

Content	Description	Sponsors	Tags	Status/Location	Last Meeting Title	Last Meeting Date	Last Meeting Action	Next Meeting Title	Next Meeting Date
AB3	Revises provisions governing the Public Employees' Retirement Board. (BDR 23-185)	Kirner		Government Affairs	Assembly Committee on Government Affairs	2/16/2015 9:00 AM	Heard		
AB4	Deletes provisions specifying the population of a county in which a winery may engage in certain activities. (BDR 52-228)	Hickey		Commerce and Labor					
AB6	Revises provisions relating to autism spectrum disorders. (BDR 54-67)	Committee on Commerce and Labor		Commerce and Labor					
AB6	Revises provisions governing the payment of costs associated with legal representation of indigent criminal defendants charged with capital crimes. (BDR 14-467)	Committee on Judiciary	PRIORITY; Support	Judiciary	Assembly Committee on Judiciary	2/5/2015 8:00 AM	Heard	Assembly Committee on Judiciary -- Work Session Item	2/20/2015 8:00 AM
AB11	Revises provisions governing reports of presentence investigations. (BDR 14-356)	Committee on Judiciary		Judiciary	Senate Committee on Finance and Assembly Committee on Ways and Means, Subcommittees on Public Safety, Natural Resources, and Transportation	2/10/2015 8:00 AM	Mentioned No Jurisdiction		
AB17	Provides for the establishment of a nonprofit entity for certain economic development purposes. (BDR 18-292)	Committee on Taxation		Taxation	Assembly Committee on Taxation	2/19/2015 1:30 PM	Heard		
AB19	Revises provisions governing the timing of the adoption of tentative budgets by certain local governments. (BDR 31-456)	Committee on Government Affairs	Support	Government Affairs	Assembly Committee on Government Affairs	2/11/2015 8:00 AM	Heard	Assembly Committee on Government Affairs -- Work Session Item	2/20/2015 8:30 AM

AB23	Makes various changes to provisions governing elections. (BDR 24-446)	Committee on Legislative Operations and Elections		Legislative Operations and Elections	Assembly Committee on Legislative Operations and Elections	2/17/2015 4:00 PM	Heard		
AB23	Revises provisions governing the residential construction tax. (BDR 22-454)	Committee on Government Affairs	Neutral; Support	Government Affairs	Assembly Committee on Government Affairs	2/11/2015 8:00 AM	Heard		
AB32	Revises provisions relating to special fuels. (BDR 32-382)	Committee on Taxation		Taxation					
AB34	Repeals provisions governing certain fire protection districts and fire safety. (BDR 42-369)	Committee on Government Affairs	Neutral	Government Affairs	Assembly Committee on Government Affairs	2/12/2015 8:00 AM	Heard	Assembly Committee on Government Affairs -- Work Session Item	2/20/2015 8:30 AM
AB36	Revises provisions governing emergency services and care provided by hospitals in certain larger counties. (BDR 40-474)	Committee on Health and Human Services		Health and Human Services					
AB41	Revises provisions relating to funding for indigent care. (BDR 38-327)	Committee on Health and Human Services	Need Position / Info	Health and Human Services				Assembly Committee on Health and Human Services	2/20/2015 1:30 PM
AB43	Clarifies confidentiality provisions governing certain documents. (BDR 35-377)	Committee on Transportation		Transportation	Assembly Committee on Transportation	2/5/2015 3:15 PM	Heard		
AB54	Revises provisions relating to local governments existing in a severe financial emergency. (BDR 31-308)	Committee on Government Affairs	Neutral	Government Affairs	Assembly Committee on Government Affairs	2/16/2015 9:00 AM	Rescheduled		
AB56	Revises provisions regarding the equalization of assessments of property for purposes of taxation. (BDR 32-304)	Committee on Taxation	Need Position / Info	Taxation					
AB57	Revises provisions governing the taxation of purchases of direct mail. (BDR 32-306)	Committee on Taxation		Taxation	Assembly Committee on Taxation	2/10/2015 1:30 PM	Heard		

AB60	Revises provisions relating to ethics in government. (BDR 23-309)	Committee on Legislative Operations and Elections		Legislative Operations and Elections	Assembly Committee on Legislative Operations and Elections	2/5/2015 4:00 PM	Heard		
AB60	Revises certain provisions relating to veterans. (BDR 19-298)	Committee on Government Affairs	Neutral	Government Affairs	Assembly Committee on Taxation	2/17/2015 1:30 PM	Mentioned no jurisdiction		
AB64	Authorizes the governing bodies of certain cities to take actions otherwise reserved to the board of county commissioners. (BDR 21-429)	Committee on Government Affairs	Concerns	Government Affairs					
AB69	Revises various provisions relating to the Judicial Branch of State Government. (BDR 1-497)	Committee on Judiciary		Judiciary	Assembly Committee on Judiciary -- Work Session Item	2/13/2015 8:00 AM	Amend, and do pass as amended		
AB70	Provides for the administration and enforcement of excise taxes on medical marijuana. (BDR 32-322)	Committee on Taxation		Taxation	Assembly Committee on Taxation	2/10/2015 1:30 PM	Heard		
AB71	Revises provisions relating to military veterans and members and relatives of members of the Nevada National Guard. (BDR 32-297)	Committee on Taxation	Neutral	Taxation	Assembly Committee on Taxation	2/17/2015 1:30 PM	Heard		
AB80	Revises provisions governing the prepayment of taxes on the net proceeds of minerals. (BDR 32-466)	Committee on Taxation	Support	Taxation					
AB90	Establishes the Nevada Intrastate Mutual Aid System. (BDR 36-391)	Committee on Government Affairs	Support	Government Affairs	Assembly Committee on Government Affairs	2/12/2015 8:00 AM	Heard	Assembly Committee on Government Affairs -- Work Session Item	2/20/2015 8:30 AM
AB94	Authorizes a registered voter to elect to receive a sample ballot by electronic mail. (BDR 24-518)	Hansen		Legislative Operations and Elections				Assembly Committee on Legislative Operations and Elections	2/24/2015 4:00 PM
AB96	Revises provisions governing the payment of property taxes. (BDR 32-401)	Hansen		Taxation					

AB105	Revises provisions governing the membership of the Public Employees' Retirement Board. (BDR 23-682)	Committee on Government Affairs		Commerce and Labor					
AB106	Revises provisions related to public works. (BDR 28-244)	Committee on Government Affairs	Concerns	Government Affairs	Assembly Committee on Government Affairs	2/19/2015 8:30 AM	Rescheduled		
AB109	Requires an employee organization to prepare an annual report concerning the dues, expenditures, compensation and other finances of the employee organization. (BDR 23-929)	Titus, Wheeler, Dickman, Dooling, and Seaman		Commerce and Labor				Assembly Committee on Commerce and Labor	2/23/2015 1:30 PM
AB110	Revises provisions governing court sanctions for certain conduct in civil actions. (BDR 2-648)	Kirner	Neutral	Judiciary	Assembly Committee on Judiciary	2/17/2015 8:00 AM	Heard		
AB118	Revises provisions governing residency requirements for candidates for public office. (BDR 23-761)	Hickey, and Kirkpatrick		Legislative Operations and Elections					
AB127	Provides for the uniform regulation of firearms in the State of Nevada. (BDR 20-74)	Assemblymen Hambrick, and O'Neill; Senators Gustavson, and Settlemeyer		Government Affairs					
AB144	Makes various changes relating to the Land Use Planning Advisory Council. (BDR 26-554)	Committee on Natural Resources, Agriculture, and Mining	Need Position / Info; Support	Natural Resources, Agriculture, and Mining	Assembly Committee on Natural Resources, Agriculture, and Mining	2/10/2015 1:00 PM	Discussed as BDR	Assembly Committee on Natural Resources, Agriculture, and Mining	2/24/2015 1:30 PM
AB147	Revises provisions relating to transferable tax credits to attract film and other productions to Nevada. (BDR 32-503)	Assemblywoman Carlton; Senator Ford		Ways and Means					
AB152	Enacts certain requirements governing child care facilities. (BDR 38-623)	Assemblymen Araujo, Diaz, Thompson, Benitez-Thompson, Carrillo, Flores, Joiner,		Health and Human Services					

AB159	Makes various changes to provisions governing public works. (BDR 28-936)	Committee on Government Affairs		Government Affairs					
AB160	Makes various changes relating to courts. (BDR 1-453)	Ellison, and Wheeler		Judiciary					
AB161	Authorizes certain businesses to apply to the Office of Economic Development for a partial abatement from certain taxes. (BDR 32-699)	Bustamante Adams		Taxation				Joint Meeting of the Senate Committee on Revenue and Economic Development and Assembly Committee on Taxation	2/19/2015 3:30 PM
AB162	Revises provisions governing the use of portable event recording devices by law enforcement. (BDR 23-443)	Munford, Wheeler, Ohrenschall, and Shelton		Government Affairs					
AB163	Provides for the creation of rangeland fire protection associations. (BDR 42-43)	Assemblymen Hansen, Oscarson, Wheeler, Dickman, Ellison, and Titus; Senators Gustavson, and Settlemeyer	Need Position / Info	Government Affairs				Assembly Committee on Government Affairs	2/20/2015 8:30 AM
AB169	Provides for the collection and application of graywater for a single-family residence. (BDR 40-804)	Committee on Health and Human Services		Health and Human Services	Assembly Committee on Health and Human Services	2/16/2015 1:30 PM	Discussed as BDR		
AB170	Revises provisions governing general obligations. (BDR 30-917)	Dickman, Wheeler, Fiore, Ellison, Hambrick, Moore, and Shelton		Government Affairs					
AB172	Requires contractors and subcontractors on a public work to use the federal E-Verify system to verify eligibility for employment for workers on the public work and revises prevailing wage	Assemblymen O'Neill, Oscarson, Kirner, and Stewart; Senators Goicoechea, and		Government Affairs					

AB177	Revises provisions governing elections. (BDR 24-627)	Assemblymen Seaman, Fiore, Shelton, Moore, Gardner, Paul Anderson, Dickman,		Legislative Operations and Elections					
AB179	Revises provisions governing personal information. (BDR 52-756)	Assemblymen Flores, Carrillo, Diaz, Elliot Anderson, Araujo, Armstrong, Benitez-Thompson,		Printer					
AB180	Revises provisions governing the biennial audit requirements for the Public Employees' Retirement System. (BDR 23-569)	Assemblymen Armstrong, Edwards, Kirner, Hambrick, O'Neill, Elliot Anderson, Paul Anderson, Bustamante Adams, Kirner, Wheeler,		Printer					
AB182	Revises provisions relating to collective bargaining by local government employers. (BDR 23-646)	Hambrick, Dickman, Edwards, Ellison, Gardner, Jones, Nelson, and		Printer					
AJR2	Urges the United States Congress and the United States Fish and Wildlife Service to take certain actions to reduce the impact of common ravens on the	Committee on Natural Resources, Agriculture, and Mining		Natural Resources, Agriculture, and Mining	Assembly Committee on Natural Resources, Agriculture, and Mining	2/17/2015 1:30 PM	Heard	Assembly Committee on Natural Resources, Agriculture, and Mining -- Work Session Item	2/24/2015 1:30 PM
AJR3	Urges Congress to facilitate the payment of contractors who completed hazardous fuels treatment projects in the Lake Tahoe Basin pursuant to contracts with the Nevada Fire Safe Council. (BDR R-	Committee on Natural Resources, Agriculture, and Mining		Natural Resources	Assembly Committee on Natural Resources, Agriculture, and Mining -- Work	2/12/2015 1:00 PM	Do pass		
AJR4	Urges Congress to enact legislation allowing states to establish daylight saving time as the standard time throughout the calendar year. (BDR R-583)	Assemblymen Edwards, Armstrong, Oscarson, Dickman, Ellison, Kirner, and Ohrenschall; Senator Goicoechea		Legislative Operations and Elections					

SB3	Requires the Department of Motor Vehicles to establish a registry of emergency contact information for certain persons. (BDR 43-14)	Gustavson	Need Position / Info	Transportation	Senate Committee on Transportation -- Work Session Item	2/19/2015 8:30 AM	Amend, and do pass as amended		
SB5	Revises provisions governing elections for nonpartisan offices. (BDR 24-90)	Settelmeyer		Legislative Operations and Elections	Senate Committee on Legislative Operations and Elections	2/9/2015 3:30 PM	Heard, No Action		
SB11	Grants power to local governments to perform certain acts or duties which are not prohibited or limited by statute. (BDR 20-284)	Goicoechea	PRIORITY; Support	Government Affairs	Assembly Committee on Government Affairs	2/11/2015 8:00 AM	Mentioned no jurisdiction		
SB16	Revises provisions governing presentence and general investigations and reports made by the Division of Parole and Probation of the Department of Public Safety. (BDR 14-469)	Committee on Judiciary	PRIORITY; Support	Judiciary	Senate Committee on Judiciary	2/13/2015 1:00 PM	Heard, No Action		
SB19	Authorizes the board of trustees of a school district to place an advisory question on the ballot at a general election. (BDR 24-477)	Committee on Legislative Operations and Elections	Offered an amendment to Exempt rurals	Legislative Operations and Elections	Senate Committee on Legislative Operations and Elections	2/18/2015 3:30 PM	Heard, No Action		
SB21	Revises provisions relating to certain taxes imposed on special fuels. (BDR 32-381)	Committee on Revenue and Economic Development	Need Position / Info	Taxation	Senate Committee on Revenue and Economic Development	2/12/2015 3:30 PM	Do pass		
SB22	Revises provisions relating to certain licenses pertaining to intoxicating liquor. (BDR 32-455)	Committee on Revenue and Economic Development	Neutral	Taxation	Senate Committee on Revenue and Economic Development	2/12/2015 3:30 PM	Do pass		
SB28	Clarifies provisions governing the fees that may be charged for providing copies of certain public records. (BDR 19-464)	Committee on Government Affairs		Government Affairs	Assembly Committee on Government Affairs	2/11/2015 8:00 AM	Mentioned no jurisdiction		
SB29	Grants power to a board of county commissioners to perform certain acts which are not prohibited or limited by statute. (BDR 20-465)	Committee on Government Affairs	Support	Government Affairs					

SB30	Authorizes a board of county commissioners to withhold longevity pay for certain elected county officers under certain circumstances. (BDR 20-468)	Committee on Government Affairs	PRIORITY; Support	Government Affairs	Senate Committee on Government Affairs -- Work Session Item	2/13/2015 1:30 PM	Amend, and do pass as amended		
SB32	Revises provisions governing medical marijuana. (BDR 40-333)	Committee on Health and Human Services		Health and Human Services					
SB33	Makes various changes relating to county hospitals. (BDR 40-475)	Committee on Health and Human Services		Health and Human Services	Senate Committee on Health and Human Services	2/11/2015 3:30 PM	Heard, No Action		
SB35	Ratifies and enacts the Interstate Compact on Mental Health. (BDR 39-330)	Committee on Health and Human Services		Health and Human Services	Senate Committee on Health and Human Services	2/4/2015 3:30 PM	Heard, No Action		
SB45	Revises provisions governing the distribution of grants of money by the State Conservation Commission to conservation districts. (BDR 49-361)	Committee on Natural Resources		General File	Senate Committee on Natural Resources	2/17/2015 1:30 PM	Do pass		
SB47	Makes various changes relating to the Consolidated Local Improvements Law. (BDR 22-421)	Committee on Government Affairs	Need Position / Info	Government Affairs	Senate Committee on Government Affairs	2/18/2015 1:30 PM	Heard, No Action		
SB49	Revises provisions relating to emergency shelters for children. (BDR 38-498)	Committee on Health and Human Services		Health and Human Services	Senate Committee on Health and Human Services -- Work Session Item	2/18/2015 3:30 PM	Amend, and do pass as amended		
SB51	Creates the Nevada Main Street Program within the Office of Economic Development of the Office of the Governor. (BDR 18-463)	Committee on Revenue and Economic Development	Neutral	Revenue and Economic Development	Assembly Committee on Government Affairs	2/11/2015 8:00 AM	Mentioned no jurisdiction	Senate Committee on Revenue and Economic Development	2/19/2015 4:30 PM
SB56	Revises provisions governing graffiti. (BDR 15-479)	Committee on Judiciary		Judiciary	Assembly Committee on Government Affairs	2/11/2015 8:00 AM	Mentioned no jurisdiction		
SB59	Revises provisions relating to the state business portal. (BDR 7-448)	Committee on Judiciary	PRIORITY	Judiciary	Assembly Committee on Ways and Means	2/5/2015 8:00 AM	Mentioned no jurisdiction		

SB65	Revises provisions relating to the use of water. (BDR 48-366)	Committee on Government Affairs		Government Affairs	Senate Committee on Government Affairs	2/11/2015 1:30 PM	Heard, No Action		
SB66	Revises provisions governing local governmental agreements for the development of land. (BDR 22-422)	Committee on Government Affairs		Government Affairs	Senate Committee on Government Affairs	2/18/2015 1:30 PM	Heard, No Action		
SB70	Revises provisions governing meetings of public bodies. (BDR 19-155)	Committee on Government Affairs	Need Position / Info	Government Affairs				Senate Committee on Government Affairs	2/25/2015 1:30 PM
SB74	Revises provisions governing the abatement of certain taxes for economic development purposes. (BDR 32-293)	Committee on Revenue and Economic Development	Need Position / Info	Revenue and Economic Development				Senate Committee on Revenue and Economic Development	2/19/2015 4:30 PM
SB78	Makes various changes to provisions relating to taxation. (BDR 32-303)	Committee on Revenue and Economic Development	Need Position / Info	Revenue and Economic Development					
SB81	Revises provisions relating to the management and appropriation of water. (BDR 48-367)	Committee on Government Affairs		Government Affairs	Senate Committee on Government Affairs	2/11/2015 1:30 PM	Heard, No Action		
SB93	Authorizes certain businesses to apply to the Office of Economic Development for a partial abatement from certain taxes. (BDR 32-291)	Committee on Revenue and Economic Development	Concerns; Neutral	Revenue and Economic Development	Senate Committee on Transportation	2/17/2015 8:30 AM	Mentioned Not Agendized	Joint Meeting of the Senate Committee on Revenue and Economic Development and Assembly Committee on Taxation	2/19/2015 3:30 PM
SB95	Revises provisions governing the publication of property tax rolls. (BDR 32-630)	Parks	Support	Revenue and Economic Development					
SB97	Revises provisions governing the restoration of certain civil rights for ex-felons. (BDR 16-138)	Segerblom		Judiciary					
SB102	Provides for the creation of rangeland fire protection associations. (BDR 42-484)	Committee on Government Affairs		Government Affairs					

SB105	Authorizes the owners or operators of certain establishments to allow dogs to enter such establishments. (BDR 40-88)	Settelmeyer		Government Affairs	Senate Committee on Government Affairs	2/16/2015 1:30 PM	Heard, No Action		
SB108	Revises provisions relating to public works projects. (BDR 28-598)	Settelmeyer		Government Affairs					
SB109	Revises provisions relating to the sale or lease of a county-owned telephone system. (BDR 58-603)	Senator Settelmeyer; Assemblywoman Titus		Government Affairs					
SB110	Revises provisions governing the disposal of abandoned recreational vehicles. (BDR 43-609)	Goicoechea		Health and Human Services	Senate Committee on Health and Human Services	2/18/2015 3:30 PM	Heard, No Action		
SB111	Providing for the use of portable event recording devices by local law enforcement agencies in certain counties. (BDR 23-618)	Ford, and Atkinson		Government Affairs					
SB115	Revises provisions relating to certain town advisory boards. (BDR 21-241)	Hardy		Government Affairs	Senate Committee on Government Affairs	2/16/2015 1:30 PM	Heard, No Action		
SB118	Revises various provisions of the Charter of the City of Sparks. (BDR S-500)	Smith		Government Affairs	Assembly Committee on Government Affairs	2/11/2015 8:00 AM	Mentioned no jurisdiction	Senate Committee on Government Affairs	2/25/2015 1:30 PM
SB122	Revises provisions relating to recycling. (BDR 54-893)	Senator Denis; Assemblywoman Swank		Commerce, Labor and Energy					
SB125	Makes various changes related to recruiting, retaining, stabilizing and expanding regional commercial air service in this State. (BDR 18-610)	Senator Goicoechea; Assemblyman Ellison	Need Position / Info	Revenue and Economic Development					
SB130	Converts the Department of Wildlife into the Division of Wildlife of the State Department of Conservation and Natural Resources. (BDR 45-613)	Senators Goicoechea, Gustavson, and Settelmeyer; Assemblyman Ellison		Natural Resources					
SB131	Revises provisions governing the compensation of certain court reporters. (BDR 1-639)	Brower	Neutral with Concerns	Judiciary	Senate Committee on Judiciary	2/19/2015 1:00 PM	Heard, No Action		

SB137	Enacts provisions governing certain plans for dental care. (BDR 57-575)	Hardy		Commerce, Labor and Energy	Senate Committee on Commerce, Labor and Energy	2/18/2015 8:30 AM	Heard, No Action		
SB144	Revises provisions governing traffic laws. (BDR 43-72)	Manendo, Parks, Woodhouse, and Spearman		Transportation				Senate Committee on Transportation	2/24/2015 8:30 AM
SB146	Revises provisions relating to the payment of wages to certain employees. (BDR 53-629)	Senators Parks, and Spearman; Assemblywoman Bustamante Adams		Commerce, Labor and Energy					
SB149	Provides for a program of matching grants to local governments for the maintenance and repair of public works. (BDR 43-669)	Senators Atkinson, Kihuen, and Ford; Assemblymen Sprinkle, and Carlton		Revenue and Economic Development					
SB150	Provides for the creation of certain local improvement districts. (BDR 22-60)	Atkinson		Government Affairs					
SB151	Requires the Public Utilities Commission of Nevada to adopt regulations authorizing a natural gas utility to expand its infrastructure in a manner consistent with a program of	Senators Atkinson, Kihuen, Ford, and Settlemeyer; Assemblymen Kihuen, and Spearman,		Commerce, Labor and Energy	Senate Committee on Commerce, Labor and Energy	2/18/2015 8:30 AM	Heard, No Action		
SB152	Makes various changes to provisions governing public safety. (BDR 43-17)	Spearman, Manendo, Woodhouse, Parks, Atkinson, and Kihuen		Transportation				Senate Committee on Transportation	2/24/2015 8:30 AM
SB153	Revises provisions relating to occupational diseases. (BDR 53-635)	Committee on Commerce, Labor and Energy		Commerce, Labor and Energy				Senate Committee on Commerce, Labor and Energy	2/23/2015 9:00 AM
SB155	Revises provisions relating to farm vehicles and implements of husbandry. (BDR 32-707)	Goicoechea, Gustavson, and Settlemeyer		Revenue and Economic Development				Senate Committee on Revenue and Economic Development	2/20/2015 3:30 PM
SB157	Enacts the State and Local Government Cooperation Act. (BDR 22-706)	Committee on Government Affairs	Need Position / Info	Government Affairs					

SB158	Revises provisions relating to collective bargaining by local governments. (BDR 23-704)	Committee on Government Affairs	Need Position / Info	Government Affairs					
SB167	Revises provisions relating to employment. (BDR 18-265)	Roberson, Brower, Hammond, Harris, Lipparelli, and Kieckhefer		Judiciary					
SB168	Revises provisions relating to collective bargaining by local government employers. (BDR 23-602)	Senators Settlemeyer, Goicoechea, Gustavson, and Lipparelli; Assemblymen Kirner, O'Neill, Trowbridge, and Wheeler	Need Position / Info	Government Affairs					
SB169	Requires proof of identity for voting. (BDR 24-599)	Senators Settlemeyer, Goicoechea, and Gustavson; Assemblymen Fiore, Ellison, Kirner, O'Neill, Trowbridge, and Wheeler		Finance					
SB170	Provides for a partial abatement of certain taxes for new or expanding data centers and related businesses in this State. (BDR 32-765)	Senators Roberson, Ford, Lipparelli, and Harris; Assemblymen Kirkpatrick, and Hambrick		Revenue and Economic Development	Assembly Committee on Government Affairs	2/19/2015 8:30 AM	Mentioned no jurisdiction		

SB171	Revises provisions governing the issuance of permits to carry concealed firearms. (BDR 15-597)	Senators Settlemeyer, Gustavson, Goicoechea, Roberson, Kieckhefer, Brower, and Hardy; Assemblymen Fiore, Hickey, Kirner, and Wheeler		Judiciary					
SB175	Makes various changes relating to public safety. (BDR 15-515)	Senators Roberson, Lipparelli, Hammond, Brower, Settlemeyer, Farley, Goicoechea, Gustavson, Hardy, Harris, and Kieckhefer; Assemblymen Hambrick, Wheeler, and Shelton		Judiciary					
SJR1	Urges Congress to enact legislation transferring title to certain public lands to the State of Nevada in accordance with the report prepared by the Nevada Land Management Task Force. (BDR R-451)	Senators Goicoechea, and Gustavson; Assemblymen Ellison, Hansen, and Oscarson	PRIORITY	Legislative Operations and Elections					
SJR2	Urges Congress to require the sharing of federal receipts from commercial activity on certain public lands with the State of Nevada and its counties. (BDR R-452)	Senators Goicoechea, and Gustavson; Assemblymen Ellison, Hansen, and Oscarson	Support	Legislative Operations and Elections				Senate Committee on Legislative Operations and Elections	2/23/2015 3:30 PM
SJR4	Urges Congress to enact the Marketplace Fairness Act. (BDR R-98)	Woodhouse	Support	Legislative Operations and Elections	Senate Committee on Legislative Operations and Elections	2/11/2015 3:30 PM	Heard, No Action		

SJR5	Expresses support for the 2014 Nevada Greater Sage-Grouse Conservation Plan developed by the Sagebrush Ecosystem Council and urges the United States Fish and Wildlife Service not to list the greater sage-grouse as endangered or threatened under the Endangered Species Act of 1973. (BDR R-480)	Committee on Legislative Operations and Elections	Support	Legislative Operations and Elections	Senate Committee on Legislative Operations and Elections	2/18/2015 3:30 PM	Heard, No Action		
SJR6	Amends the Nevada Constitution to revise the method for determining the minimum wage. (BDR C-543)	Hardy		Legislative Operations and Elections					
SJR8	Amends the Nevada Constitution to increase the minimum wage per hour worked. (BDR C-425)	Segerblom		Legislative Operations and Elections					
SCR2	Encourages education of medical care providers and first responders regarding caring for persons with Alzheimer's disease. (BDR R-237)	Hardy		Printer					

The following pages are support
Documentation for agenda
Item 12B



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6 **UNITED STATES DISTRICT COURT**
 7
 8 **DISTRICT OF NEVADA**

8 F.I.M. CORP., FRED FULSTONE,
 9 MARIANNE LEINASSAR, KRISTOFOR
 10 LEINASSAR,

Case No. 3:14-cv-00630 (MMD-WGC)

11 NEVADA ASSOCIATION OF COUNTIES,

12 NEVADA MINERAL RESOURCES
 13 ALLIANCE,

**PLAINTIFFS' OPPOSITION TO
 DEFENDANTS' MOTION TO
 TRANSFER VENUE**

14 and

15 AMERICAN EXPLORATION & MINING
 16 ASSOCIATION

17 Plaintiffs,

18 v.

19 U.S. DEPARTMENT OF THE INTERIOR,
 20 SALLY JEWELL, in her official capacity as
 21 Secretary, U.S. Department of the Interior,
 22 U.S. FISH & WILDLIFE SERVICE, a part of
 23 the Department of the Interior, DANIEL M.
 24 ASHE, in his official capacity as Director of
 25 the U.S. Fish & Wildlife Service, U.S.
 26 Department of the Interior, GARY FRAZER,
 in his official capacity as Assistant Director for
 Endangered Species at the U.S. Fish &
 Wildlife Service, U.S. Department of the
 Interior, REN LOHOEFENER, in his official
 capacity as the Pacific Southwest Regional
 Director, U.S. Fish & Wildlife Service, U.S.
 Department of the Interior, and, EDWARD
 KOCH, in his official capacity as the State
 Supervisor, U.S. Fish & Wildlife Service,
 Reno, NV

27 Defendants.

28

1 **INTRODUCTION**

2 Plaintiffs, the Nevada Association of Counties (“NACO”), the Nevada Mineral Resources
3 Alliance (“NVMRA” or the “Alliance”), F.I.M. Corp., (“FIM”), Fred Fulstone, Marianne
4 Leinassar and Kristofor Leinassar (collectively with Fred Fulstone and Marianne Leinassar, the
5 “Fulstones”) and the American Exploration & Mining Association (“AEMA” and, collectively
6 with NACO, FIM, the Fulstones and NVMRA, the “Plaintiffs”) oppose Defendants’ Motion to
7 Transfer Venue. Defendants, United States Department of the Interior (“Interior” or “DOI”);
8 S.M.R. Jewell, in her official capacity as Secretary of the Interior; the United States Fish and
9 Wildlife Service (“FWS”); Daniel M. Ashe, in his official capacity as FWS’s Service Director;
10 Gary Frazer, in his official capacity as FWS’s Assistant Director for Ecological Services; Ren
11 Lohofener, in his official capacity as FWS’s Pacific Southwest Regional Director; and Edward
12 Koch, in his official capacity as State Supervisory of FWS’s Nevada Fish and Wildlife Office,
13 (collectively “Defendants”) cannot meet their burden to demonstrate that circumstances favor
14 transfer. Accordingly, controlling precedent requires that the Plaintiffs’ choice of forum not be
15 disturbed. The factors the Ninth Circuit has required be considered when a defendant seeks to
16 disturb a plaintiff’s proper choice of venue under 28 U.S.C. § 1404 do not support transferring
17 this action. Defendants’ preference for another court and its case law demonstrate nothing short
18 of forum shopping that courts look to prevent.

19 **BACKGROUND**

20 Plaintiffs brought this action in the District of Nevada against Defendants to enforce the
21 express provisions of the Endangered Species Act (“ESA”) and estop interference with
22 implementation of significant State conservation efforts concerning the Greater Sage-Grouse and
23 Bi-State Distinct Population Segment (“DPS”) (collectively the “Nevada Candidate Species”).
24 FWS previously designated both of these species as a “candidate species” and, in accordance
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1 with the ESA and FWS's implementing regulations, have reevaluated each of these candidate
2 species annually to determine whether the species should be deemed (i) not warranted for listing,
3 (ii) warranted and subject to proposed listing, or (iii) "warranted but precluded" due to its
4 comparatively low priority. *See* 16 U.S.C. § 1533(b)(3); 50 C.F.R. § 424.14(b). At issue here is
5 the FWS's decision to eliminate the possibility of the species continuing as a candidate species
6 as provided under the ESA and, instead, following a mandate in violation of the ESA to move
7 the Nevada Candidate Species from the candidate species category and either propose to list
8 them as threatened or endangered under the ESA or determining that listing is not warranted.

9
10 The Defendants have insisted that the timing of FWS's analysis of the Nevada Candidate
11 Species are dictated by judicial settlements but, on more than one occasion, have sought relief
12 from the settlement imposed deadlines. The settlement imposed deadlines arose from a deal
13 reached to resolve actions consolidating twelve cases in the District Court for the District of
14 Columbia ("D.C. District Court") by the Judicial Panel on Multi-District Litigation (the
15 "Deadline MDL"). FWS entered into two settlement agreements with the special interest groups
16 bringing those twelve actions, the Center for Biological Diversity ("CBD") and WildEarth
17 Guardians ("WEG"). *See* CBD Stipulated Settlement Agreement, ECF No. 42-1 (July 12, 2011);
18 WEG Stipulated Settlement Agreement, ECF No. 31-1 (May 10, 2011) (the "Settlement
19 Agreements"). Although the twelve consolidated actions involved a limited number of species,
20 the Settlement Agreements included FWS commitments to conduct novel "up or out" species
21 status reviews for hundreds of species on the candidate list and either list those species or
22 determine that listing is not warranted for each of the species, eliminating the warranted but
23 precluded classification provided under the ESA. FWS agreed that by 2018 none of the species
24 subject to the Settlement Agreements would remain on the candidate list.

25
26 Acting under the Settlement Agreements, FWS has moved some species from the
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1 candidate species classification and listed them as “threatened” under the ESA – failing to
2 consider retaining the candidate species status. In moving those species from the candidate
3 species classification, FWS did not account for conservation measures undertaken by states,
4 counties, associations and other key stakeholders.

5
6 For the Nevada Candidate Species, FWS has committed to making a listing decision
7 without considering keeping these species as candidate species – an option required under the
8 ESA and FWS’ regulations. FWS has repeatedly confirmed it will remove the Greater Sage
9 Grouse from the candidate species classification by September 30, 2015. Accordingly, even if
10 scientific data and Nevada’s significant conservation measures would lead FWS to retain the
11 candidate species classification for the Nevada Candidate Species, these species will be subject
12 to a premature listing under the ESA.

13
14 Plaintiffs brought this action against Defendants to remedy violation of the ESA, the
15 Administrative Procedure Act (“APA”), and the Constitution and estop the interference with
16 implementation of Nevada’s Conservation Plan that would result from the FWS’s actions and
17 intentions regarding the Nevada Candidate Species – after Nevada spent significant time and
18 money on preparing the plan at the invitation of then Secretary of the Interior, Ken Salazar.
19 FWS’s failure to consider the statutory alternative of retaining the Nevada Candidate Species
20 within the candidate species classification will significantly interfere with Nevada’s
21 Conservation Plan after Nevada has spent several years and significant funds to prepare the plan
22 and take necessary steps for its development and implementation. FWS’s decision to remove
23 the Nevada Candidate Species from the candidate species classification will not, as required
24 under the ESA, be made “solely on the basis of the best scientific and commercial data available
25 . . . after conducting a review of the status of the species and after taking into account those
26 efforts, if any, being made by any State . . . to protect such species [including] conservation
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1 practices” 16 U.S.C. § 1533(b)(1)(A). FWS’s elimination of the candidate species status
2 from consideration in its listing determination further violates its own regulations requiring
3 during each annual review that the FWS consider retaining the candidate species status. By
4 imposing the arbitrary Settlement deadlines and processes on the State of Nevada, NACO
5 member counties, NVMRA members, AEMA member companies, the Fulstones and other
6 stakeholders who are not party to the Settlement Agreements, FWS has violated fundamental
7 principles of due process for these parties particularly given the substantive modification of
8 FWS’ statutory obligations under the ESA. Moreover, FWS has violated Article II of the
9 Constitution in its abdication of executive duty by transferring, via the Settlement Agreements,
10 its ESA-related decision-making for the species at issue to special interest litigants.
11

12 Defendants have moved the Court to transfer this case to the United States District Court
13 for the District of Columbia (“D.C. District Court”). Defendants argue that the “interest of
14 justice” demands that this case be transferred to the venue where FWS entered into its Settlement
15 Agreements in the Deadline MDL. In addition, Defendants have petitioned the Judicial Panel on
16 Multi-District Litigation (“Panel”) to treat this case as a “tag-along” case for consolidation with
17 the Deadline MDL. The clerk’s office for the Panel issued a Conditional Transfer Order on
18 February 6, 2015. Plaintiffs are preparing their Notice of Objection for filing and will file a brief
19 with the Panel, setting forth why this case should not be consolidated with the now-settled
20 special interest plaintiffs’ cases in Washington, D.C.
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23 ARGUMENT

24 Defendants have no basis to transfer this case and their request to do so is a flagrant
25 demonstration of forum-shopping. The controlling factors this Court must consider do not favor
26 disturbing the Plaintiffs’ choice of venue in Nevada. Defendants’ contentions that this Court is
27 not well-qualified to adjudicate Plaintiffs’ claims and that it would be unable to enforce a
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1 judgment for Plaintiffs have no merit.

2 **I. DEFENDANTS MUST DEMONSTRATE THAT THE NINTH CIRCUIT**
3 **CRITERIA FAVORS TRANSFER.**

4 Under 28 U.S.C. Section 1404(a), a district court adjudicates motions for transfer on an
5 individual and case-by-case basis taking into consideration convenience and fairness. *See Jones*
6 *v. GNC Franchising, Inc.*, 211 F. 3d 495, 498 (9th Cir. 2000) (citing *Stewart Org. v. Ricoh*
7 *Corp.*, 487 U.S. 22, 29 (1988) (quoting *Van Dusen v. Barrack*, 376 U.S. 612, 622 (1964)). The
8 Ninth Circuit weighs multiple factors in its determination as to whether transfer is appropriate in
9 a particular case. *See Jones*, 211 F. 3d at 498. The factors that a district court considers include:
10 (1) the location where the relevant agreements were negotiated and executed, (2) the state that is
11 most familiar with the governing law, (3) the plaintiff's choice of forum, (4) the respective parties'
12 contacts with the forum, (5) the contacts relating to the plaintiff's cause of action in the chosen
13 forum, (6) the differences in the costs of litigation in the two forums, (7) the availability of
14 compulsory process to compel attendance of unwilling non-party witnesses, and (8) the ease of
15 access to sources of proof. *See id.* at 498-99.

16
17 In the instant case, Defendants have little support for their motion to transfer. The Ninth
18 Circuit factors weigh in favor of keeping the case in the District of Nevada. Other than
19 Defendants' preference for a jurisdiction with what Defendants perceive as precedent favorable
20 to their defenses against Plaintiffs' claims, Defendants offer no cogent basis to transfer this case.

21 **II. A WEIGHING OF THE JONES FACTORS DOES NOT SUPPORT TRANSFER.**

22 The district court has discretion under Section 1404(a) "to adjudicate motions for transfer
23 according to an 'individualized, case-by-case consideration of convenience and fairness.'" *Jones*,
24 211 F. 3d at 498 (citing *Stewart*, 487 U.S. at 29 (quoting *Van Dusen*, 376 U.S. at 622)).
25 The burden is on the moving party to demonstrate that the action should be transferred. *See*
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1 *Commodity Futures Trading Comm'n v. Savage*, 611 F.2d 270, 279 (9th Cir. 1979). Defendants
2 have failed to meet their burden of demonstrating transferring this case is appropriate.

3 **i. *The location where the relevant agreements were negotiated and executed:***

4 Defendants contend that the first *Jones* factor argues in favor of transfer for three reasons:
5 first, because the settlement negotiations that led to the Settlement Agreements were “*primarily*
6 *conducted in or near* the District of Columbia,” second, the Settlement Agreements were
7 “executed by counsel located in the District of Columbia,” and third, approval by Judge Sullivan
8 occurred in the District of Columbia. *See* Defendants’ Memorandum in Support of Motion to
9 Transfer Venue (“Def. Mem.”) at 17-18 (emphasis added). While part of the injury at issue is
10 traceable to the Settlement Agreements which gave rise to FWS’s decision to take the listing
11 actions that Plaintiffs contend is in direct violation of the ESA, Plaintiffs’ claims do not arise out
12 of these Settlement Agreements. Instead, Plaintiffs’ seek to enforce their rights under the ESA
13 and estop the Defendants from interfering with the implementation of the Nevada Conservation
14 Plan after the State and Plaintiffs spent significant time and money preparing the plan in reliance
15 upon DOI’s invitation to do so.

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17
18 Plaintiffs’ claims concern the timing of and analysis given to FWS’s decision to move the
19 Nevada Candidate Species from the candidate species category by either proposing to list them
20 as threatened or endangered under the ESA or determining that listing is not warranted. While
21 the Settlement Agreements precipitated such a decision by FWS, this is not a case arising out of
22 the Settlement Agreements such that the location of the negotiations and execution of the
23 documents should be a key consideration. Separate and apart from those agreements, Plaintiffs
24 simply seek to enforce the ESA as written, have the Defendants comply with their statutory
25 obligations thereunder, and estop the Defendants from interfering with implementation of the
26 Nevada Conservation Plan to the significant detriment of Plaintiffs. The negotiations and
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1 execution of the Settlement Agreements is not at issue here. The focus of this litigation is
2 Plaintiffs' and the State of Nevada's significant work and expenditure of funds on the Nevada
3 Conservation Plan and how Defendants' threatened action in violation of the ESA will interfere
4 with implementation of the Nevada Conservation Plan. Defendants' argument that this *Jones*
5 factor weighs in favor of upending Plaintiffs' choice of forum is without merit and should be
6 rejected.
7

8 **ii. *The state that is most familiar with the governing law:***

9 As Defendants note, the only law to be applied in this matter is federal law. *See* Def.
10 Mem. at 22. Accordingly, this factor does not help Defendants carry their burden to demonstrate
11 the action should be transferred as the federal courts in both districts are presumed to "be equally
12 knowledgeable regarding federal law." *Lens.com, Inc. v. 1-800 CONTACTS, Inc.*, No. 2:11-cv-
13 00918-GMN-RJJ, 2012 WL 1155470, at *5 (D.Nev. Apr. 4, 2012).
14

15 **iii. *The plaintiff's choice of forum:***

16 Defendants admit that "a court should give a plaintiff's choice of forum great deference
17 unless the defendant can show that other factors of convenience clearly outweigh the plaintiff's
18 choice of forum." *Ctr. For Food Safety v. Vilsack*, No. 11-cv-00831-JSW, 2011 WL 996343, at
19 *6 (N.D.Cal. Mar. 17, 2011). Defendants have not demonstrated that factors of convenience
20 outweigh Plaintiffs' choice of forum. In fact, each of the *Jones* factors weigh strongly in favor
21 of Plaintiffs choice of forum and demonstrate Defendants cannot carry their burden to show that
22 such choice should be disturbed.
23

24 Defendants argue that the District of Nevada lacks a significant connection to the
25 activities alleged in the complaint, and, therefore, the usual deference to plaintiffs' choice of
26 forum should be substantially reduced. *See* Def. Mem. at 18 (citing *Chesapeake Climate Action*
27 *Network v. Export-Import Bank*, No. 3:13-cv-03532-WHA, 2013 WL 6057824, at *2 (N.D.Cal.
28

1 Nov. 15, 2013). Defendants state that “the operative facts arose elsewhere” and “the original
2 forum’s connection to the matter is minimal.” Def. Mem. at 19 (citing *Animal Legal Def. Fund.*
3 *v. United States Dep’t of Agric.*, No. 12-cv-4407-SC, 2013 WL 120185, at *4 (N.D.Cal. Jan. 8,
4 2013). Defendants’ argument is without merit.

5
6 In 2011, then Secretary of the Interior, Ken Salazar, invited Nevada and the ten other
7 western states impacted by the potential listing of the Greater Sage Grouse to develop Greater
8 Sage Grouse conservation plans and state-specific regulatory mechanisms to conserve the
9 species and preclude the need to list it under the Endangered Species Act. **Exhibit 2**,
10 Declaration of Julian J. Goicoechea (“Goicoechea Dec.”), ¶ 7.) In response to and in reliance
11 upon this invitation, Nevada Governor Brian Sandoval issued Executive Order 2012-09
12 establishing a Greater Sage-Grouse Advisory Committee and appointing nine individuals
13 representing various geographic regions, non-governmental organizations, and industries of the
14 State within the range of the Nevada Candidate Species. *Id.* ¶ 8.

15
16 Executive Order 2012-09 directed the Greater Sage-Grouse Advisory Committee to
17 develop recommendations for a state-wide strategy to preclude the need to list the species.
18 Executive Order 2012-09 also stated that the Greater Sage-Grouse Advisory Committee’s
19 recommendations must “...conserve the species and its natural habitat while maintaining
20 predictable and multiple uses of private, state, and public lands...and tailor the management
21 recommendations to the importance of the habitat and is attuned to the interests of the State.” *Id.*
22 ¶ 10.

23
24 In order to fulfill their obligations to represent various interests on the Greater Sage-
25 Grouse Advisory Committee, the appointed individuals residing in various parts of Nevada
26 attended numerous Greater Sage-Grouse Advisory Committee meetings during the months of
27 May through July of 2012. *Id.* ¶ 11. These Nevada residents devoted many additional hours to
28

1 reviewing documents and materials. *Id.* Moreover, the State of Nevada itself dedicated
2 significant staff resources and monies to supporting these efforts and continues to do so today.
3 *Id.* As a result of those efforts, on July 31, 2012, the Greater Sage-Grouse Advisory Committee
4 presented its recommendations entitled “Strategic Plan for Conservation of Greater Sage-Grouse
5 in Nevada” to Governor Sandoval. *Id.* ¶ 12.

6
7 Later, in November 2012, Nevada Governor Brian Sandoval issued another Executive
8 Order, Number 2012-19, establishing the Nevada Sagebrush Ecosystem Council and directing
9 the Nevada Sagebrush Ecosystem Council to: “Implement a conservation strategy for the Greater
10 Sage-grouse based on the recommendations of the Greater Sage-grouse Advisory Committee.”
11 *Id.* ¶ 12. In January 2013, Governor Sandoval appointed nine Nevadans to serve on the Nevada
12 Sagebrush Ecosystem Council. *Id.* ¶ 13.

13
14 Additionally, in the 2013 session of the Nevada State Legislature, the Nevada State
15 Legislators ensured the work started under Governor Sandoval’s Executive Order would
16 continue by enacting Assembly Bill 461 (codified at NRS 321.592 and NRS 321.594), which
17 provides statutory authority for the creation, funding and state administration of the Nevada
18 Sagebrush Ecosystem Council. *Id.* ¶ 14. Nevada State Legislators are the first state legislators in
19 the 11-state western region with Greater Sage-Grouse habitat to enact laws formalizing the
20 Nevada’s commitment to sagebrush ecosystem conservation. *Id.* As authorized under this
21 legislation, the State of Nevada funded and has continued to administer the Nevada Sagebrush
22 Ecosystem Council, conducting significant work toward implementing the Nevada Conservation
23 Plan. *Id.*

24
25 Over the last two years, Nevada Sagebrush Ecosystem Council members have heard
26 hundreds of hours of testimony, presentations from experts, and public comment regarding the
27 Greater Sage-Grouse populations and habitat conservation at Nevada Sagebrush Ecosystem
28

1 Council meetings. *Id.* ¶ 15. They have devoted many additional hours to reviewing documents
2 and materials and the State of Nevada has dedicated significant time and monies to support these
3 efforts. *Id.* Members' participation on both the Greater Sage-Grouse Advisory Committee and
4 the Nevada Sagebrush Ecosystem Council was in reliance upon Secretary Salazar's invitation to
5 Nevada and the other western states to develop state-specific Greater Sage Grouse conservation
6 plans to influence the U.S. Fish and Wildlife Service's listing determination and avoid listing the
7 Greater Sage Grouse as a threatened or endangered species. *Id.* ¶ 16.

9 In 2014, the Nevada Sagebrush Ecosystem Council directed the preparation of the 2014
10 Nevada Greater Sage-Grouse Conservation Plan (the "Plan"), which combines the best available
11 scientific information and stakeholder input into a conservation and management plan to
12 ameliorate the primary threats to the Greater Sage-Grouse in the State of Nevada. *Id.* ¶ 17. The
13 Nevada Sagebrush Ecosystem Council prepared the Plan with the expectation that the Plan
14 would have an opportunity for implementation and receive careful consideration and thoughtful
15 evaluation by the U.S. Fish and Wildlife Service and result in the continuation of the candidate
16 species status for Greater Sage-Grouse. *Id.* ¶ 18.

18 The arbitrary September 30, 2015 listing determination deadline and the FWS' position
19 that it will not consider the option of maintaining the candidate species status (as the ESA
20 requires) for the Greater Sage-Grouse means there is insufficient time to implement the Plan and
21 demonstrate the effectiveness of the conservation measures in the Plan. *Id.* ¶ 19. The arbitrary
22 listing will significantly interfere with Nevada's ability to implement the conservation plan that
23 the State of Nevada has developed over the last several years at significant expense. *Id.*
24 Moreover, the prohibition against maintaining the Greater Sage-Grouse as a candidate species
25 frustrates the very purpose of the Plan and the creation of the Nevada Sagebrush Ecosystem
26 Council. *Id.* ¶ 20. Were it not for this prohibition, the very existence of the Plan and significant
27
28

1 efforts and expenditures toward implementation would result in maintaining the candidate
2 species status for Greater Sage-Grouse. Furthermore, were it not for this prohibition,
3 conservation measures in the Plan could ultimately provide sufficient protection to Greater Sage
4 Grouse populations and achieve sufficient sagebrush habitat conservation for the FWS to
5 determine that listing the Greater Sage-Grouse as a threatened or endangered species is not
6 warranted. *Id.* The risk of a listing is significant and poses a substantial and imminent threat of
7 irreparable harm to all 17 counties in Nevada, including, but not limited to, Eureka and Elko
8 Counties and the FIM ranch. *Id.* ¶ 21.

10 To argue that the original forum lacks a significant connection to the claims set forth in
11 Plaintiffs' Complaint is incongruous with the State's and Plaintiffs' substantial involvement with
12 the facts and background which gave rise to Plaintiffs' claims. Indeed, the forum's substantial
13 connection demonstrates that the Court should give Plaintiffs' choice of forum the "great
14 deference" that is required as Defendants cannot demonstrate that such deference is unwarranted.
15 *See Ctr. For Food Safety*, 2011 WL 996343 at *6.

17 **iv. *The respective parties' contacts with the forum:***

18 The extent of the respective parties' contacts with Nevada clearly supports Plaintiffs'
19 selection of the District of Nevada as the venue in this case. FIM and its shareholders and
20 operators, Fred Fulstone, Marianne Leinassar, and Kristofor Leinassar, own and operate a sheep
21 ranch headquartered in Smith, Nevada. This family-owned sheep ranch has lands, property
22 rights and grazing preference within adjudicated range allotments in Nevada. The Fulstone
23 family has been an agricultural producer in western Nevada for more than 150 years. The first
24 Fulstone homesteaded in 1856 near Carson City, Nevada. Fred Fulstone's grandfather bought
25 the family's first ranch in Smith Valley in 1903 and started their sheep ranching business in
26 1910. FIM owns approximately 15,000 acres of private land in Lyon and Douglas counties in
27
28

1 Nevada and holds nearly 1 million acres of grazing permits on BLM and USFS lands. FIM
2 employs a work force in the state of Nevada including 18 people in addition to family members
3 who work on the ranch.

4 Plaintiff NACO was founded in 1924 and is a nonpartisan, nonprofit Nevada corporation.
5 NACO's mission is to encourage county government to provide services that will maximize
6 efficiency and foster public trust in county government. The membership is comprised of
7 Nevada county government officials and represents all seventeen Nevada counties, which are
8 political subdivisions of the State of Nevada. Each of these counties is negatively affected by the
9 Defendants' actions. As such, NACO broadly represents the interests of the State of Nevada and
10 Nevada citizens living in the seventeen Nevada counties.

11
12 Plaintiff NVMRA is an alliance of mineral exploration and development companies
13 with mineral exploration and development projects in areas of Nevada that have sage-grouse
14 habitat.

15
16 Many of the AEMA's 2,500 members are conducting operations at mineral exploration,
17 development, and mining projects in areas of Nevada with sage-grouse habitat. AEMA's
18 diverse membership encompasses every facet of the mining industry including geology,
19 exploration, mining, engineering, equipment manufacturing, technical services, and sales of
20 equipment and supplies.

21
22 Defendant DOI is the federal agency charged with administration of much of the ESA
23 including the listing procedures contained in 16 U.S.C. § 1533. The DOI has offices in Nevada
24 and conducts substantial business in the state and, indeed, Amy Leuders, the State Director for
25 BLM, has served as an *ex officio* member of the Nevada Sagebrush Ecosystem Council since its
26 inception¹ and actively participated in the Nevada Sage Grouse Advisory Committee. Likewise,
27

28 ¹ See http://sagebrusheco.nv.gov/About/SEC_Members/ (last accessed Feb. 9, 2015).

1 Ren Lohofener, the Pacific Southwest Regional Director for FWS, actively participated in the
2 Nevada Sagebrush Ecosystem Council's work in developing the Plan. The Council has relied
3 significantly upon the guidance it has received from Ms. Leuders and Mr. Lohofener in
4 preparing the Plan.

5
6 Defendant FWS is a part of Interior that has been delegated the responsibility to
7 implement much of the ESA, including determining the species for which listing under the ESA
8 should be decided and which of these species should be classified as candidate species pursuant
9 to 16 U.S.C. § 1533(b)(3)(B)(iii), (C)(i). Like the DOI, FWS has offices in the state of Nevada
10 and conducts substantial business in the state including actively participating in the development
11 of the Nevada Plan.

12
13 The parties' close contacts with the state of Nevada, including the Defendants' ties with
14 the state, weigh heavily in support of Plaintiffs' choice of venue.

15 **v. *The contacts relating to the plaintiff's cause of action in the chosen forum***

16 As stated above, FIM owns approximately 15,000 acres of private land in Lyon and
17 Douglas counties in Nevada and holds nearly 1 million acres of grazing permits on BLM and
18 USFS lands. FIM employs a work force of approximately 18 people in addition to family
19 members who work on the ranch. Many of the grazing permits issued to Defendant FIM are
20 located on BLM and USFS administered lands that contain Bi-State DPS habitat. The Fulstone
21 family believes that the sheep ranching operation has benefited Bi-State DPS and Bi-State DPS
22 habitat. FIM has been impacted by listing of the Sierra Nevada Bighorn Sheep under the ESA
23 and has incurred demonstrable adverse economic impact from that listing and designation of
24 critical habitat for the species which FIM estimates prohibited grazing within four allotments at a
25 cost to FIM of approximately \$400,000 per year since the listing in 2000. FIM believes the
26 FWS' listing of the Bi-State DPS will impose a similar or greater harm on FIM resulting from
27
28

1 grazing prohibitions and other restrictions.

2 Plaintiff NACO represents the interests of Nevada citizens living in the five counties
3 where habitat for the Bi-State DPS is located and the ten counties where habitat for the Greater
4 Sage Grouse is located. NACO works to optimize the management of county resources which is
5 thwarted by FWS's implementation of the Settlements' provisions eliminating the statutory
6 option under the ESA for FWS to conclude, based on the best available science, commercial
7 data, and conservation efforts being made by the State or any political subdivision of the State,
8 that the Bi-State DPS and the Greater Sage Grouse be "warranted but precluded" from listing as
9 endangered or threatened. NACO member counties with sage grouse habitat have allocated
10 significant resources to habitat conservation and preserving both candidate species. These
11 counties are active participants in the Nevada Sagebrush Ecosystem Council, which includes a
12 Council member who represents the interests of local government, including county
13 governments.

14
15
16 The Nevada Sagebrush Ecosystem Council has developed the Conservation Plan to aid in
17 maintaining and enhancing habitat in Nevada for the Greater Sage Grouse. Similarly, the five
18 counties with lands identified as habitat for the Bi-State DPS have actively participated in
19 developing the Bi-State Action Plan to conserve habitat for the Bi-State DPS. When candidate
20 species within Nevada are moved to the threatened species list, NACO member counties and
21 private entities living and working in these counties incur significant regulatory expenses in
22 addition to expenses incurred to avoid a "take" of the species. Perhaps most importantly, NACO
23 member counties will lose flexibility in the range of measures that county governments and
24 county residents may undertake to preserve species without the cumbersome restrictions of a
25 listing under the ESA, including the ability to fully implement the Conservation Plan and the Bi-
26 State Action Plan. Both plans have significant efforts already underway including, but not
27
28

1 limited to, the detailed Conservation Credit System in the Conservation Plan and the
2 commitment that the Bi-State Executive Oversight Committee has made to implement the Bi-
3 State Action Plan. Pursuant to 16 U.S.C. § 1533(b)(1)(A), FWS must take into account species
4 conservation efforts being made by any State or any political subdivision of a State to protect a
5 species. NACO member counties are harmed by the FWS' unlawful refusal to consider
6 maintaining the warranted but precluded listing status as the ESA requires for all species,
7 including the Bi-State DPS and the Greater Sage Grouse, particularly in light of the significant
8 conservation measures in the Bi-State Action Plan (which has now been funded in excess of \$40
9 million) and the Conservation Plan, both of which are successfully conserving sage grouse
10 habitat.
11

12 Many AEMA members provide goods and services to the companies conducting
13 Nevada mineral exploration, development and mining operations in areas with sage grouse
14 habitat. AEMA members will be adversely affected if the Bi-State DPS or the Greater Sage
15 Grouse are moved from the candidate species classification to the ESA's endangered or
16 threatened list pursuant to the Settlements. Because AEMA's membership is comprised of a
17 diverse array of companies and businesses with interests in Nevada, the unlawful
18 elimination of the candidate species classification for the Bi-State DPS and Greater Sage
19 Grouse will adversely impact many Nevada business sectors, which will in turn harm the
20 State's economy.
21
22

23 Plaintiff NVMRA was an active participant in meetings of the Governor's Sage Grouse
24 Advisory Committee and has been actively engaged in meetings of the Sagebrush Ecosystem
25 Council. NVMRA members' mineral exploration and development operations in Nevada will
26 be adversely affected if the Bi-State DPS or the Greater Sage Grouse are moved from the
27 candidate species classification to the ESA's endangered or threatened list pursuant to the
28

1 Settlements.

2 Quite obviously the extent of the parties' contacts relating to the Plaintiffs' causes of
3 action in the chosen forum supports Plaintiffs' choice of the District of Nevada and this factor
4 does not weigh in favor of disturbing that choice.

5
6 **vi. *The differences in the costs of litigation in the two forums:***

7 Defendants do not attempt to contend that the differences in the costs of litigation in the
8 two forums provide any support for disturbing Plaintiffs' choice of venue. Defendants argue
9 there is "no reason to believe that there are substantial differences in the costs of litigating this
10 case here or in the District of Columbia." Def. Mem. at 22. Yet, there is a significant cost
11 difference to the Plaintiffs and a cost and travel requirement that could preclude participation by
12 some of the Plaintiffs, including Mr. Fulstone who is 95 years old and whose health likely would
13 prevent him from traveling to Washington D.C. for any hearings (*see Exhibit 1*, Declaration of
14 Fred Fulstone, Jr. ("Fulstone Dec."), ¶ 8) and the Chairman of the Sagebrush Ecosystem Council
15 and Eureka County Commissioner, J.J. Goicoechea, whose significant work on his ranch in
16 Nevada and as a public servant in Nevada likely would prevent his meaningful participating in
17 the case if it were transferred to Washington D.C. (*see Exhibit 2*, Goicoechea Dec. ¶ 24.)

18
19 **vii. *The availability of compulsory process to compel attendance of unwilling non-***
20 ***party witnesses:***

21 Defendants concede that the availability of compulsory process to compel attendance of
22 unwilling non-party witnesses does not help Defendants to carry their burden in its attempt to
23 transfer venue. *See* Def. Mem. at 22.

24 **viii. *The ease of access to sources of proof***

25 Defendants attempt to argue that the ease of access to sources of proof is a neutral factor
26 in this case. *See* Def. Mem. at 22-23. While Plaintiffs agree that this factor certainly does not
27 support Defendants' attempt to disturb Plaintiffs' choice of venue, Defendants ignore the
28

1 convenience of witnesses who would testify concerning: (i) conservation measures undertaken
2 by the State and regional ranches, (ii) the impact of listing decisions and the harm of the potential
3 substantive outcome on the State's programs and private undertakings; and (iii) other evidence
4 bearing on the interference with implementation of the Nevada Plan and relating to the Nevada
5 Candidate Species that are the subject of this litigation.² Each of these witness groups is
6 undeniably closer to the District of Nevada than to the D.C. District Court.
7

8 Defendants' only real convenience argument is that Defendants' officials and their
9 counsel who negotiated the Settlement Agreements reside in or near Washington, D.C. *See* Def.
10 Mem. at 9. Defendants assert that "to the extent that any additional fact-finding will be required
11 in this case, which is unlikely, most of the relevant documents and witnesses are located in the
12 District of Columbia." *Id.* at 22. Yet, Defendants also note: "this case likely will be resolved
13 through dispositive briefing, with judicial review of an administrative record." *Id.* at 22-23.
14

15 Plaintiffs appreciate Defendants' recognition that their officials might indeed provide
16 testimony relevant to how the Settlement Agreements were developed outside public view, with
17 no notice to the public nor any opportunity for interested parties to comment on the changes to
18 the ESA listing process that the Defendants and the special interest groups proposed to enact
19 through those Settlement Agreement. But Defendants overlook the fact that representatives of
20 Defendants' special interest partners in the Settlement Agreements, CBD and WEG, may also
21 provide relevant testimony, and they are located closer to the Plaintiffs' chosen forum in Nevada
22 than to the District of Columbia.³ Thus, if discovery proves necessary, the potential convenience
23
24

25 ² For example, conservation efforts undertaken by the Nevada Sage Grouse Advisory
26 Committee and Nevada Sagebrush Ecosystem Council have occurred within the District of
27 Nevada. Many NACO, NVMRA and AEMA members, as well as interested farm/ranch owners,
28 like the Fulstones, reside in the District of Nevada.

³ CBD's filings with the Internal Revenue Service identify the organization's address as
Tucson, Arizona. *See* CBD's Form 990, available at [http://www.biologicaldiversity.org/
search/index.html?cx=006464995654994533830%3Ar7roh49uarm&cof=FORID%3A11&redire](http://www.biologicaldiversity.org/search/index.html?cx=006464995654994533830%3Ar7roh49uarm&cof=FORID%3A11&redire)

1 of the District of Columbia for defense counsel is no greater than the convenience of the District
2 of Nevada for Plaintiffs' counsel. In short, this factor does not help Defendants carry their
3 burden.

4 Moreover, Defendants fail to acknowledge that to transfer the proceedings from Nevada
5 to Washington, D.C. would limit the ability of the Fulstones, representatives of NACO,
6 NVMRA, AEMA, and members of the Greater Sage-Grouse Advisory Committee and Nevada
7 Sagebrush Ecosystem Council from participating in court proceedings by imposing travel,
8 logistical, and financial hardships. A venue transfer in this case would do far more than
9 "inconvenience" Plaintiffs, Plaintiffs' representatives, and members of the Greater Sage-Grouse
10 Advisory Committee and Nevada Sagebrush Ecosystem Counsel. See Exhibits 1-3. Changing
11 venue to Washington, D.C. would create significant hardships for these individuals and their
12 businesses given the amount of time that would be required for travel from Nevada to
13 Washington, D.C. *Id.* These individuals would be away from their businesses for days at a time.
14 Travel to Washington, D.C. would also interfere with the responsibilities of the Greater Sage-
15 Grouse Advisory Committee and Nevada Sagebrush Ecosystem Council members to their county
16 constituents and their obligations as county commissioners and in other leadership roles within
17 Nevada. *Id.*

18
19
20 For example, Plaintiff Fred Fulstone manages the day-to day operation of FIM. Exhibit
21 1, Fulstone Dec. ¶ 4. The daily ranch operations of FIM cannot be interrupted for trips to attend
22

23 *ct=http%3A%2F%2Fwww.biologicaldiversity.org%2Fsearch%2F&q=form+990* (last accessed
24 Feb. 9, 2015). CBD's website indicates that Mr. Keiran Suckling, the Executive Director of
25 CBD, works at the organization's offices in Tucson. See CBD's website at
26 *http://www.biologicaldiversity.org/about/staff/index.html#kieran* (last accessed Feb. 9, 2015).
27 WEG's IRS filings identify the organization's address as Santa Fe, New Mexico. See Wild Earth
28 Guardians' Form 990, available at *http://www.wildearthguardians.org/site/Search?query=*
form+990&submit.x=0&submit.y=0#.VNlXDYbTncs (last accessed Feb. 9, 2015). WEG's
website says that the organization's Executive Director, Mr. John Horning, lives in New Mexico.
See WEG's website at *http://www.wildearthguardians.org/site/PageServer?pagename=about*
staff#.VNlXOYbTncs (last accessed Feb. 9, 2015).

1 court proceedings in Washington, D.C. without incurring great costs to the annual income and
2 profits that support his family and employees. *Id.* ¶¶ 4-6, 16. Mr. Fulstone has a significant
3 interest in participating in the court’s activities and having this case heard in Nevada given the
4 effects the proposed listing would have on FIM’s ranching business. *Id.* ¶ 7. FIM is currently
5 facing severe impacts on its sheep grazing operation as a result of the proposed listing and the
6 imposition of grazing prohibitions and restrictions which are creating serious and costly
7 problems for the FIM ranch and have resulted in a substantial loss of income. *Id.* ¶ 12.
8 Additionally, Mr. Fulstone has important land stewardship perspective and valuable knowledge
9 and expertise as a result of operating his ranch for over 70 years. *Id.* ¶ 10. Transferring the
10 proceedings to Washington, D.C. would create travel, logistical and financial hardships for Mr.
11 Fulstone that would deny him the opportunity to participate in a meaningful way in the court’s
12 activities. *Id.* ¶¶ 7, 9, 16. Moreover, because Mr. Fulstone is ninety-five years old, he simply
13 cannot travel to Washington, D.C. without great risk to his health. *Id.* ¶¶ 8, 16.

16 Similarly, changing venue would thwart the meaningful participation of members of
17 NVMRA and NACO in the Court’s proceedings. For some NVMRA and NACO members,
18 NACO Board of Directors and county residents, these hardships may be so severe that attending
19 the court proceedings in Washington, D.C. would be virtually impossible and would deny these
20 members the opportunity to be meaningfully involved – either as witnesses or observers – in the
21 Court’s activities. Exhibit 2, Goicoechea Dec. ¶ 27. Defendants’ proposed change of venue
22 would thus deny NVMRA, NACO, the NACO Board of Directors and the groups’ constituents
23 the opportunity to be meaningfully involved in the court’s activities. *Id.*

25 For example, Demar Dahl, in his capacity as an Elko County Commissioner and Elko
26 County’s NACO member, must be able to attend the court proceedings in this litigation in light
27 of the importance of the litigation and the listing decision to Elko County and the other Nevada
28

1 counties with sage grouse habitat. *See Exhibit 3*, Declaration of Demar Dahl (“Dahl Dec.”) ¶ 5.
2 A transfer of venue in this matter would severely restrict Mr. Dahl’s ability to participate in the
3 Court’s activities due to the burdensome time commitment, travel logistics, and expenses
4 involved in traveling between Elko, Nevada and Washington, D.C. *Id.* ¶ 5. The importance of
5 this matter to Elko County and leaders like Demar Dahl cannot be overstated. The widespread
6 distribution of Greater Sage Grouse habitat throughout most of Elko County means that all Elko
7 County residents thus have a compelling interest in the outcome of this litigation given the
8 significant impact that the listing decision for the Greater Sage Grouse will have on Elko
9 County’s economy and the livelihoods of numerous Elko county residents. *Id.* ¶ 6. In
10 September 2012, the Elko County Division of Natural Resource Management published the Elko
11 County, Nevada Greater Sage Grouse Management and Conservation Strategy Plan (“Elko
12 County Plan”) and Mr. Dahl, along with the other four Elko County Commissioners, signed and
13 formally approved the Elko County Plan on September 19, 2012. *Id.* ¶ 9. Mr. Dahl’s
14 involvement with the Elko County Plan, his role at NACO, and the land stewardship expertise he
15 has gained as a result of ranching in Elko County for over 45 years gives him important
16 perspective and valuable knowledge and expertise.

17
18
19 Likewise, the participation of Eureka County Commissioner Julian J. Goicoechea, who is
20 also a member of NACO and was appointed to the Greater Sage Grouse Advisory Committee
21 and Nevada Sagebrush Ecosystem Council by Nevada Governor Brian Sandoval, would be
22 jeopardized by a transfer in venue. Mr. Goicoechea, along with his constituents and NACO,
23 must be able to attend the court proceedings in this litigation in light of the importance of the
24 Greater Sage Grouse listing decision to Eureka County, NACO, and the State of Nevada, and the
25 influence that the settlement exerts on this decision. Exhibit 2, Goicoechea Dec. ¶ 28. His
26 ability to contribute his perspective, knowledge, and expertise and to actively participate in this
27
28

1 case could be severely compromised should the venue be transferred from federal district court
2 in Reno, Nevada to Washington, D.C. *Id.* ¶ 22. Such a transfer would create significant
3 logistical and financial hardships for Mr. Goicoechea's ranching business and his veterinary
4 practice given the amount of time that would be required for him to travel to Washington, D.C.
5 *Id.* ¶¶ 23, 24. It would also interfere with his responsibilities to be available to his Eureka
6 County constituents and to fulfill his obligations as the Chair of the Eureka County Commission.
7 *Id.* ¶¶ 23, 24.

8
9 Additionally, Defendants fail to acknowledge that a change in venue would also make it
10 very difficult, if not impossible, for the constituents of Mr. Dahl, Mr. Goicoechea, and other
11 Greater Sage-Grouse Advisory Committee and Nevada Sagebrush Ecosystem Council members
12 to attend the court proceedings as traveling to Washington, D.C. from rural counties in Nevada is
13 time-consuming and expensive. *Id.* ¶¶ 25, 30. There are no direct, non-stop flights between
14 Reno, Nevada and Washington, DC. *Id.* ¶ 29. Consequently, flying between Reno to
15 Washington, D.C. entails at least one plane change plus the eight-hour round trip drive to and
16 from the airport. *Id.* ¶ 29. The entire round trip consumes an average of two days of travel. *Id.* ¶
17 29. For many of these county residents, the logistical and financial hardships would be so severe
18 that attending the court proceedings in Washington, D.C. would be virtually impossible. *Id.* ¶¶
19 25, 30; Exhibit 1, Fulstone Dec. ¶ 17. Defendants' proposed change of venue would thus deny
20 these Nevadans, who have devoted a great deal of time and effort to participating in the Greater
21 Sage-Grouse Advisory Committee and Nevada Sagebrush Ecosystem Council meetings and
22 assisting with the development of the 2014 Nevada Greater Sage-Grouse Conservation Plan, the
23 opportunity to be meaningfully involved in the Court's activities. Exhibit 2, Goicoechea Dec. ¶
24 25; Exhibit 1, Fulstone Dec. ¶ 17. These Nevadans offered tremendous expertise and insight into
25 the development of the Plan and they have a significant interest in participating in the Court's
26
27
28

1 activities and having this case heard in Nevada. Exhibit 2, Goicoechea Dec. ¶ 26.

2 Finally, Defendants do not consider the cost to Plaintiffs' counsel of traveling from
3 Nevada to Washington, D.C. and of securing accommodations in our nation's capital. While the
4 Department of Justice attorneys who are representing Defendants and who are based in
5 Washington, D.C. would incur costs to travel to Nevada, those costs result from the Department
6 of Justice's decision to assign Washington D.C. attorneys to the case, rather than using
7 Department of Justice attorneys located in or closer to Nevada.⁴

8
9 **ix. *The presence of a forum selection clause***

10 Defendants do not address this factor as this case does not arise out of a contractual
11 agreement and, accordingly, a forum selection clause is not present in this case.

12 **III. INTEREST OF JUSTICE DOES NOT FAVOR TRANSFER.**

13 As the *Jones* factors do not favor transfer, Defendants propose an alternate standard,
14 arguing that "the interests of justice" favor transfer." Def. Mem. at 10. Defendants cite
15 decisions of three District Court cases⁵, to support its contention that the "interest of justice" is a
16 separate component of a court's Section 1404(a) transfer analysis and may be decisive in ruling
17 on a transfer motion. Defendants erroneously suggest that "interest of justice" is different from
18 and can trump the "convenience" criteria called out in Section 1404(a). To the contrary, on the
19 face of the statute, "the convenience of parties and witnesses" subsumes "interest of justice."
20

21 Section 1404(a) provides that "[f]or the convenience of parties and witnesses, in the
22 interest of justice, a district court may transfer any civil action to any other district or division
23

24
25 ⁴ The Department might staff this case with lawyers from the U.S. Attorney's Office.
26 Alternatively, the Environment & Natural Resources Division maintains an office in Denver,
27 Colorado.

28 ⁵ *Amazon .com v. Cendant Corp.*, 404 F. Supp.2d 1256, 1259 (W.D.Wash.2005); *see also*
Madani v. Shell Oil Co., No. 07-cv-4296-MJJ, 2008 WL 268986, at *3 (N.D.Cal. Jan. 30, 2008);
Wireless Consumers Alliance v. T-Mobile USA, Inc., No. 03-cv-3711-MHP, 2003 WL 22387598,
at *4 (N.D.Cal. Oct. 14, 2003).

1 where it might have been brought.” 28 U.S.C. § 1404(a). Here the phrase “in the interest of
2 justice” modifies the phrase “for the convenience of the parties.” *See NACS v. Bd. of Governors*
3 *of Fed’l Reserve Sys.*, No. 13-5270, 2014 WL 1099633, at *10-11 (D.C. Cir. Mar. 21, 2014)
4 (noting widespread convention that a phrase set off with commas is descriptive). Read properly,
5 Section 1404 instructs that a district court may transfer a case “for the convenience of parties and
6 witnesses” *in order* to promote the interest of justice. Nothing in the language of this section can
7 be read to make “the interest of justice” a separate ground for transfer. Had Congress wished to
8 establish “interest of justice” as a separate factor it would have written “For the convenience of
9 parties and witnesses, *or otherwise* in the interest of justice, . . .” But it did not.

11 The plain meaning of Section 1404(a) is confirmed by decisions of the Ninth Circuit
12 Court of Appeals. In its decisions reviewing denials of transfer motions, the Ninth Circuit has
13 never held, or hinted, that “interest of justice” might be an independent basis for transfer. The
14 Court of Appeals made clear in *Commodity* that the moving party has “the burden to justify by
15 particular circumstances that the transferor forum was inappropriate.” *Commodity*, 611 F. 2d at
16 279. Further, the Ninth Circuit Court of Appeals clearly enumerated that a district court, along
17 with consideration of whether a forum selection clause is involved in a case, will consider the
18 following factors:
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- 20
21 (1) the location where the relevant agreements were negotiated and executed,
22 (2) the state that is most familiar with the governing law, (3) the plaintiff's choice
23 of forum, (4) the respective parties' contacts with the forum, (5) the contacts
24 relating to the plaintiff's cause of action in the chosen forum, (6) the differences in
the costs of litigation in the two forums, (7) the availability of compulsory process
to compel attendance of unwilling nonparty witnesses, and (8) the ease of access
to sources of proof.

25 Page 498-499.

26 An amorphous “interest of justice” criterion, unconnected to specific considerations of
27 convenience, is not among the relevant factors that a court will consider in evaluating a transfer
28

1 motion. Accordingly, Defendants’ reliance upon this “interest of justice” criterion is misplaced
 2 and should be rejected.

3 **IV. ADJUDICATION OF PLAINTIFFS’ CLAIMS IN THIS COURT IS NOT**
 4 **CONTRARY TO ANY INTEREST OF JUSTICE.**

5 Even if this Court were to consider, for the sake of argument, that the “interest of justice”
 6 is a basis for transfer under Section 1404(a), Defendants have not shown how this would carry
 7 their significant burden to support transfer of venue. Defendants cite as an interest the avoidance
 8 of “inconsistent rulings.” Def. Mem. at 11. Defendants assert that “Plaintiffs are seeking to
 9 draw a ruling from this Court to ‘set aside’ the MDL Agreements [and] . . . such a ruling would
 10 directly conflict with the prior rulings of Judge Sullivan and the D.C. Circuit . . .” *Id.*

11
 12 Plaintiffs do not contest the proposition that justice is not served where a party seeks in
 13 subsequent litigation to “seek a ruling on their substantively identical claims that would be at
 14 odds with . . . prior rulings.” *Id.* at 12-13. But this principle is inapposite here as Plaintiffs were
 15 not parties to the prior litigation. Defendants have presented no authority for the sweeping
 16 principle they seek to assert – that third parties adversely affected by litigation to which they
 17 were not privy must litigate any claim related to that litigation in the original forum. Indeed, the
 18 D.C. Court, in approving the settlement agreements, expressly considered whether all future
 19 litigants would be required to bring any related action to the D.C. Court and the parties to the
 20 prior litigation affirmatively represented to the Court that was not the intention of the Settlement
 21 Agreements and would not be required.

22
 23 It is undisputed that Plaintiffs are not parties to the Settlement Agreements.⁶ Like all
 24

25 ⁶ Had the Plaintiffs sought to intervene in the deadline to challenge the Settlement
 26 Agreements, it is reasonable to believe that Defendants would not have supported their
 27 participation in the face of the special interest plaintiffs’ opposition, and that the D.C. District
 28 Court would have denied intervention, as happened when Tejon Ranch and Safari Club
 International attempted to intervene. *See In re Endangered Species Act Section 4 Deadline Litig.*, 270 F.R.D. 1 (D.D.C. 2010) (denying motion of Tejon Ranch Company to intervene); *In re Endangered Species Act Section 4 Deadline Litig.*, 277 F.R.D. 1 (D.D.C. 2011) (denying

1 members of the public, Plaintiffs were denied the opportunity to comment on the Settlement
2 Agreements prior to the D.C. District Court’s approval. Accordingly, Plaintiffs clearly are not
3 circumventing a ruling adverse to themselves in prior litigation to which they were not parties.

4 While part of the Plaintiffs’ injury could be traceable to the Settlement Agreements, this
5 does not negate Plaintiffs’ choice of venue. Effectively, Defendants argue that the D.C. District
6 Court’s decision to approve the Settlement Agreements and deny intervention motions related to
7 those Agreements gave that court exclusive familiarity with all issues related to the Settlement
8 Agreements, including, perhaps, all of the species to be listed or denied listing as a result of the
9 Settlement Agreements. This claim of familiarity substantially overstates the scope of the legal
10 review the D.C. District Court purported to conduct when it approved the Settlement
11 Agreements.
12

13
14 There is no risk of “inconsistent adjudications” in this Court and in the D.C. District
15 Court. The D.C. District Court never addressed the legal claims that Plaintiffs raise here. The
16 D.C. District Court’s approval of the Settlement Agreements did not adjudicate the legality of a
17 proposal to list the species at issue in this case or *any* specific species. *See In re Endangered*
18 *Species Act Section 4 Deadline Litig.*, 277 F.R.D. at 9 (“[T]he substantive question whether or
19 not . . . species should be listed as threatened or endangered is not at issue in these consolidated
20 cases or in the settlement agreements”). The D.C. District Court’s decision did not decide the
21 estoppel claim Plaintiffs raise with respect to the DOI promise and Plaintiffs’ and the State of
22 Nevada’s significant actions and expenditures taken and made in reliance upon that promise. To
23 approve the Settlement Agreements the D.C. District Court was not required to reach the merits
24 of any of the issues raised in Plaintiffs’ Amended Complaint in this action, including Plaintiffs’
25 (i) claim that FWS illegally amended its regulations; (ii) challenges to completed listings and
26
27
28 motion of Safari Club International to intervene).

1 specific proposals arising from the APA rulemaking violation; and (iii) claim that Defendants are
 2 estopped from interfering with implementation of the Plan and the significant expenditures and
 3 ongoing efforts by numerous individuals, organizations and entities in the State of Nevada in
 4 reliance upon the DOI invitation to prepare the Plan and take action to prevent a listing.⁷

5
 6 By their terms the Settlement Agreements may not be “interpreted as, or constitute, a
 7 commitment or requirement that [Defendants] take any action in contravention of the ESA, the
 8 APA, or any other law or regulation, either substantive or procedural,” thus accommodating
 9 comfortably a judgment by this Court that, as implemented without notice and comment
 10 rulemaking, the Settlement Agreements are contrary to the APA. Most importantly, even if the
 11 D.C. District Court were deemed to have adjudged the Settlement Agreements consistent with
 12 the ESA, that court plainly did not consider whether notice and comment was required under the
 13 APA in order to implement them, *i.e.*, to prospectively amend FWS regulations by writing out of
 14 them warranted-but-precluded status for hundreds of species. Nor did that Court consider claims
 15 not even before it such as Plaintiffs’ estoppel claim based upon Plaintiffs’ and the State of
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17
 18 ⁷ The papers on the CBD Settlement Agreement demonstrate the limited nature of the
 19 D.C. District Court’s review. CBD asserted that, in reviewing the Settlement Agreement, the
 20 court’s function was merely to assure itself that the terms of the agreement “are fair and adequate
 21 and are not unlawful, unreasonable, or against public policy.” CBD Mot. at 2 (citing *United*
 22 *States v. D.C.*, 933 F. Supp. 42, 46-47 (D.D.C. 1996). CBD affirmatively argued that a court
 should not substitute its judgment for that of the parties to a settlement agreement. As CBD
 pointed out, a court does not reach the merits of the plaintiff’s claims when reviewing a
 settlement agreement, and its duties in reviewing a settlement are “fundamentally different” from
 its duties when adjudicating claims on the merits. *Id.* at 3.

23 In its Order, the D.C. District Court made no findings, provided no analysis, and said
 24 nothing beyond approving the Settlement Agreement as an enforceable order and dismissing
 25 CBD’s actions in the Deadline MDL. CBD’s claims were dismissed with prejudice, with the
 Court retaining jurisdiction only to “oversee compliance with the terms of this Agreement and to
 resolve any motions to modify such terms.” CBD Settlement ¶ 10.

26 Thus, the D.C. District Court did not adjudicate the merits of CBD’s or any of its co-
 27 plaintiffs’ claims with respect to the listing of any species, nor did it determine that FWS’s
 28 alleged failure to take timely action, whether on 90-day findings, annual consideration of
 candidate species, or listing decisions, was unlawful. The court merely approved a settlement
 under which FWS agreed to take certain actions on a specified timetable, and reached no legal
 conclusions in the process.

1 Nevada’s reliance on the DOI invitation to prepare the Plan. The implementation of this Plan
2 adopted after years of work and significant expenditures is at the heart of this case and of critical
3 and particular local concern in the District of Nevada.

4 Nothing in the D.C. District Court’s denial of intervention to Safari Club International
5 (“Safari Club”) or its dismissal of the related action of National Association of Home Builders
6 (“NAHB”) or the D.C. Circuit’s affirmance of the decision to deny Safari Club’s motion to
7 intervene (*see In re Endangered Species Act Section 4 Deadline Litig. MDL No. 2165*, 704 F.3d
8 972 (D.C. Cir. 2013)), constitutes an adjudication with which Plaintiffs’ claims in this action are
9 inconsistent. The motions to intervene filed by Safari Club and NAHB’s complaint presented
10 claims entirely different from those asserted by the Plaintiffs in this Court. The D.C. District
11 Court denied intervention to Safari Club because Safari Club alleged only that FWS failed to
12 follow its guidelines for ranking species for listing consideration. *In re Endangered Species Act*
13 *Section 4 Deadline Litig.*, 277 F.R.D. 1. The District Court found that the guidelines are not
14 binding on FWS. Therefore, Safari Club had not alleged FWS’s violation of a “legally required
15 procedure” under the guidelines and, accordingly, lacked “procedural standing.” *Id.* at 6.
16 Similarly, the D.C. District Court dismissed NAHB’s claims for lack of standing because NAHB
17 alleged only that, in the abstract, the Settlement Agreements might impair unspecified
18 conservation efforts for unspecified candidate species. *Nat’l Ass’n of Home Builders v. U.S. Fish*
19 *and Wildlife Service*, No. 12-cv-2013 (EGS), 2014 WL 1278630 (D.D.C. Mar. 31, 2014). In the
20 present action, by contrast, Plaintiffs allege that FWS’s promise to make an “up or out” decision
21 on the Nevada Candidate Species – without considering the option of retaining a “warranted but
22 precluded” classification or allowing FWS-endorsed conservation programs to provide the net
23 conservation benefits they promise and, thereby, preclude a listing – directly violates FWS
24 regulations (as well as the APA, the ESA, and the Constitution).
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1 Defendants really present a “law of the case” type argument of precedential authority of
 2 conclusions of law allegedly reached by the D.C. District Court or D.C. Circuit Court in the
 3 Deadline MDL or related cases. This Court is fully capable to decide which, if any, those
 4 decisions may have precedential value on the question of Plaintiffs’ standing and, that does not
 5 compel the transfer of this case or justification to disturb Plaintiffs’ choice of venue.⁸
 6

7 **V. THE D.C. DISTRICT COURT IS NOT A SUPERIOR FORUM FOR**
 8 **RESOLUTION OF PLAINTIFFS’ CLAIMS.**

9 Contrary to FWS’s final argument for “transfer in the interest of justice,” there is no
 10 reason to presume that Judge Sullivan’s familiarity with the Settlement Agreements makes the
 11 D.C. District Court better qualified than this Court to hear Plaintiffs’ claims. *See* Def. Mem. at
 12 9-10. Defendants’ claim that Judge Sullivan “is uniquely familiar with the factual and legal
 13 issues relevant to Plaintiff’s claims” is unpersuasive. *Id.* at 22; *see also id* at 2. In the Deadline
 14 MDL, Judge Sullivan was called upon only to approve the settlements brokered by the FWS and
 15 the special interest groups, CBD and WEG. Judge Sullivan expressly repeated his interpretation
 16 that in approving the Settlement Agreements, he was not called upon to address the substantive
 17 validity of any listing decision that may follow therefrom. *See, e.g.,* Order Denying Safari Club
 18 Intervention, ECF No. 54 at 2-3, 10, 20. For example, Judge Sullivan has never addressed,
 19 whether in the MDL settlement process or in the related cases cited by Defendants, one of
 20 Plaintiffs’ central claims, *i.e.*, that FWS was required to carry out rulemaking in order to
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 23 ⁸ The judgment that Plaintiffs seek is not inconsistent with any precedential effect of the
 24 D.C. Circuit’s decision in *Safari Club* (or with the D.C. District Court’s subsequent adoption of
 25 the D.C. Circuit’s reasoning in dismissing plaintiff’s claims in NAHB). The Court of Appeals
 26 may have concluded in the *Safari Club* case that the ESA creates no procedural right to challenge
 27 FWS’s removal of a species from the candidate list at the time that action occurs for a given
 28 species. But that holding would not control the issue of whether, in the Settlement Agreements,
 FWS bound itself prospectively to ignore en masse the provisions of its regulations that require
 consideration of continued candidate species status in every annual review, contrary to the ESA,
 the agency’s rules, and the Constitution. Nor would it address the Plaintiffs’ estoppel argument
 based upon an affirmative written invitation from the DOI to prepare the Plan the Defendants
 would now disrupt and interfere with if a listing of the Nevada Candidate Species were to occur.

1 implement the Settlement Agreements. In none of the cases cited by Defendants did Judge
2 Sullivan reach the merits of any claim by a special interest plaintiff, let alone the same claims
3 that the Plaintiffs now assert, including Plaintiffs’ estoppel claim based upon the DOI’s
4 affirmative invitation to prepare a Plan and significant time and expense put into plans for both
5 of the Nevada species at issue, that may not be capable of implementation if FWS does not
6 comply with and enforce the ESA as written by considering the continuance of candidate species
7 for the Greater Sage Grouse and Bi-State Population.
8

9 As Defendants note, both courts are presumed equally qualified to decide matters of
10 federal law. Plaintiffs are confident that this Court will have no difficulty addressing the issues
11 in this case, which are not even among the legal issues that were before Judge Sullivan.
12

13 **CONCLUSION**

14 Defendants fail to carry their burden to disturb Plaintiffs’ choice of venue, particularly
15 given the significant burden and inconvenience a transfer would impose on the Plaintiffs in this
16 case. In fact, Defendants attempt to move all future cases touching in any manner on or relating
17 in any way to the Settlement Agreements is inconsistent with their representations to Judge
18 Sullivan in proceedings for approval of the Settlement Agreements. When asked by Judge
19 Sullivan about the effect of the Settlement Agreements on other plaintiffs’ ability to file an
20 action focused on a particular species covered by the Settlement Agreements, FWS counsel
21 assured the court that “[t]hey’re free to do that, Your Honor. There is nothing in these
22 agreements that foreclose[s] the right of such parties to do so.” Tr. of Status Conference (July
23 12, 2011) at 8:25-9:4. FWS counsel went on to say “the Government will ask the judge in that
24 case where the lawsuit is filed, which might be a different court, not to impose a remedy that
25 would interfere with this agreement. . . . **Those plaintiffs are free to go to court.**” *Id.* at 9:14-18
26 (emphasis added). The D.C. District Court clearly anticipated actions – like this one – being
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filed in other jurisdictions and did not view the Settlement Agreements as foreclosing the right of a plaintiff to select an alternate forum.⁹ Plaintiffs are entitled to deference in their choice of forum in this new, separate action.

Respectfully submitted this 9th day of February, 2015.

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⁹ Similarly, when Judge Sullivan denied Safari Club’s motion to intervene to challenge the Settlement Agreements, he noted that third parties would have the opportunity to challenge listing procedures adopted by the Settlement Agreements if and when parties were injured by a listing decision. *In re Endangered Species Act Section 4 Deadline Litig.*, 277 F.R.D. at 9 (recognizing that an opponent to Settlement Agreements may file “its own lawsuit to protect [its] interests directly” upon listing).

