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November 16, 1979

The Honorable Patrick Rodey
Alaska State Senate
601 W. 5th Avenue, Suite 820
Anchorage, Alaska 99501

Dear Senator Rodey:

In preparing the Sagebrush Rebellion report, a discrepancy between the written contract and our discussions has come to my attention. At our meeting in Reno, Nevada, as well as the discussions you and several other Legislators had prior to approving our contract, it was made clear to us that several members of the Legislature wanted to know whether the Legislature or any arm of it would have legal standing to participate in Sagebrush Rebellion litigation. Likewise, news stories (see attached) carried in the Anchorage Times also indicated that certain Legislators are interested in what legal remedies the State Legislature, Committees, or Legislators could seek. This, of course, entails determining the standing, if any, of the entities or individuals, as parties, intervenors or amici.

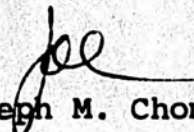
While we talked about the question of the Alaska Legislature's standing to sue, the contract inadvertently omits any mention of it. Clause I, Paragraph B, of the Contract authorizes any member of the Legislative Council to make a specific request. A written request asking the firm to include the standing question would clearly authorize the firm to include this matter in the report. Otherwise, we lack authorization to address this subject.

The Honorable Patrick Rodey
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November 16, 1979

A written request will also avoid any misunderstandings
pertaining to the scope and nature of the report.

Very truly yours,

BIRCH, HORTON, BITTNER & MONROE


Joseph M. Chomski

JMC:brk

Encl.

cc: Senator Mike Colletta
Senator Robert Ziegler
Senator George Hohman
Ronald G. Birch, Esq.

'Sagebrush Rebellion' Meets In Reno

Special to The Times

RENO, Nev. — A pivotal meeting on the participation of Alaska and 11 other western states in Nevada's "sagebrush rebellion" against the federal government begins today as high-ranking attorneys and legislative members of the western coalition on public lands convene in Reno.

For Alaska, which has resolved to fight its grievances with Uncle Sam in the courts and in Congress, the decision for legislators attending is how far to go in aiding Nevada's proposed lawsuit against the right of the federal government to control any public land within a state's borders.

On their home ground, Nevadans will urge other western lawmakers to take the bull by the horns just as the hosts did this spring, passing a law claiming ownership of Bureau of Land Management territory in their state.

But a bill filed in Juneau by Rep. Ramona Barnes, R-Anchorage, to do just that in Alaska doesn't seem to have much support among the five-member legislative delegation arriving in Reno today. Though they are not ready to commit themselves to a full-fledged confrontation, members see "nothing to lose" by filing briefs friendly to Nevada's cause if and when the standoff makes it into court.

"I never told anybody I think we can win this lawsuit," said Sen. Pat Rodey, R-Anchorage. He advanced his reasons for urging Alaska's intervention in Nevada's proposed case. "Negotiations for stipulations with the federal government are far more important than out and out victory. By joining we'll get a chance to wrestle one on one with Interior."

Rodey said he sees no reason Alaska must pass legislation to join Nevada's cause.

Sen. Robert Ziegler, D-Ketchikan, sees a "free ride" from joining Nevada in a court battle. He, too, sees no need for legislation.

Both legislators are attorneys. Mrs. Barnes, who sponsored HB 398 with several others, is not. But she

Joseph Chomski to join Assistant Attorney General Thomas Moencham for the Reno meetings.

Chomski, a Washington, D.C., member of the Alaska firm Birch, Horton, Bittner and Monroe, has worked with the state's court effort to overthrow President Carter's use of the Antiquities Act. That's another suit that Gross has given little chance of ultimate success, but behind the scenes Chomski is known to express greater confidence.

Gross' appointment of Chomski followed a meeting last month with Rodey, Sen. Mike Colletta, R-Anchorage, and Rep. Bill Miles, D-Anchorage, when the Legislature asked

Gross to appoint a full time independent counsel to study the possibility of participation in the Nevada fight.

For this week only, according to Chomski's Anchorage partner Ren Birch, the Washington attorney will join the discussion and advise legislators on how Nevada's path affects the state's already charted D2 effort.

How much further Gross will let Chomski go, and what his advice will be, is still a question. "We're still trying to perceive what our role is," Birch said.

Besides Mrs. Barnes, Rodey, Ziegler and Miles other Alaska legislators attending the western coalition meeting are Rep. Joe Hayes,

R-Anchorage, and tentatively Sam Cotten, D-Eagle River.

Colletta, who is supporting the effort from Anchorage, is necessary to take a more active role in the courts. "We're at a point where the state has to take a position, an affirmative position, to the feds we've had it to

September 5, 79
Anchorage Times

CARSON CITY, NV 89710



Senator Mike Colletta
Box 3188
Anchorage, AK 99501

Third Class Mail

*File
Engelhardt*



COALITION COMMENTS

VOLUME 1, NO. 1

October 1979

Editor's Note:

This publication is being initiated as the primary means of communication and information sharing for the Western Coalition on Public Lands. The Nevada Select Committee on Public Lands in September 1979 accepted the responsibility for operating a clearinghouse for information concerning the Western Coalition and the category of activities referred to as the "Sagebrush Rebellion." The intention is to publish an issue once per quarter. There is no charge for this newsletter although demand may necessitate a nominal fee in the future. The initial mailing is going to all participants at the September 6-7 meeting of the Western Coalition in Reno. Others wishing to receive the newsletter should send requests to:

Western Coalition Clearinghouse
Legislative Counsel Bureau
Legislative Building, Room 215
Carson City, NV 89710

WHAT IS THE WESTERN COALITION CLEARINGHOUSE?

At the September 6-7, 1979, meeting of the Western Coalition on Public Lands in Reno, one of the resolutions passed dealt with the creation of a clearinghouse function at some single point in the West. The Nevada Select Committee on Public Lands, through the Nevada legislative service agency, volunteered for this responsibility. The purpose of the clearinghouse is to accumulate and compile press clippings, legislative actions, news of meetings and any other materials dealing with western public lands. The information that is received from around the West and around the nation will serve two purposes. The clearinghouse should be able to answer, at one location, many of the questions that arise on western lands activities. In addition, the information sent in to the clearinghouse will be reviewed and items of regional interest will be reported to all clearinghouse participants and others through the quarterly newsletter of the coalition.

In order for the clearinghouse to work, there must be cooperation.
If people involved and interested in public lands matters do not send materials to the clearinghouse, there will be no resources to share.
If there is anything happening in your state or county or in your industry involving public lands, please send relevant materials to:

Western Coalition Clearinghouse
Legislative Counsel Bureau
Legislative Building
Carson City, NV 89710

THE WESTERN COALITION ON PUBLIC LANDS

The Western Coalition on Public Lands was formed in the spring of 1978 when the Western Conference of The Council of State Governments (WCCSG) and the Western Interstate Region of the National Association of Counties (WIR/NACo) agreed to join forces on the public lands issue. In May of 1978, the coalition went to Washington, D.C. where two things were accomplished. The first was the formulation of specific coalition positions. These positions were within the broader policy positions of the parent organizations. The second was to present the Western Coalition case to committees and members of Congress and to the Department of the Interior. The May 1978 trip was a successful initial effort that established credibility and purpose for an organization of state and local elected officials. The Washington meeting suffered from relatively short planning and preparation time and from a smaller turnout than was expected.

After the May 1978 meeting, several things happened to increase interest in the coalition. The RARE II recommendations were sent to the President. In many cases, some of the worst fears about RARE II were realized. In Nevada, RARE III recommendations were not particularly unreasonable. The Governor, nevertheless, asked for some minor modifications. Not only did the White House ignore the Governor, they actually added to the Forest Service recommendations. At the end of 1978, the President and the Secretary of Interior invoked (or abused) the Antiquities Act to lock up vast portions of Alaska. The attitude reflected in this action sent a shock through the whole West. It showed the federal government was willing to take even the most legally dubious actions to maintain the colonial status of western states and counties.

In its 1979 legislative session, Nevada enacted a law asserting state control over the public domain under the jurisdiction of BLM. This action and the sentiments it reflected in the West were dubbed by the media as the "Sagebrush Rebellion." The bold action by Nevada, the Alaska and RARE II actions referred to, the general accretion of federal regulations affecting western lands and the attention this all received in both regional and national media, created by the summer of 1979 a high level of interest across the West in the public lands issue. The California legislature at the end of August 1979 unanimously passed A.B. 1407 which directs the state lands commission to study the legal authority of the BLM to hold the public domain in perpetuity. If the right is found in doubt, the attorney general is to sue to vest title in California. Governor Brown vetoed the bill and it will be returned to the legislature for override consideration.

PROMOTIONAL ITEMS AND COPYRIGHTS

The logo that appears on the cover of this newsletter, "Welcome to the West - Property: U.S. Govt." is copyrighted by the Nevada Legislative Counsel Bureau. The purpose of the copyright is not to make money but to control the use of the logo. The logo is intended to serve the purposes of the Western Coalition on Public Lands.

Many people have expressed an interest in buttons, tee shirts and other promotional materials that use the logo. The Nevada Select Committee on Public Lands is in the process of developing a policy on the future use of the logo and on the production and sale of promotional materials. Anyone interested in obtaining buttons, tee shirts or brochures in significant numbers should contact the clearinghouse and information and costs will be provided.

The major regional and national agricultural organization including the American Farm Bureau, the American National Cattlemen's Association, the National Woolgrowers Association, the Grange and others are considering a national meeting on public lands issues. The meeting will probably be in Washington as early as mid-December 1979. The goal of the meeting will be to formulate common positions on public lands issues.

The agricultural groups recognize the progress made by the Western Coalition on Public Lands and are interested in an analogous organization among public land user groups. There is also a desire to explore the possibilities for a proper working relationship between the Western Coalition which is comprised of elected officials and western agricultural groups.

WESTERN NACO ANNUAL MEETING

The Western Interstate Region of NACO will hold its annual meeting April 22-26, 1980, in Boise, Idaho. Western NACO is one of the two constituent organizations of the Western Coalition on Public Lands. Its annual meeting chaired by Western NACO President, Cal Black of Utah, will focus extensively on public lands issues. Further information on the meeting may be obtained through Jim Evans, National Association of Counties, 1735 New York Ave., N.W., Washington, D.C., 20006.

(Note: Any organizations with public lands interests planning meetings or activities of interest to others should advise the clearing-house so that announcements can be publicized through this newsletter.)

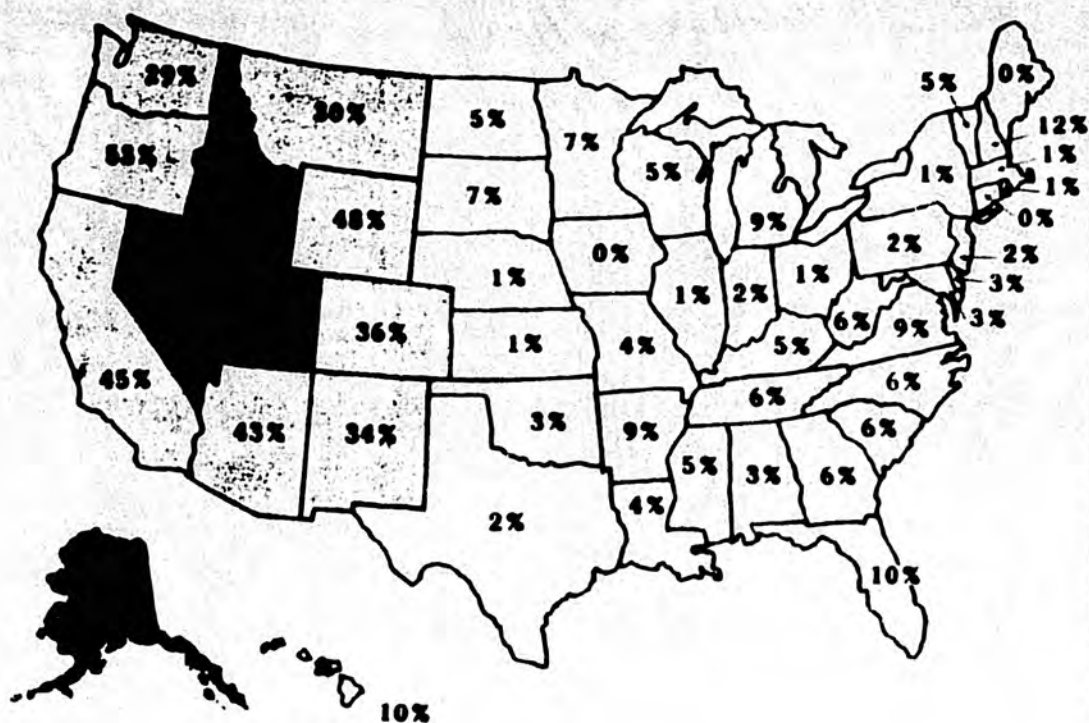
NEVADA'S LEGISLATIVE COMMITTEE FOR THE REVIEW OF FEDERAL REGULATIONS

The 1979 Nevada legislature created a four-person committee for the review of policies, regulations and actions of federal agencies within the U.S. Department of the Interior. The Nevada legislature, in creating this committee, found and declared "that the State of Nevada and its citizens are subjected to federal regulations which sometimes are unreasonable, arbitrary, beyond the intent of the Congress or the scope of the authority of the agency adopting them, and that as a result certain federal regulations should be subjected to legislative review and comment and judicially tested where appropriate, to protect the rights and interests of the State of Nevada and its citizens.

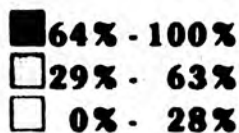
The committee is authorized to review and comment on any administrative policy, rule or regulation of the Secretary of Interior which pertains to policy concerning, or management of, public lands under the control of the federal government. Additionally, the committee is authorized to conduct investigations and hold hearings in connection with its review. In conducting such hearings and investigations the committee may cause the deposition of witnesses, issue subpoenas to compel attendance by witnesses, and require the production of books and papers by such witnesses.

The committee, comprised of two state senators and two state assemblymen, has met two times since it was organized in July 1979. Thus far, 35 different regulations and policies have been reviewed, with official comment made on seven items. In order for the committee to maintain an effective commenting mechanism, only top-priority issues will be selected for comment.

The first official public hearing of the committee is scheduled for November 1, 1979, in Elko, where the Bureau of Land Management will be asked to explain, and then receive input on, proposed across-the-board increases in forage allocation requirements for grazing on public rangelands in Nevada.



**PERCENTAGE OF LAND BY STATE IN
FEDERAL OWNERSHIP OR CONTROL**



MATERIALS CURRENTLY AVAILABLE THROUGH THE WESTERN COALITION CLEARINGHOUSE

All of the materials listed are available at no cost as a part of the clearinghouse function. If the requests for materials become extensive or if certain items are wanted in large quantity, a charge may have to be imposed to offset the costs to the clearinghouse agency.

1. LCB Bulletin 77-6, "Deriving Additional State Benefits from Public Lands" (includes a memorandum of law on the public trust theory).
2. LCB Bulletin 79-19, "Select Committee on Public Lands" (includes the initial position paper of the Western Coalition adopted May 1973).
3. "Equal Footing Doctrine and its Application by Congress and the Courts," Office of the Attorney General, Carson City, May 1977.
4. S 1680, Senator Orrin Hatch's public lands disposal bill.
5. A.B. 413, Nevada's "Sagebrush Rebellion" bill.
6. A.B. 413 with analysis.
7. "Sagebrush Rebellion" fact sheet (2 pages).
8. S 3192, Senators Laxalt and Cannon's bill for disposal of checker-boarded public lands.
9. "A Second American Revolution," speech by Senator Orrin Hatch, September 6, 1979 in Reno, Nevada.
10. A.B. 1407, California's public lands study bill.
11. HB 398, Alaska bill of the 1979 legislature asserting state control over the public lands.
12. Newsweek magazine feature article, "The Angry West," September 17, 1979.
13. A.B. 453, Nevada, 1977, establishing a federal regulations review committee to review and comment on regulations, studies, management plans and wilderness proposals of the Department of Interior.
14. "Welcome to the West" brochure.
15. Assorted state, regional and national press reports and opinions on the "Sagebrush Rebellion" and similar matters.
16. Resolutions concerning public lands passed at the 1979 annual meeting of Western CSG, September 22-26, Helena, Montana.

(Note: In each issue, new materials available through the clearinghouse will be listed. For the most part, these will be materials sent to the clearinghouse from around the West.)

The Nevada Select Committee on Public Lands, which had been instrumental in bringing the coalition together in the first place, decided in May 1979 that interest and momentum was building in the West on public lands issues, and that they should take advantage of these factors in building regional unity. To that end, the committee recommended a regional meeting of the Western Coalition to the Western Conference of the Council of State Governments and the Western Region of NACo. Those organizations agreed and Nevada volunteered to host the meeting.

Meeting planners hoped for 150 participants. Close to 300 actually attended. The meeting was roughly divided between information sessions and action planning. The resolutions actually passed by the coalition are appended to this newsletter. Some changes were made in these resolutions at the annual meeting of the Western Conference September 22-26, 1979. A report on that meeting and its actions concerning the Western Coalition are in a separate article on page 16.

The coalition meeting was co-chaired by Alaska State Senator Bob Zeigler, Chairman of Western CSG, and San Juan County, Utah, Commissioner Cal Black, President of the Western Region of NACo. Cal Black set the theme of the meeting when he referred to the host state as one of the 13 western colonies. The role of the federal government as the landlord of 60 percent of the West was the focus of the meeting. More specifically, the meeting dealt with "Sagebrush Rebellion" type legislation, current and probable actions in Congress, BLM activities pursuant to the Organic Act and the Wilderness Act and Forest Service activities concerning RARE II and the National Forest Management Act.

The opening general session on September 6 was highlighted by the keynote speech by Senator Orrin Hatch of Utah. Senator Hatch analyzed the causes for the mood of the West toward the federal government and then he described S 1680, a bill that would require the transfer of federal lands to the states. He asked for suggestions to improve S 1680 and for coalition support for the bill. That support was given the next day in general session.

Following Senator Hatch's opening speech, Assemblyman Dean Rhoads of Nevada, co-author of Nevada's public lands takeover bill, chaired a panel on the question of retention versus disposal of the public lands. Nevada Attorney General Richard Bryan gave a status report on preparations for litigation under the Nevada law. He also described the joint efforts of the western Attorneys General. The litigation committee of that group had met for a full day just prior to the coalition meeting. Ten of the western AG's have agreed to assist Nevada in case preparation.

Oscar Jordan and Carlos Gallegos of the New Mexico Lands Commission, which manages some nine million acres of state land, discussed current problems in their state with BLM and described the problems for the rancher who has private, state and federal lands in use. BLM Director Frank Gregg discussed the "Sagebrush Rebellion." While he expressed doubt about the legal contentions of Nevada, Mr. Gregg saw positive value in the unity and interest generated by the rebellion. Indeed, he felt that the great amount of national media attention generated about western issues and problems would help the West. He did not see that state control would solve any problems or improve lands management. Director Gregg also analyzed the emerging mood of the West. He saw it as a result of the confluence of the environmental movement on one hand and the nation's new focus on the West's energy resources. There are inherent conflicts between these two developments and one manifestation of these conflicts is the "Sagebrush Rebellion." While Gregg recognized the grievances of the West, he made it clear that his agency was bound to follow congressional mandates as they understand

them. He did offer to cooperate with state and local governments to the extent possible but did not suggest any specific ways of doing so. Tom Nelson, Assistant Chief of the U.S. Forest Service discussed RARE II and the land management policies of his agency.

The luncheon speaker on September 6 was Lieutenant Governor Terry Miller of Alaska. In addition to describing the current status on Alaska's d-2 lands, Lt. Governor Miller described the "alienation of the West" and how that led to the "Sagebrush Rebellion" and the new interest in regional unity in the West.

In the afternoon, there were four small group meetings. Each one began with a panel discussion and then moved into a second phase where all the meeting participants became involved in developing proposed coalition action positions.

The first small group meeting was on the "Sagebrush Rebellion." It was actually a very large group of 100-150. Assemblyman Dean Rhoads of Nevada chaired the panel which included Jac Shaw, Director of Nevada's Division of State Lands. Shaw is charged with the control and management of the public lands that Nevada has claimed. With Shaw was Harry Swainston, Deputy Attorney General in Nevada. Shaw discussed the regulations he has issued and other activities under the act which became effective July 1, 1979. Swainston went into some of the legal issues to date and plans for developing a court case. In the second phase, the "rebellion" group developed resolutions concerning future actions in support of the "rebellion." Specifically, the group recommended (1) endorsement of Senator Hatch's S 1680, (2) a request for a federal waiver of sovereign immunity so that the federal government can be sued and the legal issues resolved, (3) the creation of a steering group for the Western Coalition, (4) the establishment of a clearinghouse function on Western Coalition issues in Nevada, and (5) the conduct of a study by Congress of the impact of federal laws and regulations on public lands and local and state governments. All of these recommendations were adopted by the full coalition meeting on Friday, September 7.

The second small group was on public lands payments and current legislation in Congress. The group was chaired by Utah County Commissioner George Buzianis and had as panellists Paul Kugler of the Farmers' Home Administration, Ed Greenberg of BLM, J. K. Smith of the Colorado Counties Association and Utah Assistant Attorney General Richard Dewsnup. The work session for this group made 13 recommendations concerning broadening of payments-in-lieu but restricting it to general purpose government, establishment of the payments-in-lieu concept for state lands, disposal of checkerboard and prime agricultural public lands, raising of the reclamation acreage limitations, designation of wilderness only with state and local involvement, federal aid for energy development impact areas and support for the state position on Alaskan lands. The full coalition meeting adopted all the recommendations of this group.

The third small group was a session on the Bureau of Land Management. The panel part of the session was chaired by Representative Cary Peterson of Utah and included Tim Monroe from BLM, Ron Michielli of the American National Cattlemen's Association, Bob Warren of the Nevada Mining Association and Mark Walsh of the Utah Association of Counties. The panel focused on BLM wilderness review and Organic Act regulations. Recommendations from the work session were concerned with BLM adherence to their own wilderness criteria, BLM recognition of state and local planning in federal land use decisions, mineral surveys for wilderness study areas, state and local approval of wilderness areas, the expediting of pending mineral patent applications and repeal of the Organic Act. All recommendations of this group were adopted by the full coalition.

The fourth small group was concerned with the Forest Service. The panel was chaired by County Judge Dale White from Oregon and included Kess Cannon of the Oregon Association of Counties and Mike Grisvold of the Forest Service. Recommendations from the work session, with one exception, were concerned with RARE II. It was recommended that Congress move quickly on the RARE II recommendations, that any land in the "future planning" category have work completed within 2 years, that no criteria beyond those established by Congress be used to designate wilderness, that economic impacts be considered in wilderness designation, and that BLM and the Forest Service remain multiple use managers with wilderness turned over to the Park Service. All of the recommendations of this group were adopted by the full coalition.

The Friday morning session began with a presentation by U.S. Representative Don Clausen of California who spoke on the BLM Organic Act and Congress' intent in that act. Of particular interest to the audience was Clausen's call for help from states and counties for Congress in overseeing the implementation of the Organic Act. The general session, under the chairmanship of State Senator Keith Ashworth of Nevada, took action on the numerous proposals from the small group sessions of the day before.

The luncheon speaker on Friday was U.S. Senator Paul Laxalt of Nevada. Senator Laxalt is co-chairman, along with Senator Dennis DeConcini of Arizona, of the U.S. Senate Western Coalition. Laxalt urged close cooperation between the Western Coalition on Public Lands and the U.S. Senate Western Coalition. Laxalt and DeConcini are co-sponsors of Orrin Hatch's S 1680. Senator Laxalt also described the status of federal programs and legislation affecting land and water resources of concern to the West.

The first regional meeting of the Western Coalition on Public Lands was concluded at about 1:30 p.m. on Friday, September 7, 1979.

ACTIONS TAKEN BY THE WESTERN COALITION ON PUBLIC LANDS

At the September 6-7, 1979, meeting at the Sahara-Reno Hotel in Reno, Nevada, the Western Coalition adopted resolutions in four major subject areas. The full texts of those resolutions is included in this newsletter.

"SAGEBRUSH REBELLION"

1. SENATOR HATCH'S S 1680.

WHEREAS, The very high percentage of federal land ownership in the western states, and the very nature of the federal government with its agencies which manage the federal lands, deny these states and their citizens the right to determine their own destiny, and therefore deny them the same rights and privileges given to every other citizen of the United States not residing in any public lands states; and

WHEREAS, Land ownership configuration in each of the western states and recent federal laws passed stipulating management practices and policies on those federal lands allow the federal government to control, in many of the western states, even nonfederal lands and therefore the lives of the citizens of western states, for the economy of the western states is very closely tied to the land--both federal and nonfederal; and

WHEREAS, In recent months the Department of the Interior has announced ambitious and extensive new programs to intensify the degree of federal control over these lands and in addition thereto over the waters found upon these lands and the ground waters found underneath these lands; and

WHEREAS, The Department of the Interior, through the Bureau of Land Management, has determined to locate Areas of critical environmental concern (ACECs) for the purpose of withdrawing these lands from public access even more completely with greater restrictions than apply to wilderness areas as now defined by the Department of the Interior; and

WHEREAS, Such areas of critical environmental concern represent an additional effort by the federal government to inhibit and restrain the orderly and appropriate development and responsible exploitation of the resources of the public lands located within the western states; and

WHEREAS, It has become increasingly evident that the respective western states can more efficiently, more effectively, more appropriately, and more responsively manage, direct, control, and supervise the orderly development for the broadest beneficial public purpose of the public domain within the western states, and that the management and control of said public domain by the respective states would not only cost the taxpayers far less money in terms of the management burden, but would also result in a significant increase in the appropriate and responsible utilization of the resources of these lands for the benefit of all citizens of this nation; and

WHEREAS, The Honorable Orrin Hatch, United States Senator, State of Utah, has introduced into the United States Senate S 1680, a bill to divest the federal government of its ownership of the public domain and to place the title in said public domain in the hands of the respective state governments, by which said state governments will be enabled to achieve and realize a full state of equality with the other states of the federal union, and thus to obtain their due constitutional rights and the appropriate benefits for all citizens within these states; and

WHEREAS, The principles set forth in S 1680 are important, but we believe the bill must be amended to ensure equitable treatment of county governments within each of the affected states, including assurances that the revenues now received by the counties are protected and assured, and that the counties shall have a meaningful voice in the usage of lands transferred to the state under S 1680;

BE IT THEREFORE RESOLVED, By the western coalition in assembly on September 7, 1979, in Reno, Nevada, that the members hereby do endorse S 1680 for passage by the Congress of the United States, provided it is first amended to satisfy the views of county governments as stated in the resolution, and do urge the respective United States Senators and Congressmen from the western states, and indeed from all of the states of the federal union, to proceed immediately with appropriate public hearings on S 1680 in order to facilitate its amendment into acceptable form and its enactment into law.

1. WAIVER OF SOVEREIGN IMMUNITY.

WHEREAS, The question of the constitutionality of the retention of the public lands by the federal government in perpetuity is a significant and consuming question in the West; and

WHEREAS, The national interest as well as that of the West will be served by an early and definitive resolution of this basic constitutional question; and

WHEREAS, Nevada has passed legislation challenging the right of the federal government to hold the public domain indefinitely, and other states are moving to do likewise; and

WHEREAS, The doctrine of sovereign immunity could be invoked by the federal government as a defense which would prevent the resolution of this matter of great public concern; and

WHEREAS, The precedent for the federal government by law to waive sovereign immunity for a time certain and for a specific subject is well established, now, therefore, be it

RESOLVED, That the Congress by law provide for a waiver of federal sovereign immunity for 5 years in the matter of public lands control.

3. WESTERN COALITION TASK FORCE.

WHEREAS, The Western Coalition on Public Lands has been established by the Western Conference of The Council of State Governments and the Western Interstate Region of the National Association of Counties to develop recommended policies and positions regarding public lands; and

WHEREAS, The western coalition must have the ability to respond to issues on a regular and frequent basis; and

WHEREAS, Such response is best provided by a small but representative group with the authority to act on behalf of the coalition and in consonance with the adopted positions of the coalition; and

WHEREAS, The rapidly changing issues on the public lands necessitate immediate action and coordination by the coalition; now, therefore, be it

RESOLVED, That as an interim procedure pending formal approval each state legislative appointing authority appoint up to two legislators and that the Western Interstate Region of NACo appoint county officials, not to exceed two per state, to a Western Coalition Task Force; and, be it further

RESOLVED, That the task force maintain close liaison on all public lands matters of concern to the coalition and act on behalf of the coalition; and be it further

RESOLVED, That appointment carry with it the authorization to travel to task force meetings as required.

(Note: At its annual meeting in Helena, Montana, September 22-26, 1979, the Western Conference CSG refused to approve this resolution. Instead, coalition management and direction will continue to be provided by a steering committee composed of four state legislators appointed by the executive committee of Western CSG and four county commissioners appointed by the board of directors of Western Region NACo.)

4. WESTERN COALITION CLEARINGHOUSE.

WHEREAS, Developments on public lands in each western state and county are of interest to every western state and county, and

WHEREAS, State and county governments have limited resources and should benefit from the efforts of other states and counties, and

WHEREAS, The most efficient use of resources and dissemination of information of interest to all states and counties in the west requires that a clearinghouse for western public lands information be established; and

WHEREAS, The Nevada Select Committee on Public Lands has played a central role thus far in the public lands coalition and is willing to provide a formal clearinghouse function; now, therefore, be it

RESOLVED, That the Nevada legislature through its Select Committee on Public Lands, serve as the information clearinghouse for western coalition activities; and, be it further

RESOLVED, That every state and county in the west send information and materials relevant to public lands issues to the Nevada select committee and that the Nevada committee will disseminate the information to coalition members.

5. CONGRESSIONAL STUDY.

WHEREAS, The series of federal laws of the 1960's and 1970's and the regulations promulgated thereunder, concerning public lands, wilderness, environmental protection, grazing, water and other issues of particular concern to the West have had a tremendous economic impact on the West; and

WHEREAS, The critical national needs for energy have focused national attention, as never before, on the resources of the West; and

WHEREAS, The conflicting demands upon the West of energy development and environmental constraints have been recognized but never systematically analyzed; and

WHEREAS, Public policy decisions by local, state and federal governments concerning public lands cannot be intelligently or responsibly made without a fuller understanding of the economic and environmental aspects and their interactions; now, therefore, be it

RESOLVED, That the Congress of the United States is requested to authorize and fund a study of the economic impact of federal laws and regulations on public lands and on local and state governments; and, be it further

RESOLVED, That the study address the conflicts between environmental restraints on the one hand and the economic needs of the nation and the impacts on state and local governments in the public lands states on the other and recommend guidelines for determining when one value must be placed above the other.

The recommendations in this area comprise a single document with 13 specific points as shown.

1. Congress should designate all federally owned or controlled tax exempt, or trust lands, as eligible for payment-in-lieu of taxes.
2. Congress should fund payments-in-lieu of taxes to provide full payment for all entitlement lands.
3. Congress should provide for a 4-year funding renewal period for payments-in-lieu of taxes so that local governments may more accurately budget. Precedent for multiple year funding was established with revenue sharing.
4. General purpose governments with public lands within their boundaries should remain as the only recipients of payments-in-lieu. Inclusion of a single purpose units of government would not conform to the intent of the act, except for the special payment for new federal acquisitions where counties are required to share payments on a pro-rata basis.
5. Modify the payment ceilings to assist small population counties impacted by transient populations.
6. States should provide a system of payments-in-lieu of taxes for federal lands transferred to the states, and for state owned natural resources and recreation lands.
7. Congress should direct the expeditious disposal of unmanageable and isolated tracts of federal land. Congress should also direct the expeditious disposal of prime agricultural lands. Federal land management agencies should be given a specific time in which to identify such lands after which they would become available for disposal in the same priority established in Section 203 of the Federal Land Planning and Management Act.
8. Congress should enact a Public Lands Trust Fund in which proceeds now going to the federal government, from the sale of public lands would be deposited for the purpose of purchasing federal park, recreation and open space lands in areas where such lands are now inadequate or nonexistent.
9. Congress should enact legislation removing the acreage limitation and residency requirement to update the 1902 Reclamation Law for modern farming requirements.
10. Congress should only designate wilderness areas when they are consistent with formally adopted state and/or local land use plans and only when endorsed by the affected state and county governments.
11. Congress should provide funds to reimburse state and local governments for tax base losses caused by wilderness designations.
12. Congress should enact a comprehensive energy impact assistance program that provides funds for states, counties, and communities to meet the plan development and program costs of government services in the areas impacted by energy development. This energy impact program should be administered on a federal/state/local government partnership basis.

13. Congress should enact Alaska lands legislation based on the concepts as reported by the House Interior Committee and Merchant Marine Committee of the 96th Congress. Alaska lands legislation should include the following provisions:
- (a) A guarantee to convey to the State of Alaska and the native corporations lands which they have been entitled to receive;
 - (b) Support for a process that will ensure that resources of Alaska will continue to be studied, evaluated, developed and conserved;
 - (c) Support for provisions for major transportation and utility rights-of-way;
 - (d) Support for legitimate subsistence needs of rural Alaskans; and
 - (e) Emphasis on wildlife refuges rather than wilderness designations to allow a state and local voice on resource management.

BLM - ORGANIC ACT REGULATIONS AND WILDERNESS REVIEW

The recommendations in this area comprise a single document with nine specific points as shown.

1. Congress should investigate the BLM's practice of recommending as Wilderness Study Areas those inventory units which are contiguous with areas recommended for wilderness by other agencies. The Wilderness Inventory Handbook, on page 6, stipulates that an area of fewer than 5,000 acres can be recommended but only if it is natural and has either opportunities for solitude or primitive and unconfined recreation. BLM should be admonished to adhere to its guidelines, and prohibited from recommending areas which are contiguous to proposed wilderness areas but do not possess wilderness qualities.
2. BLM should recognize state designated road systems in the Roadless Review Process.
3. The Wilderness Act should be amended to require economic impact statements to include impacts to local and state economies prior to areas being recommended for wilderness inclusion.
4. Local units of governments should immediately begin developing or updating land use plans. These units of government should petition their states to aid in this effort by providing funding and technical expertise to units of local governments to do land use planning. State land use plans must be developed and must be an aggregation of local land use plans. States should be actively involved in supporting local units of government in protecting land uses.

5. Amend Section 601 (a) of the Organic Act, line 4, as follows:
(new material underlined in numbers 5, 6 and 7)

Provided, That prior to any recommendations for designations of an area as wilderness the Secretary shall cause mineral surveys to be conducted by the Geological Survey and the Bureau of Mines to determine the mineral values, if any, that may be present in such areas; and provided further that the Secretary shall budget sufficient funds to the Geological Survey and the Bureau of Mines to conduct in-depth, professional evaluations of the potential for mineral production.

6. Amend Section 603 (a) of the Organic Act, line 13, as follows:

Provided further, That the Secretary shall have the discretion, upon a determination that the lands are unsuited for further consideration as wilderness, to release the lands from further consideration.

7. Amend Section 603 (b) of the Organic Act, line 26, as follows:

. . . by an Act of Congress, and upon approval by the state legislatures and the boards of county commissioners within the areas proposed for designation.

8. The Western Coalition on Public Lands admonishes the Bureau of Land Management to expedite the processing of pending applications for patents of mineral lands.
9. Recommend that Public Law 94-579, October 21, 1976, Federal Land Policy and Management Act be repealed in its entirety for the following reasons:
- (a) The act is a criminal statute. It calls for imprisonment up to 1 year, or fine.
 - (b) The statute is so vague and indefinite that it is unconstitutional for vagueness as a criminal statute.
 - (c) It fails to define in advance the specific conduct prohibited, but it leaves to the unguided discretion of a low-level employee the right to make an order, or the right to make law, on the spot without specifically defining the criminal act in the statute.
 - (d) The act violates specifically the Fourth Amendment and allows searches and seizures without warrant.
 - (e) It permits arrest without a warrant. The rules of forestry were authorized, if practical. The act is unreasonable for undue degradation of land as defined by the act . . . authorizes the agencies to prohibit digging into the ground. This is a direct conflict with the 1872 Mining Law and directly in conflict with the vested property rights of mining claims.
 - (f) The retention policy is a violation of the admission acts of the public land states and the Organic Act effectively repudiates the compacts made between the United States and the states concerning public lands.

**FOREST SERVICE - RARE II AND REGULATIONS UNDER THE
NATIONAL FOREST MANAGEMENT ACT AND THE RESOURCES PLANNING ACT**

The recommendations in this area comprise a single document with 11 specific points as shown.

1. RARE II Wilderness designations should be made on a timely basis by the Congress, following the guidelines for wilderness in the law. All commercial timber land must be excluded from wilderness and kept in timber production.
2. We recommend to the Congress that in the event lands are to be placed in an "FP" or "future planning" category, the Congress require such studies by the Forest Service to be completed within a time limit of 2 years. If not completed, such lands return to multiple-use status.
3. Lands which are not designated as wilderness by the Congress or placed in future study category must be returned to a multiple-use status by the Congress, with no further consideration to be given for either wilderness status or "FP" designation.
4. We urge the Forest Service to discard a criterion which would arbitrarily require areas to be within 250 miles of each other as being a goal beyond Congressional intent in establishing the wilderness law.
5. The coalition reaffirms its strong support for multiple use of the public lands, and urges the Congress to be fully aware of the potential loss of multiple uses of recreation, watershed, mineral, gas and oil resources, as well as timber production in making their designations of wilderness.
6. The Congress in its designation of wilderness areas must take into consideration the economic impact on adjacent and dependent communities of withdrawals for single purpose, as well as the impact of the Clean Air Act on the proposed and adjacent areas.
7. Coalition states are urged to support each other in their RARE II positions, whether Congressional consideration is on a state-by-state basis, or on a region or omnibus approach.
8. National parks and monuments should be studied for possible wilderness designation with consideration given to needs for public access, future development for public use, and should be coordinated with wilderness proposals by other agencies. The Bureau of Land Management and the Forest Service should continue as agencies responsible for multiple use management of natural resources, with the National Park Service as a single-use agency given responsibility for management of wilderness areas.
9. Coalition states and counties must assume responsibility for developing a high level of public awareness of the impacts of wilderness designation, and keep close contacts with Congressional delegations as the RARE II process is concluded. The coalition strongly opposes any RARE III development.

10. The coalition supports the goals set forth under the National Forest and Rangeland Resources Planning ACT (RPA) and urges the Congress to provide adequate funding in order that positive steps can be taken to achieve those goals. This includes range and forest land restoration and protection, water development, reforestation, resource research, inventory of resources, completion of management plans, etc.
11. Finally, the western coalition stands ready to assist the Congress in completing RARE II, and in providing the conduit which is necessary for public involvement on a continuing basis in management of the important resources of the public lands.

THE COUNCIL OF STATE GOVERNMENTS WESTERN CONFERENCE
HELENA, MONTANA - SEPTEMBER 23-26, 1979

The Council of State Governments' Annual Western Conference was held this year in Helena, from September 23-26. The conference was well attended by legislators from western states as well as by a number of federal agency representatives. Although energy issues in the West made up the theme for this year's conference, The Western Coalition lands issues, and the "Sagebrush Rebellion" also received considerable discussion.

Proposed resolutions, prepared by the Western Coalition which met in Reno earlier in September, were considered by the full Western Conference in Helena. Although there were a few changes, most of the recommended resolutions were adopted as submitted. The Western Conference also reaffirmed the role of the Western Coalition of legislators and county commissioners to advocate policy positions of the western states. Adoption of a public lands policy, consisting of 41 separate policy statements, was perhaps the most important action at the Helena meeting. This public lands policy addresses such issues as implementation of the Federal Land Policy and Management Act, BLM and Forest Service wilderness programs, management of Forest Service lands, other BLM programs, public lands payments, and legislation in Congress.

The Western Conference also enacted a resolution which directs the "steering committee" for the Western Coalition to become active and serve as a liaison between the two bodies. This "steering committee" consists of four western state legislators and four western county commissioners.

Other resolutions approved in Helena dealt with: (1) a request for a study of the economic impact of recent federal laws and regulations on public lands; (2) a request for the federal government to waive its protective sovereign immunity doctrine for 5 years to allow legal challenges on certain public lands issues; (3) the creation of a public lands information clearinghouse for the Western Coalition; and (4) a request that federal wilderness proposals be approved by both the legislature and governor of each affected state.

**WESTERN COALITION
OF
STATE GOVERNMENTS MEETING
SEPTEMBER 6 - 7, 1979**

"SAGEBRUSH REBELLION"

**Report By
Representative Ramona Barnes**

"SAGEBRUSH REBELLION"

REPORT

It was my privilege to be invited to attend the meeting of the Western Coalition on Public Lands in Reno, Nevada on September 6th and 7th, 1979.

The purpose of the meeting was to discuss continuation of the effort begun in Washington in May, 1978 in which the Coalition first established its goals. This meeting was to refine and update those goals and develop a strategy for achieving them. A prime topic for discussion was Nevada's public lands take over bill, the "Sagebrush Rebellion."

In the keynote speech, U.S. Senator Orin G. Hatch, Utah, called for grass-roots support for his bill (SB1680), to return public lands to the Western States. Senator Hatch predicted passage of his bill if State and local officials pressure their Congressional Delegation to support the measure.

Senator Hatch charged that the Carter Administration has fallen into the hands of radical environmentalists who manipulate the Nation's economy by curtailing the flow of critical resources from western resource lands.

Senator Hatch asked the Western Coalition representatives to join him in what he termed the "second American Revolution."

During the general session, Frank Gregg, Director of BLM, declined comment on the issues of public land ownership, other than to declare that the Federal Government is taking the position that Nevada's case (to take our public lands) has no legal standing.

According to Gregg, new Federal environmental regulations are on a collision course with potential western economical development, spurred by the energy crisis. This conflict is reflected in the "Sagebrush Rebellion." He said the pendulum which has been so far off center since the beginning of the environmental movement of the 1970's is beginning to swing back and.... "I think we'll see a better balance."

Gregg defended Cecil Andrus, and said Andrus supports "Multiple Use Lands."

Alaska's Lt. Governor was the noon luncheon speaker. Lt. Governor Miller told the delegation that Congress is threatening to "lock up" a huge chunk of Alaska's resources with no consideration of the real issue, State's Rights. Terry Miller said, "The Mason-Dixon line has shifted, it runs North-South now, separating the Eastern States from an increasingly isolated, angry West. Alienated by Federal policies on land, energy, and water, the West has won its traditional title as America's regional underdog."

Lt. Governor Miller did a marvelous job of representing the State of Alaska and is to be commended. He called for a strengthening of the Coalition, and it is my hope that we as Legislators will work for the strengthening of the Coalition with positive steps of our own.

Discussions during the afternoon "Sagebrush Rebellion" work session included reports on Legislative efforts in other states. At this session, copies of the bill introduced by me (HB 398) and several other House members were distributed along with the resolutions by the Anchorage Municipal Assembly, the Assembly of the Fairbanks North Star Borough, and the City Council of the City of Fairbanks at a meeting in joint session at Fairbanks, July 20, 1979. This latter resolution dictates that every effort possible be expended to achieve a fair D-2 Lands Bill which incorporates, as a minimum, all seven consensus points, and declares any bill which does not do so be declared unacceptable.

Included in the materials distributed were the resolutions by the Anchorage Municipal Assembly, the Anchorage Chamber of Commerce, and Common Wealth North in support of Nevada's position. Resolutions urged our State to join Nevada as a friend of the Court (Amicus Curiae) in the impending Federal Court test of the Nevada Land Bill. I was pleased to also distribute packets of the "4 ACES, America's WinningHand". Commonwealth North originally presented these cleaver ACES to President Carter when he stopped in Anchorage during his recent trip to Japan.

A Representative from Wyoming said that she had taken most of the bill that she will introduce in Wyoming from our bill (HB 398) and congratulated us on our efforts.

I was given a copy of the legal briefs prepared by Nevada's Attorney General and have them in my possession should any member of the Legislature wish to see them.

Several resolutions were passed at the end of the session; I will make copies available at the request of any Legislator. The Alaska delegation endorsed a joint resolution by Representative Bill Miles calling on Governor Jay Hammond to join Nevada as a "friend of the court" if and when Nevada decides to sue. We further agreed that the issue of State versus Federal control should be taken out of the Attorney General's office and private counsel be hired to pursue the legal arguments and explore the best course of action for our State, whether it be the Nevada or the California approach.

I believe that legal precedent rests with the position of Nevada, and I therefore support the position of Nevada. I do not feel a study such as the California bill calls for is necessary. However, it is my sincere desire that we in Alaska adopt a "can win attitude" such as that displayed by members of the Western Coalition at the Reno meeting.

STATE OF ALASKA

**DEPARTMENT OF TRANSPORTATION
and PUBLIC FACILITIES**

JAY S. HAMMOND, GOVERNOR

CENTRAL REGION

4111 AVIATION AVENUE, POUCH 6900
ANCHORAGE 99502 (TELEX 25-106)

November 8, 1979

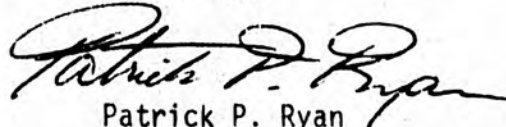
TO ALL INVITEES:

Enclosed is information concerning the scheduled meeting of November 15, 1979 to which you received a telegram invitation.

This meeting is being held at the National Weather Service Conference Room, 701 C Street, Anchorage regarding the first phase of an Avalanche Warning Center for Southcentral Alaska this season.

Please RSVP individuals designated to attend to Helen Richie, Department of Transportation & Public Facilities, Anchorage, 266-1450.

Sincerely,



Patrick P. Ryan
Deputy Commissioner
Maintenance & Operations

attachments

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PLS SEL
25110"
NOV 88 1884 86999.
DOT AVIA AHG

GA
•
REFILE MGM AHG

DOT AVIA AHG
NOVEMBER 8, 1979

STRAIGHT WIRE TO:

JOHN SANDER
REGION FORESTER
P O BOX 1628
JUNEAU, ALASKA 99802

ROBERT LERESCHE
COMMISSIONER
DPT OF NATURAL RESOURCES
POUCH M
JUNEAU, ALASKA 99811

STEWART BIGLER
DIRECTOR, NATIONAL WEATHER SERVICE
ALASKA REGION
701 C STREET
ANCHORAGE, ALASKA 99513

W.T. MULLALY
CHIEF OF ADMINISTRATION
ALASKA RAILROAD
POUCH 7-2111 RAR-10
ANCHORAGE, ALASKA 99501

WEYMETH LONG
STATE CONSERVATIONIST
SOIL CONSERVATION SERVICE
2221 E. NORTHERN LIGHTS
SUITE 129
ANCHORAGE, ALASKA 99504

CURT MCVEE
STATE DIRECTOR
BUREAU OF LAND MANAGEMENT
701 C STREET
ANCHORAGE, ALASKA 99513

JOHN E. COOK
DIRECTOR, NATIONAL PARK SERVICE
ALASKA AREA OFFICE
540 E 5TH AVENUE
ANCHORAGE, ALASKA (ROOM 202)

WILLIAM NIX
COMMISSIONER
DEPARTMENT OF PUBLIC SAFETY
POUCH N
JUNEAU, ALASKA 99811

GEORGE SULLIVAN
MAYOR
MUNICIPALITY OF ANCHORAGE
POUCH 6-650
ANCHORAGE, ALASKA 99502

SPECIAL ASSISTANT TO THE GOVERNOR
POUCH A
JUNEAU, ALASKA 99811

BILL OVERSTREET
MAYOR
CITY OF JUNEAU
POUCH B
JUNEAU, ALASKA 99801.

GERALD GILLILAND
SECRETARYS REPRESENTATIVE
U S DEPT OF INTERIOR
1675 C STREET
ANCHORAGE, ALASKA 99503

JIM FISHER
SECRETARYS REPRESENTATIVE
U S DEPT OF AGRICULTURE
2221 E. NORTHERN LIGHTS BLVD
ANCHORAGE, ALASKA 99503

A MULTI-FEDERAL- STATE AGENCY MEETING WILL BE HELD
NOVEMBER 15, 1979 AT NINE O'CLOCK (9:00A.M.) AT THE
NATIONAL WEATHER SERVICE CONFERENCE ROOM, 701 C STREET,
ANCHORAGE.

THE PURPOSE OF THE MEETING IS TO FINALIZE PLANS AND FUNDING
TO IMPLEMENT THE FIRST PHASE OF AN AVALANCHE WARNING CENTER
FOR SOUTHCENTRAL ALASKA THIS SEASON. THE WARNING CENTER
WILL ALSO PROVIDE DATA FOR FLOOD CONTROL AND FOREST FIRES.
THE WARNING CENTER PROPOSAL HAS BEEN CIRCULATING FOR
NINE MONTHS. ALL AGENCIES HAVE ALREADY SIGNED THE
PRELIMINARY COOPERATIVE AGREEMENT. SUMMARY INFORMATION
IS BEING MAILED TO YOU TODAY. REQUEST RSVP WITH NAMES
OF INDIVIDUALS DESIGNATED TO ATTEND. CALL HELEN RICHIE, DPT OF TRANSPORTATION & PUBLIC
FACILITIES, ANCHORAGE, 266-1450.

PATRICK P. RYAN
DEPUTY COMMISSIONER
MAINTENANCE & OPERATIONS
DOT/PF

BOB C. JANES
DEPUTY DIRECTOR
STATE AND PRIVATE FORESTRY
U S FOREST SERVICE
ALASKA REGION FEDERAL BUILDING
P O BOX 1628
JUNEAU, ALASKA 99802

REFILE MGM AHG

Z



POUCH V
JUNEAU, ALASKA 99811

Alaska State Legislature

Senate

MEMORANDUM

November 12, 1979

TO: Senator Pat Rodey

FROM: Marcie *MB*

Enclosed please find two October 15 billings from Birch, Horton, Bittner & Monroe for the Committee on Western State Lands.

Please review, approve, sign and forward to Pat Costello in Juneau for payment.

100 EDWARD STREET
ANCHORAGE, ALASKA 99501
(907) 266-2200
4000 JENNIFER ST., N.W., SUITE 300
WASHINGTON, D.C. 20015
(202) 244-4250
TELEX 9-00-2501

LAW OFFICES
BIRCH, HORTON, BITTNER AND MONROE
1127 WEST SEVENTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 276-1550
TELEX 25-356
STATEMENT

1000 AIRPORT HEIGHTS DRIVE, SUITE 100
ANCHORAGE, ALASKA 99504
(907) 270-0601
711 GAFFNEY
FAIRBANKS, ALASKA 99701
(907) 453-1056

Special Legislative Committee on Western State Lands
c/o Senator Mike Colletta
1016 West Sixth Avenue, Suite 435
Anchorage, AK 99501

October 15, 1979

FOR PROFESSIONAL SERVICES RENDERED:

RGB-500693

FEES

II. Work Product Under Clause III (A) (1) Contract

09/07	Arrange for copies of Solicitor's opinions on preemption of Federal water rights and interpretation of S. 603	
09/10	Recap research	
09/11	Follow-up research based on issues raised at Conference	
09/19	Read report to Nevada Legislature re: status of public lands	
09/23	Read and file article on California Governor Brown's position re: Sagebrush Rebellion	
09/26	Read <u>Utah vs. Andrus</u> and other updated reports, articles, etc.; call to California re: Governor Brown action	
Total Attorney Hours: 2.7		\$ 202.50

COSTS

09/21	Travel	450.18	
09/25	Delivery charges	6.50	
Total Costs			<u>456.68</u>
Total Current Month			\$ 659.18
Balance Forward			<u>450.90</u>
Total Amount Due			\$1,110.08

PLEASE REMIT PAYMENT TO

1127 WEST SEVENTH AVENUE
ANCHORAGE, ALASKA 99501

COSTS

08/28	Xerox copies	3.75
09/04	Travel	325.00
09/04	Travel	3.25
0/04	Hotel & Per Diem	<u>318.00</u>
		650.00

Balance Forward	<u>\$3,000.00</u>
Total Amount Due	\$3,000.00

Since our fees and costs have exceeded Clause III (A) (2) of our Contract our billing is for only that amount which includes costs.

120 SEWARD STREET
JUNEAU, ALASKA 99901
(907) 586-2000
4400 JENNER ST., N.W., SUITE 300
WASHINGTON, D.C. 20015
(202) 344-4250
TELEX 9-00-2301

LAW OFFICES
BIRCH, HORTON, BITTNER AND MONROE
1127 WEST SEVENTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 276-1550
TELEX 25-356
STATEMENT

1300 AIRPORT HEIGHTS DRIVE, SUITE 100
ANCHORAGE, ALASKA 99504
(907) 370-0001
711 GAFFNEY
FAIRBANKS, ALASKA 99701
(907) 453-1005

Special Legislative Committee on Western State Lands
c/o Senator Mike Colletta
1016 West Sixth Avenue, Suite 435
Anchorage, AK 99501

October 15, 1979

FOR PROFESSIONAL SERVICES RENDERED:
RGB-500693

FEES

I. Preparation for and attendance at September 4, 5, & 6, 1979
Sagebrush Rebellious Meetings (per Clause III (A) (2) of Contract.

08/28 Research public land trust cases under
Property Clause of U.S. Constitution
and environmental law as they pertain to
Sagebrush issues
08/29 Dictate memorandum re: basis of Nevada's
claims and underlying legal theories
08/29 Research legal issues; read legal memo-
randa; conf. w/Nevada Assistant Attorney
General Harry Steinson
08/30 Dictate memorandum re: research; meeting
w/Wilderness Society's counsel re: Sage-
brush rebellion; legal research prepare for
Reno Conference
08/31 Review memorandum
08/31 Further background research into legal
theories of Sagebrush litigation
09/04 Read all legal research in preparation
for meetings
09/04 Revise memorandum
09/05 Attended Western Attorney General's
meeting re: Sagebrush legal issues and
strategy
09/06 Attended Sagebrush Rebellion Conference
09/07 Attended Sagebrush Rebellion Conference
and travel

130 SEWARD STREET
JUNEAU, ALASKA 99901
(907) 586-2890
4400 JENIFER ST., N.W., SUITE 300
WASHINGTON, D.C. 20015
(202) 244-4250
TELEX 9-89 2591

LAW OFFICES
BIRCH, HORTON, BITTNER AND MONROE
1127 WEST SEVENTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 276-1550
TELEX 25-356
STATEMENT

1200 AIRPORT HEIGHTS DRIVE, SUITE 520
ANCHORAGE, ALASKA 99504
(907) 279-9511
711 GAFFNEY
FAIRBANKS, ALASKA 99701
(907) 452-1666

September 28, 1979

SPECIAL LEGISLATIVE COMMITTEE ON
WESTERN STATE LANDS
* Senator Mike Colletta
1016 West Sixth Avenue, Suite 435
Anchorage, Alaska 99501

FOR PROFESSIONAL SERVICES RENDERED:
RGB-500693 SAGEBRUSH REBELLION

FEES

Fees re: Reno, Nevada Conference, inclusive of report and
all expenses

Total Amount Due

\$3,000.00

Sent to Rodey 10/4

PLEASE REMIT PAYMENT TO

1127 WEST SEVENTH AVENUE
ANCHORAGE, ALASKA 99501

130 SEWARD STREET
JUNEAU, ALASKA 99901
(907) 586-2890
4400 JENIFER ST., N.W., SUITE 300
WASHINGTON, D.C. 20015
(202) 244-4250
TELEX 9-00-2591

LAW OFFICES
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1127 WEST SEVENTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 276-1550
TELEX 25-356
STATEMENT

1200 AIRPORT HEIGHTS DRIVE, SUITE 520
ANCHORAGE, ALASKA 99504
(907) 279-9501
711 GAFFNEY
FAIRBANKS, ALASKA 99701
(907) 452-1666

Special Legislative Committee on Western State Lands
c/o Senator Mike Colletta
1016 West Sixth Avenue, Suite 435
Anchorage, AK 99501

September 15, 1979

FOR PROFESSIONAL SERVICES RENDERED:
RGB-500693

FEES

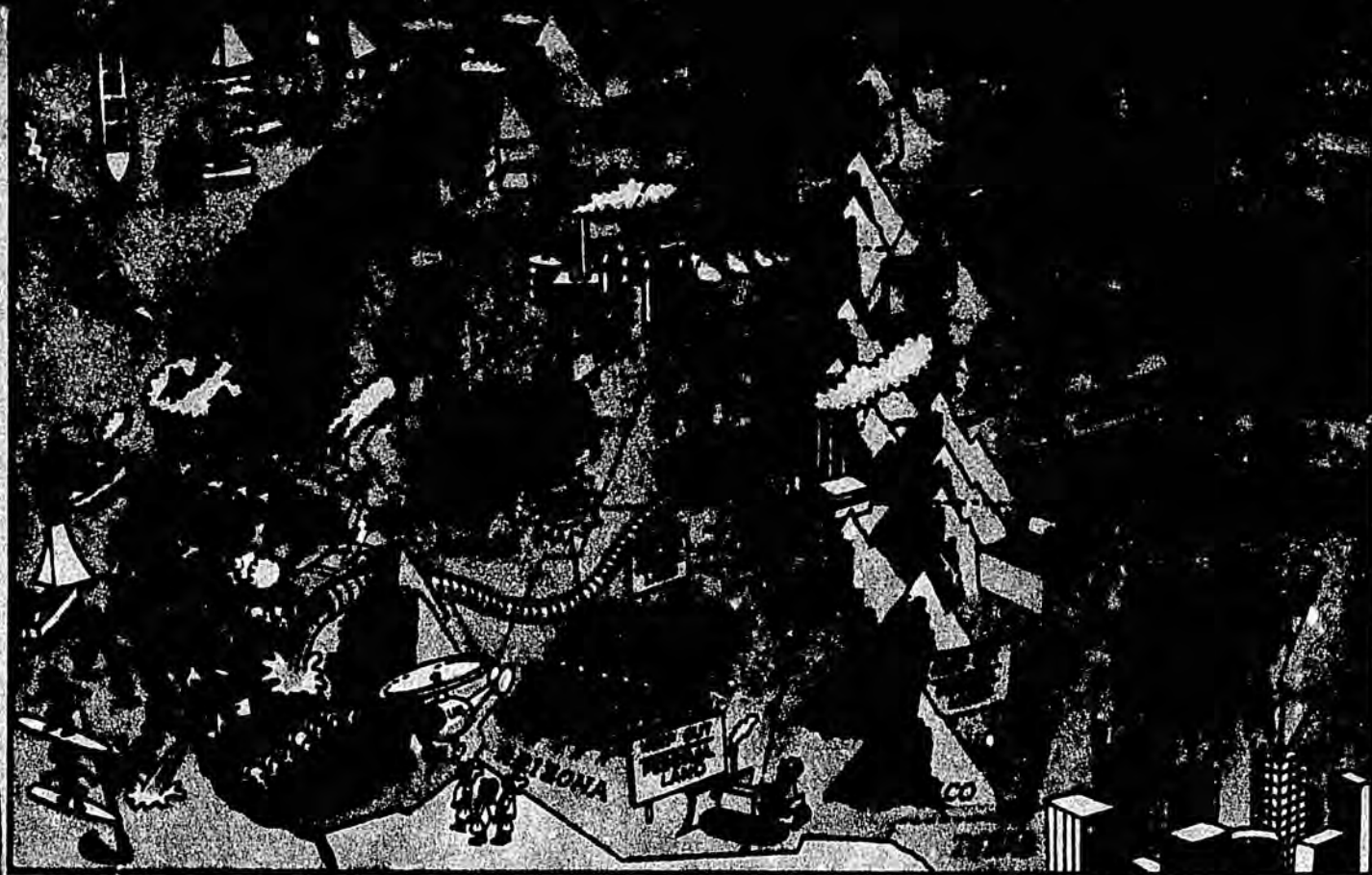
08/20	Conf. w/Senators Colletta and Rodey	
08/24	Review re: litigation information; call to Mr. Swenson at Nevada Attorney General's office	
08/27	Dictate summary of discussion w/Mr. Swenson re: basis for Nevada's al- legations against Federal government	
08/27	Research re: public lands trust doctrine	
Total Attorney Hours: 5.8		\$450.00

COSTS

08/20	Xerox copies	.90
Total Amount Due		\$450.90

PLEASE REMIT PAYMENT TO

1127 WEST SEVENTH AVENUE
ANCHORAGE, ALASKA 99501



Drawn for NEWSWEEK by Roy Dory

The alienated frontier: An absentee landlord, mushrooming growth and a desperate scramble after land, water and energy

THE ANGRY WEST VS. THE REST

On the edge of the Sawtooth Mountains near Placido, Idaho, fat Hereford yearlings buried their white faces in the green pasture of the Purdy Ranch. Nick Purdy, a sun-burned rancher whose ancestors homesteaded the Rocky Mountain high country in 1887, studied his cattle and squinted hard at Washington. The Bureau of Land Management planned to take back 15,000 acres of grazing land leased to the Purdys for the past 92 years and turn it into a winter range for deer; the Environmental Protection Agency wouldn't let him poison coyotes, and the Food and Drug Administration told him only veterinarians could use antibiotics to treat cattle. "That sounds great back East," Purdy said. "But our vet is 60 miles away—and he doesn't make house calls."

High in the dining room of a skyscraper in Salt Lake City, Tom Bailey, president of the UNC Plateau Mining Co., sat down to a hamburger. His companions included a mining regulator, a state legislator and a lobbyist. Their objective was to lobby for Federal strip-mining regulations to protect the hills and hollows of the West. "They've got regula-

tions adopted against Eastern abuses to handle things we don't even face out here," Bailey said. "They ask us to cover reclamation piles with 4 feet of topsoil and we can't find 2 inches let alone 4 feet. They demand that I put refuse facilities in the flatlands, but northern Utah coal country has no flatlands, only canyons and mountains."

In sunny Venice, Calif., stenographer Iris Chester was fed up with Easterners who sneered at the land of mellow speak and dismissed long gasoline lines as fair punishment for freeway hedonists. So she sent a modest proposal to Gov. Jerry Brown. "The District of Columbia is as much out of touch with California today as was England before that revolution," she wrote. "We don't have to take it, Jerry. We have enough of our own resources. Let the other 49 barter with us. California is a great state—it would make a fantastic country."

From remote ranches high up in the Rockies to corporate watering holes in the valleys down below to the long coast of the Pacific, a rebellion is brewing. Suddenly, the Old West has become the Angry West, a region racked by an increasingly bitter

sense of isolation and political alienation. More and more, Westerners complain that a powerful absentee landlord, the Federal government, is regulating them to death; that a Congress dominated by Eastern interests is riding roughshod over their views on land and water; and that Jimmy Carter's new energy policies threaten to replay the rape of the old frontier. And with tempers ragged all around, the West is spoiling to fight back. "A new Mason-Dixon line is being drawn at the 100th meridian," warns Colorado's Gov. Richard D. Lamm. "Regional politics are greater than at any time since the Civil War."

The 100th meridian is where the West begins. Knifing down from the Dakotas, it slices just east of Dodge City, Kans., clips the Oklahoma panhandle, and cuts through Texas, marking off a thirteen-state area with 39 million people that is rapidly becoming a region apart. To the west of this climatological and soil barrier, most of the land is owned by the Federal government and agriculture is largely impossible without massive irrigation; but the same arid lands have vast deposits of low-sulfur coal in accessible veins, heavy crude oil, mountains of oil shale and plenty of uranium. And just as the

nation most surely needs the West's beautiful resources and goodwill, a palpable sense of being wronged seems to be turning Westerners inward. "It's the West against the rest," says Jerry Norris of the western office of the Council of State Governments. "The West has become what the South was in the '40s and '50s."

BATTLES: The West's tradition of hostility to Big Government and cantankerous dealings with outsiders goes back as far as its great nineteenth-century battles over railroad routes and rates, protective tariffs and free silver. But the new strain of sectionalism seems more potent than anything since the Great Depression swept away many of the country's local differences in a wave of mutual hard times. Regional strains sprouted over the last decade, but they were overshadowed by such national issues as Vietnam and Watergate. Now they are out in the open. "What we are seeing is a revival of regionalism, a return to the old pattern of American politics," says political scientist Seymour Martin Lipset of Stanford University. And the revival promises to test Federal-state relations, the effectiveness of Congress and the operations of the White House.

One measure of the anger now firing up the West is the way it has united an otherwise maverick group of states and rugged individualists with a new sense of common cause—and a conviction that the rest of the country doesn't share, understand or sympathize with the region's most vital concerns. Part of the trouble is simply that the West is different. Issues vital to the West—such as scarce water, government-owned land or illegal aliens from Mexico—matter very little in New York or Ohio. And while the politically powerful industrial states in the East and Midwest are struggling to stem decay—mainly urban blight and aging industries—the West is preoccupied with problems of growth: exploiting its mineral wealth while protecting its environmental richness, ensuring vital water supplies and balancing a changing agricultural economy with a post-industrial boom. "We recognize the problem," says Oregon's Gov. Victor Atiyeh. "The West needs to build and the East needs to rebuild."

RIFTS: Even where East and West share the same problems, the solutions often cause regional rifts. Strip-mining regulations tailored for Appalachia don't fit conditions in the Rockies. Housing formulas designed for the crowded ghettos of Newark, Harlem or Chicago's South Side square badly with the needs of sprawling newer cities like Phoenix. Energy-allocation schemes to refine more heating oil for New England mean less gasoline for the car-dependent West. And the 55-mile-an-hour speed limit, generally accepted in the East, galls Westerners facing 100-mile straightaways.

California crop: A booming Asian trade

a bad for some states. The bill then came when Congress passed the Federal Land Policy and Management Act of 1976. The measure dashed the hopes of developers that vast tracts of Western land taken by the Federal government in return for statehood would one day be transferred to state control. It also directed the Interior Department to identify and protect land for national wilderness areas and parks. Interior's Bureau of Land Management—known to its detractors as the Bureau of livestock and mining—abandoned decades of indifference to become an aggressive master. Along with the Forest Service, the BLM regulates mining, ranching, farming, lumbering, hunting, fishing and just about everything else on nearly 1 billion acres of Federal land. "We're like serfs," groans J. W. Swan, president of the Idaho Cattlemen's Association. "There's no way that we can control our des-



Photos by Chuck O'Rear—Woodfin Camp & Associates

Harvest: A sense of being wronged

tiny while Washington controls the land."

Matters took another turn for the worse when Jimmy Carter became President. Carter's hit list of water projects, a well-intended crusade to curb pork-barrel dams and irrigation projects, was taken as a threat to the very lifeline of the West. The West's sense of betrayal was compounded with a new set of anxieties when the President said the country should tackle the energy crisis by using the region for synthetic-fuel development, tapping its reserves of low-sulfur coal and establishing an emergency mobilization board to override red tape and environmental safeguards. To many Westerners, it looked like Eastern interests were about to turn the West into an "en-

Strip-mining coal in Colorado: Will today's energy boom leave ghost towns and scarred land tomorrow?

ergy colony" or a "national sacrifice area."

So far, the West's response has been to dig in its heels and prepare for a fight. Nevada is mounting a "sagebrush rebellion" in a bid to wrest at least some of its land back from Washington (page 38). Bright and scrappy governors like Scott M. Matheson of Utah (page 37), Richard D. Lamm of Colorado and Thomas L. Judge of Montana have organized a spirited campaign to gain a louder voice in the nation's energy and water policies. And other states are casting about for more effective ways to counter the East's sway in Congress. No responsible Western leader talks about secession, but the regional strains are enormous nonetheless. "We know we have a responsibility to share our resources and be part of the energy solution," says Montana's Lt. Gov. Ted Schwinden. "What we don't want to do is turn over control to

outsiders—and that means OPEC, Washington and the East Coast."

So after more than a century as the country's kid brother, the West is finally coming into its own. It is no longer a creature of the East, sired by Astors and Harrimans and swaddled in the beguiling myths of Horace Greeley, Frederick Jackson Turner and Teddy Roosevelt. Westerners see the passage as no loss. If the romance of the old frontier is gone, so too is the image of rustics, easy prey for slickers from the East. "We had a slight inferiority complex," says San Francisco attorney Paul Haerle. "But now the economic and cultural trends are going our way."

BOUNTY: The passage has infused the West with a heady new sense of its own potential and independence. Specializing in computers, semiconductors and aerospace, the West is already humming with the

components of a 21st-century economy. By combining the nation's highest concentration of high-technology industries with the greatest percentage of service-related industries, California has become an engine propelling the region toward the post-industrial age. At the same time, the irrigated valleys of California and Arizona and the rolling wheatlands of eastern Oregon and Washington are producing an agricultural bounty and a booming trade with Asia that now outstrips exports to Europe. "What happens in the Philippines, Japan and Korea has a greater impact on us and is of more immediate interest to us than most events in Massachusetts," says Sen. S. I. Hayakawa of California.

The East-West differences are even more pronounced than the popularized Sun Belt-Snow Belt conflict. The Sun Belt includes the South, which has expanded by offering

Elliott Varner Smith

Vital waterworks in Utah (below) and Arizona: A fight over Carter's hit list

John Running—Black Star



tax incentives and such other enticements as nonunion labor to attract manufacturing plants from the Northeast. For the most part, the West has sought to avoid such industries as too dirty environmentally and too vulnerable to economic ups and downs. In breezy San Diego, Mayor Pete Wilson says: "Industry here is light manufacturing, electronics fabrication, food processing; there are no steel mills, tire factories or oil refineries. It's smokeless industry. We've effectively made that choice."

GET-UP-AND-GO: The steady westward drift of the population has provided the West with its most important resource—people. Though Western states (except California) are still sparsely populated, they are growing more than twice as fast as the nation as a whole. In the past decade, Alaska's population has swelled by more than one-third, Nevada's by 30 per cent, Wyoming's by nearly one-quarter and Utah's by 20 per cent. "The population in

interested in big scores than in the West's good vibes. "People go to New York to succeed," says Stewart Brand, former publisher of the Whole Earth Catalog. "They come to San Francisco to be happy."

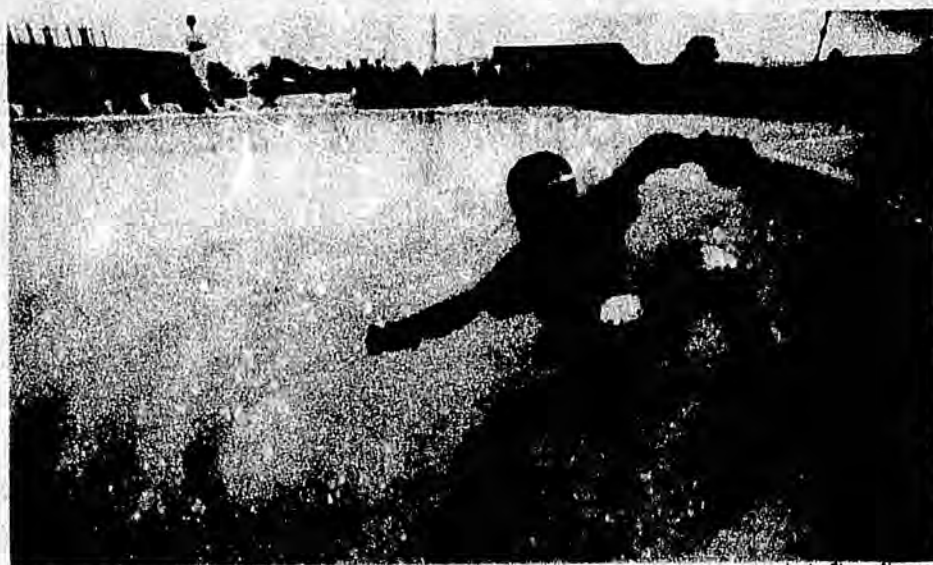
But California makes other Western states wince. Old regional stereotypes such as brawling barroom cowboys, tight-lipped Mormon polygamists and randy forty-niners have receded, only to be replaced by hot-tub hipsters, loony psychotherapists and worse. "You name it: if it bubbles and its eyeballs are glazed, it probably comes from California," says Chicago columnist Mike Royko, who cites the Manson Family, the Symbionese Liberation Army, Synanon and the death cult of the Rev. Jim Jones to buttress his case. "Out West there are two entities," counters Gov. Bruce E. Babbitt of Arizona. "One is California—the rest is the West."

Even excluding California, the West is far from monolithic. Oregon and Washington, with plenty of water and hydropower, tend to differ with the Rocky Mountain states over water and energy policy. Colorado has left the old Western Governors' Conference to concentrate on the new Western Governors Policy Office (WESTPO), whose members—Alaska, Arizona, Colorado, Montana, Nebraska, New Mexico, North Dakota, South Dakota, Utah and Wyoming—are united by common problems of aridity, Federal ownership of the land and resource development. And within all of the Western states, aggressive, big-growth developers wrangle angrily with environmentalists over the region's biggest problem: how to curb mindless growth, providing jobs for natives and newcomers without ruining the land and sky that are the West's most visible resource.

STETSON: The squabbling has made for a very lively political style. Most Western states now have high-caliber moderate-conservative Democratic governors who must mediate disputes between developers, environmentalists and the Federal government. They must step quickly and delicately to satisfy Western voters, who are given to initiatives, referendums and recalls at the drop of a Stetson. And the region's two national figures, Jerry Brown and Ronald Reagan, poles apart on most matters, share the view that government should be limited, lean, open and accessible. In the West, no other approach is thinkable. "When a farmer or a rancher comes in, he is not going to talk to a secretary," chuckles Lieutenant Governor Schwinden of Montana. "They want to talk to the boss. They say, 'Who the hell do you think you're working for anyway?'"

Given the West's traditional hostility to Big Government, together with the newer dukes-up political style, an East-West battle was probably inevitable. Westerners complain that railroads run east-west, not north-south, making interwestern commerce difficult. They charge that rail rates are rigged to set low prices for Western raw

Rocky Mountain high: Smiles, good vibes



Lester Sloan—Newsweek

Easy riders: An old-fashioned rodeo in Wyoming, some newfangled wheels in Colorado

Brownie Harris—Photoreporters

places of pervasive decline like New York and Ohio tends to be less mobile, older and less ambitious," says demographer Peter Morrison of the Rand Corp., who finds Westerners have more get-up-and-go.

The West has also become a state of mind as well as a stretch of territory. New Westerners tend to characterize themselves as self-sufficient, open, friendly and tolerant of differences. "You're considered a good guy until you prove otherwise; in the East it's the other way around," says William Smallwood, education consultant in Sun Valley, Idaho. Such attitudes ease the way for transplanted Easterners. "It took six years for people at The New Yorker magazine to remember my name and to nod to me in the hall," recalls Susan Pelzer who finally gave up and moved to Seattle, where she was able to launch The Weekly Reader, the book review she now edits. Immigrants tend to argue, nonetheless, that they are less

network and high prices for the West's finished goods. And they are outraged by proposed Amtrak cuts that would pump \$2.5 billion into Eastern lines for tracks and facilities while slashing service in the West. Mayors charge that Federal housing-aid formulas emphasize pre-1940 buildings, favoring the East. Utilities executives argue that laws requiring sulfur scrubbers for all coal-fired plants favor the East's dirty,

coastal gas. The same was true under the Governor. Earlier this year, the Congressional Budget Office studied liberalized trade agreements then under negotiation in Geneva and announced that high-technology industries and food processors would be the main beneficiaries, a clear plus for the West. In March, a coalition of the Northeastern and Midwestern congressmen released a study indicating a steady outflow of Federal

West would still be without energy. "If you pulled the Federal presence out of Colorado the state would collapse," says Sen. Gary Hart. "The Federal government has been good for the West."

Among hotter heads, the prevailing sentiment is that on two traditional Western issues—land and water—and a new one—energy—Washington has become a Big Brother the West could well do without. The



LESTER SLOAN—NEWSPHOTO

Utah's Matheson and family: 'We don't have to become the OPEC of the West'

RISE OF THE WEST

Just days after Jimmy Carter unveiled his energy program last July, ten Western governors arranged a conference call to discuss what the plan would mean for their energy-rich states. In his office in Salt Lake City, Utah's Scott Matheson listened earnestly but said little as he jotted careful notes on a legal pad. After fifteen minutes, the governors seemed most worried that Carter's proposed Energy Mobilization Board might pre-empt the states' say over how their resources should be developed. Matheson nodded grimly in agreement. "If that's the case," he said to the group, "we'd better mobilize."

Increasingly, the 50-year-old Matheson, a first-term Democrat in a traditionally Republican state, has been mobilizing his colleagues on matters vital to the West. As cofounder and current chairman of the ten-state Western Governors Policy Office (WESTPO), Matheson is the point man on water, perhaps the most critical issue in the nation's most arid region. He also won a suit (now on appeal to the Supreme Court) giving Utah title to 116,000 acres of Federal oil-shale land. And his dogged involvement in such high-visibility controversies as radioactive fallout from nuclear testing has earned him a reputation as a scrappy and well-prepared crusader. "We're blessed in the West with a lot of good governors," says WESTPO executive director Philip Burgess, "but Matheson is one of the best."

Matheson's rise to power has been extraordinary. A Stanford-trained lawyer, he spent most of his career representing the Union Pacific Railroad. Then in 1976, retiring Utah Gov.

the cost of water projects with the Federal government.

As Matheson sees it, scarce water will eventually limit economic growth in the West. The states, he believes, ought to begin allocating supplies. "I want to manage water in a responsible way that maintains the quality of life," he says. But state allocation of water is a heretical notion out West, and Matheson has been unable to get the legislature to agree.

Outside of Utah, Matheson is best known for getting Washington to admit the probable connection between southern Utah's abnormally high cancer rates and the atomic-testing program in Nevada during the 1950s. It was a satisfying personal victory for Matheson, who has lost a number of close relatives—including his mother—to cancer. His suspicion of government safeguards also led him to go to court to block the Army from shipping 896 old nerve-gas bombs from a Denver arsenal to a Utah ordnance post.

PRO-GROWTH: These days, Matheson and the other Western governors are preoccupied with energy. Pro-growth and less ecology-minded than some of his colleagues, Matheson favors a controversial plan to burn Utah coal in big power plants that would send half the electricity they generate out of state. "This talk that we should keep our resources to ourselves is silly," he declares. "We don't have to become the OPEC of the West." But he believes the Rocky Mountain states do need to work together. "My judgment," he says, "is that when you can get ten governors in a unified approach, a lot of people will listen."

ALLAN J. MAYER with MARTIN KASINDORF in Salt Lake City



Gubernatorial hoofbeats: Judge and family hit the Montana hills, Lamm jogs in Colorado

feeling is exacerbated by the Federal government's role as the West's landlord. The Feds own nearly all of Alaska and Nevada, the bulk of Utah, Idaho and Oregon, nearly half of Wyoming and California and giant chunks of the rest of the West (map, page 39). By contrast, the largest Federal holding elsewhere is in New Hampshire (12 per cent). The dominant Federal presence in the West distorts normal Federal-state relations. To make matters worse, the region's growing population is pushing harder and harder against the borders of available, developable private lands. The result has been a desperate scramble after land for cattle and sheep grazing, mining, timbering, highways, hunting, fishing and parks.

GREENS FEEL: The time when Washington coped with such pressure mostly by giving in to it has passed. The Federal Land Policy and Management Act required that every Federal roadless area exceeding 5,000 acres be considered for possible designation as a protected wilderness. Westerners now say they are regulated every time they want to graze a sheep or cow, sink a well, drill for oil or mine coal. The Interior Department even regulates the greens fees on the municipal links in Elko, Nev. "All these rules are coming at once," groans Bureau of Land Management district manager Chuck Haszler, a 25-year veteran who oversees 2.5 million acres in Idaho. "They affect everything: minerals, timber, grazing, recreation, wilderness and wildlife."

Western ranchers have been among the hardest hit. Unlike the Midwest, where farms tend to lie in tidy, contiguous plots, the West is a checkerboard of private holdings scattered among Federal lands. In Montana, for example, where it can take

6,400 acres to raise 200 head of cattle, ranchers must lease land from the government to stay in business. In the past, the BLM granted ten-year leases; now it is operating on a year-by-year basis pending environmental reviews, making herd management extremely difficult. The BLM is also studying the possibility of turning traditional cattle lands into wilderness areas and wildlife refuges. "It doesn't make any sense," explodes cattleman Swan of Idaho. "One part of the government tells us to raise more beef to get prices down, then the BLM guy tells us people eat too much beef anyway—and a few hundred sage grouse are more important than cattle."

The BLM's new policies often produce bureaucratic nightmares. The agency dawdled two years over an environmental-impact statement for Idaho's Magic Valley, then assigned a squad of crack officials to the case. After a year's work, they produced a 400-page report, complete with charts, graphs and addenda and distributed it to ranchers during the spring roundup, giving the cattlemen only 45 days to answer it. But when Gov. Robert List of Nevada sought to build a new prison on Federal lands and asked for BLM approval within 60 days, a BLM official said it couldn't meet the deadline if it assigned its entire staff to the task. Such hassles have soured the spirit of accommodation that used to be the BLM's hallmark. "Now across the West people are throwing up their hands in frustration," says Interior Department officer Joseph Nagle. "They are saying, 'Goddamit, get the Federal government out of here. We can do things better ourselves.'"

The BLM's new environmentally-minded activism prompts Western developers to

appeal the Bureau's decision to the Supreme Court and the Department of Justice and out to leave the West in death. "It would appear that the Eastern Establishment regards states like New Mexico with little population as their private playground," snorts Peter Hannagan of the New Mexico Oil and Gas Association. "They say it belongs to all the people in the Federal Union; they say, 'Don't disturb our playground by putting an oil rig on top of some scenic mountain because we might vacation there next year.'" Quite so, reply BLM officials, who argue that if they did not step in against unchecked development, the West would simply rape itself. Western environmentalists agree, and want the BLM to do even more. So do a few brave politicians in boom states. "I just feel safer if the key is back in Washington," says

SAGEBRUSH

The U.S. Government owns 87 per cent of the land in Nevada, and the maze of rules and regulations imposed by Washington has gotten Nevadans so riled up that they're fixing to wrestle it back from the Feds. In July, the state legislature passed a law that would seize, at least on paper, 49 million acres. The action, dubbed the "Sagebrush Rebellion," shows signs of spreading to other Western states, where more than 700 million acres belong to Uncle Sam (map). "We're tired of being pistol-whipped by the bureaucrats and dry-gulched by Federal regulations," drawls Nevada state Sen. Norm Glaser. "Nobody can convince me that we couldn't be better stewards of the land than that perfidious absentee landlord who resides along the Potomac."

But taking control of the land isn't that easy. States cannot override Federal laws, and the U.S. Government refuses to recognize Nevada's land claim. The Sagebrush rebels want the Supreme Court to settle the issue—but it promises to be a long fight just to get to trial. Under a doctrine known as "sovereign immunity," a state cannot sue the U.S. Government unless the government agrees, and so far, the Feds aren't cooperating. Nevada officials, armed with a \$250,000 war chest, are looking for ways to provoke Washington into a lawsuit—such as suing one of its tenants, or snatching some of its revenues. "We're not just a bunch of wild-eyed cowboys out to lynch some Federal officials," declares Nevada Attorney General Richard Bryan. "We're serious people asking for a serious look at the unfair treatment the West is receiving."

Nevada's plight goes back to 1864, when the federally owned Nevada Territory was granted statehood. Nevada took

Cheney, who has been a vocal proponent of a federal land policy aimed at Westerners. "They're not really," but Jimmy Carter's ideas about water goaded them still further. The growth and power of the West depend upon its water supply. As much as 70 per cent of its water now comes in the form of spring runoff from mountain snowpacks, water that must be dammed, then piped to where it is needed most. Cities, agribusiness and industry compete for sparse supplies. In the future, coal mining and synfuel projects will also draw heavily upon them. Among the states of the upper and lower basin of the Colorado River, competition for allocations of the river's flow is so fierce that by 1990 there may not be enough of the Colorado to go around.

The West is still quivering with fury over Carter's water-project hit lists, which put



A copper-mine dump in Butte: Will the energy crunch replay the rape of the West?

REVOLT

2 million acres and wrote into the state constitution that it would not lay claim to the remaining Federal land. Nevada officials now contend that the deal denies Nevada equal footing with the Eastern states, which took title to nearly all their Federal land. What's more, the Nevadans argue, the U.S. Government broke its part of the bargain. Originally, the government land was to be gradually sold or given away. But in 1976, Congress ordered the government's Bureau of Land Management (BLM) to retain the land in perpetuity.

'SCARRED': Under the principle of "multiple use," the BLM has issued hundreds of rules to make the public land accessible to the various competing "publics"—vacationers and wildlife enthusiasts as well as miners, loggers and cattlemen. The regulations are also designed to prevent abuse, such as overgrazing. "We fight for the interests of Westerners every day," says a

BLM man in Nevada. "We also know how easily the land can be scarred."

Still, the people of Nevada are irked by rules they claim make little sense. Ranchers say the grazing guidelines are too restrictive and favor wild horses, which compete with cattle and sheep for forage. Cattlemen are especially upset because the BLM has suspended its usual ten-year leases while it writes 212 separate environmental-impact statements—forcing them to operate on year-to-year leases. Miners gripe that strict rehabilitation rules and environmental restrictions

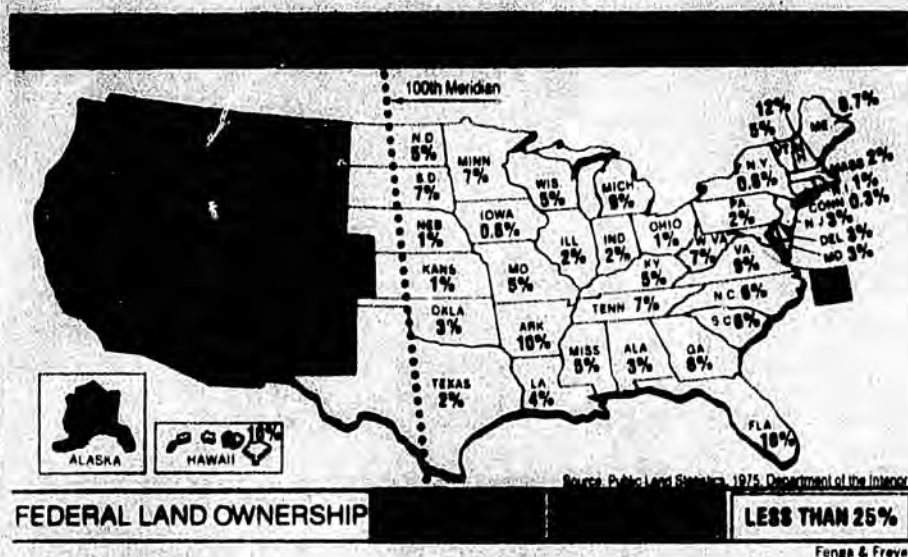
keep them out of prime areas, cost them millions of dollars and delay projects for years. "A lot of these rules are generated back East, where life is different," complains mine manager Wade Ellett. "Let me do my business in Carson City, where they know the terrain."

Sometimes, the red tape does seem ridiculous. Last month, when a Nevada cattle rancher tried to stop a fire on BLM land, Federal agents chased him off—saying that only BLM people can fight BLM fires. "The way they figure it, you just gotta stand there 'til it spreads to your own range," the rancher grouches. "Damn foolish, if you ask me."

'VANTINO SPLASH': But Federal officials fear that if Nevada owned the territory, it would simply sell it off to eager developers. And even a few Nevadans oppose the land take-over, since the state would forfeit \$20 million annually in Federal grants. State Sen. Clifton Young, one of only four legislators who voted against the land act, dismisses the Sagebrush Rebellion as "a combination of demagoguery, avarice and animosity and a handy way of venting spleen against the hated Feds."

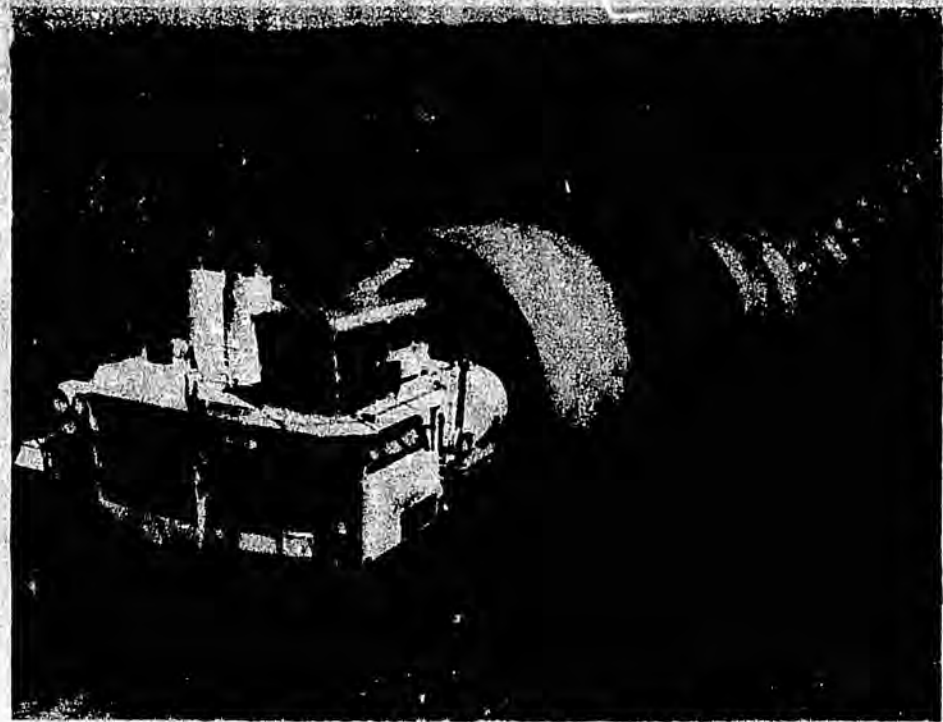
But Nevada's Sagebrush rebels say they mean business—and other disgruntled Western states are joining the showdown. Last week, representatives of twelve states agreed to support a Senate bill that would allow states to reclaim their land, and called on Congress to temporarily suspend sovereign immunity. Lawmakers in Utah, Colorado, Oregon, Wyoming, New Mexico, Arizona and California are considering their own legal challenges, and some angry Alaskans even want to secede from the Union. The Nevada rebellion "is just the first skirmish," declares Nevada Assemblyman Dean Rhoads. "The war in the West has just begun."

MELINDA BECK with
MICHAEL REESE in Nevada



as used to 75 years of any Federal agency for dams and irrigation projects in the region. Western governors contend that Carter, who comes from a state with an annual rainfall of 54 inches, simply doesn't understand the needs of the West; other angrier critics see in the Carter water policy a sinister plot to curb Western growth. The President's defenders reply that the West should pay a fair share for its water projects and that each project should be held to a rigorous cost-benefit test. "I get a little tired of hearing Western governors and representatives talk about how water is their lifeblood," says one senior man at the Water Resources Council. "They turn

around and depend on someone else for the transfusion." In the past, some Western water projects did cost far more than they produced in benefits; others benefited only a handful of people. To correct such abuses, Carter's national water-development policy includes a program to weigh all water projects on a strict, cost-accounting basis, including a formula requiring states to pick up at least part of the tab. The goal is to eliminate marginal projects.



A new aqueduct for the Colorado River: A very dry forecast for 1990

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KISS: Some Western governors are slowly coming round to support the cost-sharing program. Even so, candid Administration officials concede that the hit list was crude, badly timed—and very bad for the President's prospects out West in 1980. "Once you lose them on water there is almost no way you can kiss and make up," says one Interior Department official.

The most tindery new issue in the West is energy. While the rest of the country is

CRAP: Western governors also say angrily that while President Carter is calling them to duty on the energy fronts, the Federal government is hogtying them in red tape at the same time. Montana passed a long, seventeen-page mining law that is generally

accepted as one of the toughest and most effective in the West—only to be ordered to conform to a corpulent, 250-page Federal code. In Wyoming, Gov. Ed Herschler marched into a meeting of state officials not long ago with a twelve-page Department of Interior memo listing 80 defects in Wyoming's surface-mining laws. "I want to share with you what kind of crap we've been putting up with from these people," he said. Among other things, the memo demanded that Wyoming establish regulations for mountaintop mining, even though it had none. In open revolt, Herschler ordered the Wyoming attorney general not to answer any more correspondence from the Federal surface-mining office.

What worries Western governors most is that President Carter's call for a crash program of exploiting the region's mineral resources could turn the West into a national sacrifice area. Their anxieties stem from estimates that 600 square miles of land

development could do more to ruin agriculture and the oil and gas boom towns much like the old gold and silver camps would spring up, requiring new roads, schools, hospitals and sewers, and saddling their states with a lunar landscape and debts reaching far into the future.

In self-defense, many political leaders in the West now argue for a step-by-step approach to the energy crisis, one that emphasizes conservation and provides enough water for agriculture. To defray the costs of becoming the country's energy field, Western states now demand Federal impact assistance for communities that must cope with the problems of quick growth and the threat of quick decline. Montana has set stiff coal severance taxes designed to make those who benefit most from Montana coal pay for the side effects of mining it. "We will determine at what pace development will proceed, where plants will be located, how water will be allocated, and the impact will be shared by all Americans," says Governor Judge of Montana. "If the East refused to pay the severance tax, uphold our environmental regulations and provide impact aid, it would mean war—but I don't think you'll see that."

THE LONG AND SHORT: If the West's destiny isn't altogether manifest, its new determination is absolutely clear. "In the 1960s, when the Federal government wanted to do anything, states rolled over and played dead; that's over as far as we're concerned," says Utah's Governor Matheson. Optimists predict the region's growing population will ultimately give it the political power it now lacks in Congress. Pessimists, studying the water table, believe that the population must level off, leaving the West where it has always been: long on resources, short on capital and outvoted in Washington.

Under the circumstances, the West is likely to stay angry for a long time. If passions are to subside and the interests of the nation to be adjusted with those of the region, the East will have to acknowledge that the West has come of age. But a heavy responsibility will also fall upon the West to define its own trade-offs—between growth and environmental quality and between states' rights and Federal subsidy. "We are going to have to be a region with synfuel plants and wilderness areas side by side," says Governor Lamm of Colorado. "Our streams must support fish and wildlife, agriculture and industry. It's going to require a good deal of creative planning to bring about that balance and harmony. The jury is out on whether we can achieve it." How long the jury can stay out is a troubling question, for the frontier is a thing of the past, and an energy-hungry country no longer has time on its side.

TOM MATHEWS with GERALD C. LUBENOW and MARTIN KASINDORF in the West and GLORIA BORGER in Washington

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CAROL A. JOHNSON
GERALD D. STOLTZ
RONALD E. NOEL
JOSEPH W. EVANS
WINSTON S. BURBANK
E. BUDD SIMPSON
JAN SAMUEL OSTROVSKY
CONSTANCE E. BROOKS
JACK D. CLARK
GARY J. FINNELL
PAUL H. GRANT
DOUGLAS J. SERDAHELY
NANCY J. SHAW
PATRICK H. OWEN
MICHAEL C. GERAGHTY
PERCY R. LUNEY

August 23, 1979

* NOT ADMITTED IN ALASKA

The Honorable Mike Colletta
1016 West Sixth Avenue, Suite 435
Anchorage, AK 99501

Re: Nevada Lawsuit

Dear Senator Colletta:

This is to confirm that Joe Chomski of my firm will accompany the members of the Special Committee relating to the "sagebrush rebellion" to Reno, Nevada on September 5 - 7, 1979, and assist in any analysis of the presentation made to that Committee by the Assistant Attorney General for the State of Nevada. Subsequent to the meeting, Mr. Chomski and this firm will furnish to the Committee a report on the briefing received as well as a report on the parallels between the issues pertaining to Alaska public lands and the issues which will be raised in the Nevada lawsuit.

It is my understanding that you, Senator Rodey and Representative Miles have met with Attorney General Gross and that he concurs in this limited scope of activity by our firm. It is my further understanding that we will be compensated only for actual work done at the rate of \$75 per hour as well as compensable reimbursement for actual out-of-pocket expenses.

Yours very truly,

BIRCH, HORTON, BITTNER & MONROE


Ronald G. Birch

RGB/mbr

CC: The Honorable Pat Rodey
Joseph M. Chomski, Esquire



THE WESTERN CONFERENCE of

The Council of State Governments



Conference Staff
The Council of State Governments
Western Office
165 Post Street, 5th Floor
San Francisco, California 94108
(415) 986-3760

RESOLUTION OF THE CONFERENCE OF WESTERN ATTORNEYS GENERAL ANNUAL MEETING

Resolution number 4

- WHEREAS, the condition of all the States admitted to the Union, old and new, is characterized as one of equality of constitutional power, dignity, and activity, such that each is competent to exert that residuum of sovereignty not delegated to the United States by the Constitution itself, Coyle v. Smith, 221 U.S. 559 (1911); and
- WHEREAS, on admission into the Union each State was at once entitled to and possessed of all the rights of dominion and sovereignty over lands within her borders which belonged to the original States, Escanaba Co. v. Chicago, 107 U.S. 678, 689 (1883); and Oregon v. Corvallis Sand and Gravel Co., 492 U.S. 363 (1977); and
- WHEREAS, the rights of all States to exercise all the powers of government reserved to them by the Constitution, including legislative authority and municipal sovereignty over the lands within their borders, is consistent with the understanding of the framers of the Constitution that the powers of the several states attend to all objects which, in the ordinary course of affairs, concern the lives, liberties and properties of the people and the internal order, improvement, and prosperity of the State, THE FEDERALIST, No. 45; and
- WHEREAS, the United States has never held any municipal sovereignty, jurisdiction, or right of soil in and to territory of which new states have been formed, except for temporary purposes or to execute the public trusts created therein, Pollard v. Hagan, 44 U.S. (3 How.) 212, 223-224 (1845); and
- WHEREAS, the United States may not acquire a territory to be held and governed permanently in that character nor hold property, as a monarch may, for private or personal purposes, Van Brocklin v. Tennessee, 117 U.S. 151 (1885); and
- WHEREAS, the United States has recently declared that the public lands shall be retained in Federal ownership except under circumstances in which Federal governmental agencies determine that disposal of a particular parcel will serve the National interest, Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701 et seq.; and

WHEREAS, the result of the implementation of the current Federal policy respecting the retention of public lands will result in permanent Federal territories of unappropriated public lands within the boundaries of many States of the Union immune from the exercise of full dominion and control or municipal sovereignty of the state in which said lands are located; and

WHEREAS, there is a need to review, define, and declare the extent to which the rights reserved to the States by the Constitution have been affected by the current Federal policy respecting the public lands and the extent to which said Federal policy has affected the ability of the States to function effectively in a federal system composed of States existing on an equal footing with one another; and,

WHEREAS, States adversely affected by actions of the Federal government that diminish or violate the exercise of the municipal sovereignty, dominion, and control over lands within their boundaries must oppose such actions to avoid acquiescing in any unlawful infringement of their rights in the disposition, control, and management of the public lands or the creation of the semblance of a Federal power which does not otherwise exist; and

WHEREAS, there is a need to pool resources in order to develop sufficient information by which any interested State can assert its rights to the public lands,

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Conference of Western Attorneys General (WAG) supports the creation of a study team or research panel to conduct an in-depth analysis of the extent to which States have constitutional rights in and powers of municipal sovereignty, dominion and control over unappropriated public lands within their boundaries.
2. Any study or research project analyzing the rights of States in public lands should be coordinated with the efforts of any other groups and organizations concerned with recent Federal policies respecting the use, management, and control of public lands.
3. All members of WAG are urged to cooperate in assisting any study team or research group to complete the legal analysis described herein.
4. The Chairman of WAG shall request the Western Attorneys General Litigation Action Committee (WAGLAC) or any subcommittee thereof to take all necessary actions to carry out the provisions of this resolution, including coordination of any study or research project with any other groups or organizations desirous to participate therein.
5. All members of WAG and its representatives are urged to cooperate with WAGLAC in obtaining sufficient funds to complete the study or research project described herein.

6. All papers, research notes, studies, or other documents developed by or for WAGLAC shall be provided upon request to any member State contributing to the work of WAGLAC; and said material may be released to any other person or group in the manner provided by WAGLAC.
7. A report shall be presented by the Chairman of WAGLAC at the 1980 annual meeting.

Adopted July 28, 1979
Juneau, Alaska



THE WESTERN CONFERENCE

of

The Council of State Governments



Conference Staff
The Council of State Governments
Western Office
165 Post Street, 5th Floor
San Francisco, California 94108
(415) 986-3760

RESOLUTION OF THE CONFERENCE OF WESTERN ATTORNEYS GENERAL ANNUAL MEETING

Resolution number 2

WHEREAS, Nevada and Utah have resolved to challenge the legality of the scope and impact of federal control of unappropriated public lands now managed by the Bureau of Land Management, and

WHEREAS, the problems prompting those challenges exist in varying degrees in other Western states, and

WHEREAS, legal and technical assistance from other states would substantially enhance the prospect of success in the subject litigation, and

WHEREAS, the well-being of each state benefits every other state, not only in the West, but also in the East, the Midwest and the South,

NOW, THEREFORE, BE IT RESOLVED that the Western Conference of Attorneys General encourages the challenges brought by Nevada and Utah and any other creative method of focusing public attention on BLM land management policies adversely impacting the Western states and

BE IT FURTHER RESOLVED that each state is encouraged to consider favorably joining as a party or as an amicus curiae any action arising out of such challenge to the maximum extent consistent with its own interests, and by assisting in contributing whatever research, criticisms, suggestions, technical data or other aids that it deems appropriate.

Adopted July 28, 1979
Juneau, Alaska



THE WESTERN CONFERENCE

of

The Council of State Governments



Conference Staff
The Council of State Governments
Western Office
165 Post Street, 5th Floor
San Francisco, California 94108
(415) 996-3760

RESOLUTION OF THE CONFERENCE OF WESTERN ATTORNEYS GENERAL ANNUAL MEETING

Resolution number 3

WHEREAS, the Western states have been treated in a discriminatory manner from the time of their admission with respect to the retention and management of public lands within said states, and

WHEREAS, that discrimination has a markedly adverse effect upon the development of said states, and

WHEREAS, the proper development of each state benefits every other state in the Union, and

WHEREAS, every state should support the West in bringing about the removal of said discrimination both as a matter of principle and in serving its own economic interest,

NOW, THEREFORE, BE IT RESOLVED that the Western Conference of Attorneys General hereby petitions Congress to initiate a study of the extent and manner in which its policies of retention and management of public lands have inhibited desirable economic growth in, or have otherwise affected, the Western states and the means and extent by which said policies should be altered in the interest of all states; and

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Congressional delegation of each of the member states and to the members of the Executive Committee of the National Association of Attorneys General.

Adopted July 28, 1979
Juneau, Alaska

Dave Harbour
Regional Director
Alaska State and Local
Government Relations

AtlanticRichfieldCompany
Public Affairs
Post Office Box 360
Anchorage, Alaska 99510
Telephone 907 265 6520



NEWS....

RECEIVED

JUL 17 1979

From Assemblyman **BOB HAYES**
39th District

ASSEMBLYMAN J. ROBERT HAYES
State Capitol, Room 6007
Sacramento, California 95814
Telephone: 916/445-1616

July 10, 1979

FOR IMMEDIATE RELEASE

In quiet fashion, California moved a major step closer to wresting some 16 million acres of its territory from federal ownership Tuesday when the Senate Committee on Governmental Organization gave its unanimous consent to Assemblyman J. Robert Hayes' (R-San Fernando) so-called "Sagebrush Rebellion" bill.

The measure, named after the Nevada movement which inspired it, would require the state Lands Commission to conduct a one-year study to determine whether millions of acres of California land are the legal property of the federal Department of Interior's Bureau of Land Management, which now claims title to them, or of the state itself.

"And if the Commission decides that these are indeed our lands, as a U.S. Supreme Court indicated more than a century ago, then we intend to take whatever steps are necessary to throw off the colonial yoke and achieve true, sovereign statehood," Hayes said.

Hayes said the "Sagebrush Rebellion" movement, which now includes six western states and could soon include four others, was formed to challenge the lingering effects of the 19th Century federal practice of withholding title to state lands as a precondition to statehood. He pointed out that the federal

---MORE---

State Capitol, Sacramento, California 95814 916/445-1616

government still claims ownership to large portions of western states -- from 43 percent of Arizona to 96 percent of Alaska -- yet holds no more than 12 percent of any other state and only 26 percent of the District of Columbia.

"Not only is this unfair," Hayes said, "but its probably unconstitutional as well, in light of a U.S. Supreme Court decision which said that Alabama, and not the federal government, was entitled to public lands within the state's boundaries at the time of its admission to the union."

The San Fernando lawmaker added that if his bill, AB 1407, which has yet to receive a dissenting vote in the Senate or Assembly, were to become law, "the result could be worth untold millions of dollars of benefit to the state."

Hayes said these benefits included not only the commercial value of the land and the revenues which could be gained by adding it to the tax rolls, "but also the unmeasurable benefits of making this land available for recreational purposes, the energy benefits which we could derive from tapping its unused geothermal potential, and many others."

"It could even turn out that the state will decide not to do anything with this land, but simply preserve it as is for the benefit of future generations," Hayes said. "That's fine, too -- just as long as the decisions are made by Californians with a vested interest in our state's progress, needs and well-being, not the colonial armies of a Washington bureaucracy."

"This great federal land grab has gone on long enough," Hayes said. "It's time for California to become a truly sovereign state, not the 'Property of the U.S. Government.'"

House Joint Memorial 9

Sponsored by COMMITTEE ON TRADE AND ECONOMIC DEVELOPMENT

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Memorializes Congress to urge United States Forest Service and the administration to come to a rapid conclusion of RARE II process. Further memorializes Congress to recommend all RARE II lands be reopened to multiple use management.

HOUSE JOINT MEMORIAL 9

1
2 To the Honorable Senate and House of Representatives of the United States of America, in Congress
3 assembled:

4 We, your memorialists, the Sixtieth Legislative Assembly of the State of Oregon, in legislative session
5 assembled, most respectfully represent as follows:

6 Whereas the RARE II areas in Oregon's national forests contain 32 billion board feet of timber, with a
7 sustainable timber harvest of 610 million board feet per year; and

8 Whereas that 610 million board feet could provide 6,680 forest industry jobs and an additional 11,800
9 related service and trade jobs; and

10 Whereas the loss of these RARE II lands to timber production could reduce forest industry payrolls by \$82
11 million and lose another \$227 million in forest industry income for the state because of reduced forest products
12 sales; and

13 Whereas these Oregon RARE II lands could provide an additional \$20 million to the counties for schools
14 and roads, thus reducing the increasing pressure on local property taxes; and

15 Whereas Oregon already has 1.3 million acres of wilderness; and

16 Whereas only one per cent of Oregon's population makes use of our present wilderness areas; and

17 Whereas the demand for forest recreation, mostly nonwilderness, is expected to double by the year 2020;
18 and

19 Whereas the demand for wood products is expected to double by the year 2020; now, therefore,

20 Be It Resolved by the Legislative Assembly of the State of Oregon:

21 (1) The Congress of the United States is memorialized to urge the United States Forest Service and the
22 administration to come to a rapid but well considered conclusion of the RARE II process. Critical in that
23 process will be the evaluation criteria used in proposing United States Forest Service land for either Multiple
24 Use or Wilderness. The State of Oregon supports criteria that give priority to the general economy and local
25 community stability.

26 (2) The Congress is further memorialized to recommend that all RARE II lands in Oregon be reopened to
27 Multiple Use management to meet the needs and demands of all the people of Oregon and the nation. Closing
28 lands to timber production will only serve to stimulate inflation by increasing the price of lumber, homes and
29 other wood products. The Oregon Legislative Assembly believes that Oregon's wilderness needs have been

NOTE: Matter in bold face in an amended section is new; matter [italic and bracketed] is existing law to be omitted; complete new sections begin with SECTION.

1 fulfilled.

2 (3) A copy of this memorial shall be sent to the President of the United States, the Secretary of the United
3 States Department of Agriculture and each member of the Oregon Congressional Delegation.

Anchorage

CHAMBER of COMMERCE

*Send copy to
Rep Miller & Leger
Send copy to
Washington State*

Crossroads of the Air World



RESOLUTION

BE IT RESOLVED BY THE ANCHORAGE CHAMBER:

- WHEREAS the Nevada State Legislature has passed into law a bill (A.B. 413) which places in State management 43.4 million acres of public land previously administered by the U. S. Bureau of Land Management; and
- WHEREAS this action was not taken precipitously but after years of careful study and repeated good-will efforts to convince Congress to administer public lands in Nevada fairly, responsibly and with sound conservation practices; and
- WHEREAS in spite of these pleas, the Federal government has increasingly instigated and imposed regulations that have proven to be harmful to the welfare of the people of Nevada, opposing the necessary and natural expansion of communities and obstructing the wise use and development of its resources; and
- WHEREAS the State of Alaska is in a similar position and has felt that same frustrations to an even greater degree as, apart from Native owned lands, less than one percent of Alaska's land is in private ownership; and
- WHEREAS Nevada's bold and precedent-setting action has focused national attention on a wide spectrum of public land issues in the Western states, issues of which most Americans have been totally unaware, and issues vital to the health and future of the State of Alaska; and
- WHEREAS if the Nevada law is tested in court, the case will rest heavily on the "equal footing doctrine" which guarantess to all states the same rights, privileges and responsibilities as the original thirteen states and those rights include fair and equal treatment regarding land and how it is managed and
- WHEREAS if the U. S. Supreme Court rules in favor of Nevada, a multitude of states's rights issues can be resolved in Alaska and the Western states.

NOW THEREFORE BE IT RESOLVED:

the Anchorage Chamber of Commerce urges the Governor and the Legislature of the State of Alaska to join Nevada as friend of the court (amicus curiae) in the impending Federal Court test of the Nevada Land Bill.

Approved this 17th Day of August, 1979.

A handwritten signature in cursive script, appearing to read "Ray Waters", is written over a horizontal line.

Ray Waters, President

Municipality of Anchorage



ASSEMBLY CHAIRMAN

POUCH 6-650
ANCHORAGE, ALASKA 99502
(907) 274-2525

August 23, 1979

The Honorable Mike Colletta
Alaska Senate
Box 3188,
Anchorage, Alaska 99501

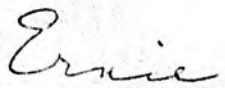
Dear Mike,

Attached please find copy of a resolution passed by the Anchorage Assembly at its meeting of August 14, 1979.

It is self-explanatory and we urge you to support the resolution and what it is requesting.

Thank you very much for your help.

Sincerely,


Ernest W. Brannon

Attachment

EWB:lm



Submitted by: Chairman of the Assembly
at the request of the Mayor
Prepared by: Department of Law
For Reading: August 14, 1979

ANCHORAGE, ALASKA
AR. NO. 79-168

APPROVED
Date: 8-14-79

A RESOLUTION URGING THE STATE OF ALASKA TO JOIN NEVADA AS A FRIEND OF THE COURT IN THE STRUGGLE WITH THE FEDERAL GOVERNMENT OVER LAND MANAGEMENT.

WHEREAS, the Nevada State Legislature has passed into law a bill (A.B. 413) which places in State management 43.4 million acres of public land previously administered by the U.S. Bureau of Land Management; and

WHEREAS, this action was not taken precipitously but after years of careful study and repeated good-will efforts to convince Congress to administer public lands in Nevada fairly, responsibly and with sound conservation practices; and

WHEREAS, in spite of these pleas, the Federal government has increasingly instigated and imposed regulations that have proven to be harmful to the welfare of the people of Nevada, opposing the necessary and natural expansion of communities and obstructing the wise use and development of its resources; and

WHEREAS, the State of Alaska is in a similar position and has felt the same frustrations to an even greater degree as, apart from Native owned lands, less than one percent of Alaska's land is in private ownership; and

WHEREAS, Nevada's bold and precedent-setting action has focused national attention on a wide spectrum of public land

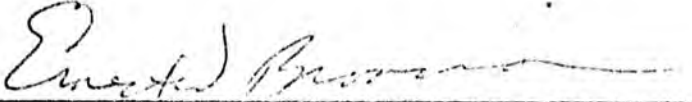
issues in the Western states, issues of which most Americans have been totally unaware, and issues vital to the health and future of the State of Alaska; and

WHEREAS, if the Nevada law is tested in court, the case will rest heavily on the "equal footing doctrine" which guarantees to all states the same rights, privileges and responsibilities as the original thirteen states and those rights include fair and equal treatment regarding land and how it is managed; and

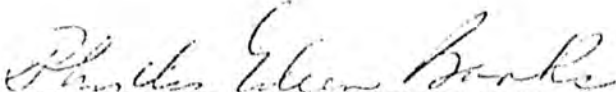
WHEREAS, if the U.S. Supreme Court rules in favor of Nevada, a multitude of state's rights issues can be resolved in Alaska and the Western states.

NOW, THEREFORE, be it resolved that the Anchorage Municipal Assembly urges the Governor and the Legislature of the State of Alaska to join Nevada as friend of the court (amicus curiae) in the impending Federal Court test of the Nevada Land Bill.

Passed and approved by the Anchorage Assembly, this
14th day of August, 1979.


Chairman

ATTEST:


Municipal Clerk

RESOLUTION NO. 4

A RESOLUTION ON THE d-2 LANDS ISSUE

WHEREAS, Alaska's cultural and economic future is directly related to the ability of Alaskans to make necessary use of the lands of the state; and,

WHEREAS, contracts by the federal government with the State of Alaska in the statehood act and with Alaska's natives in the Alaska Native Claims Settlement Act have not been fully honored; and,

WHEREAS, the state administration and legislature have adopted seven points that must be met for any lands bill adopted by the U.S. Congress to be acceptable to Alaska; and,

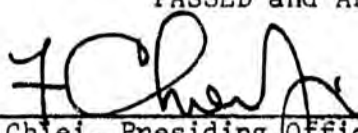
WHEREAS, there has been some indication that the state administration may be willing to accept a lands bill which does not achieve all seven consensus points previously agreed to:

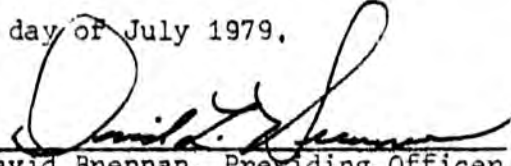
NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE MUNICIPALITY OF ANCHORAGE, THE ASSEMBLY OF THE FAIRBANKS NORTH STAR BOROUGH, AND THE CITY COUNCIL OF THE CITY OF FAIRBANKS, MEETING IN JOINT SESSION AT FAIRBANKS, ALASKA, ON JULY 20, 1979, THAT:

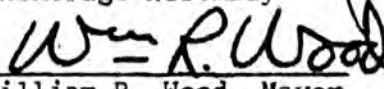
Section 1. Every effort possible be expended to achieve a fair land bill which incorporates, as a minimum, all seven consensus points, and that the state administration declare unacceptable any bill which does not meet all seven consensus points.

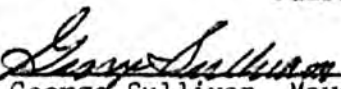
Section 2. Copies of this resolution be transmitted to the Governor, Lieutenant Governor, each legislator, Alaska Municipal League, and all others who can influence the accomplishment of its objectives.

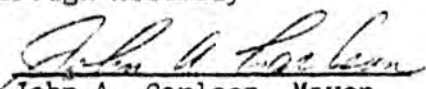
PASSED and APPROVED this 20th day of July 1979.


Fred Chiei, Presiding Officer
Anchorage Assembly


David Brennan, Presiding Officer
Fairbanks Borough Assembly


William R. Wood, Mayor
City of Fairbanks


George Sullivan, Mayor
Municipality of Anchorage


John A. Carlson, Mayor
Fairbanks North Star Borough



*Legislature
File*

KETCHIKAN GATEWAY BOROUGH

344 FRONT STREET
KETCHIKAN, ALASKA 99901

September 20, 1979

Dear Governor Hammond and
Members of the Legislature:

Please find enclosed a copy of Resolution No. 357
adopted by the Borough Assembly at the regular meeting
of September 17, 1979, and transmitted for your infor-
mation.

Sincerely,
KETCHIKAN GATEWAY BOROUGH

Tommy Nebl

(Mrs.) Tommy Nebl
Borough Clerk

9/10/79tn

Voting "yes": Elkins
Shay
Watt
Salazar
Emard
Freeman
Finney
Zastrow
Laurance

Voting "no": None
Absent: Bolling
McBride

Effective Date: 9/17/79

K E T C H I K A N G A T E W A Y B O R O U G H

RESOLUTION NO. 357

A RESOLUTION OF THE ASSEMBLY OF THE
KETCHIKAN GATEWAY BOROUGH, ALASKA,
URGING THE STATE OF ALASKA TO JOIN
NEVADA AS A FRIEND OF THE COURT IN
THE STRUGGLE WITH THE FEDERAL GOVERN-
MENT OVER LAND MANAGEMENT.

R E C I T A L S

A. The Nevada State Legislature has passed into law a bill (A.B. 413) which places in State management 43.4 million acres of public land previously administered by the U.S. Bureau of Land Management.

B. This action was not taken precipitously but after years of careful study and repeated good-will efforts to convince Congress to administer public lands in Nevada fairly, responsibly and with sound conservation practices.

C. In spite of these pleas, the Federal government has increasingly instigated and imposed regulations that have proven to be harmful to the welfare of the people of Nevada, opposing the necessary and natural expansion of communities and obstructing the wise use and development of its resources.

D. The State of Alaska is in a similar position and has felt the same frustrations to an even greater degree as, apart from Native owned lands, less than one third of one percent of Alaska's land is in private ownership.

E. Nevada's bold and precedent setting action has focused national attention on a wide spectrum of public land issues in the Western states, issues of which most Americans have been totally unaware, and issues vital to the health and future of the State of Alaska.

F. If the Nevada law is tested in court, the case will rest heavily on the "equal footing doctrine" which guarantees to all states the same rights, privileges and responsibilities as the original thirteen states, and those rights include fair and equal treatment regarding land and how it is managed.

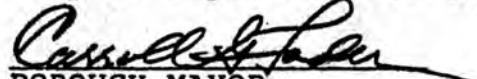
G. If the U.S. Supreme Court rules in favor of Nevada, a multitude of state's rights issues can be resolved in Alaska and the Western states.

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE
KETCHIKAN GATEWAY BOROUGH, ALASKA, as follows:

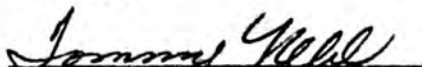
Section 1. The Assembly of the Ketchikan Gateway Borough urges the Governor and the Legislature of Alaska to join Nevada as friend of the court (amicus curiae) in the impending Federal Court test of the Nevada Land Bill.

Section 2. This resolution is effective immediately.

APPROVED AND ADOPTED this 17th day of September, 1979.

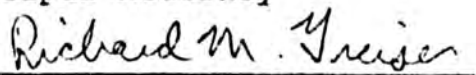

BOROUGH MAYOR

ATTEST:


BOROUGH CLERK

Approved as to form:

Municipal Attorney

By 
Assistant Municipal Attorney



Matanuska-Susitna Borough

BOX B, PALMER, ALASKA 99645 • PHONE 745-3246

BOROUGH ASSEMBLY

August 17, 1979

Honorable Jay Hammond
Governor, State of Alaska
Pouch A
Juneau, Alaska 99801

Dear Governor Hammond:

To show the concern of the residents of our Borough with the land problems with the Federal Government, the Assembly has adopted a resolution urging that the Legislature support and lend assistance to the State of Nevada in efforts to obtain return of public lands withheld by the Federal Government. A copy of this resolution is enclosed.

By a copy of this letter and a copy of the resolution, we are notifying our Congressional Delegation, our local senator and representative and various Anchorage Legislators of this action.

Your efforts on behalf of the citizens of Alaska are always appreciated by the people of our Borough.

Yours respectfully,

A handwritten signature in cursive script that reads "Ronald L. Larson".

Ronald L. Larson
Borough Mayor

Introduced by: Borough Manager
Prepared by: Borough Attorney

MATANUSKA-SUSITNA BOROUGH

RESOLUTION SERIAL NO. 79-104

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY URGING THE STATE OF ALASKA TO SUPPORT THE CITIZENS OF NEVADA IN THEIR EFFORTS TO RECEIVE FEDERAL LANDS IN THAT STATE.

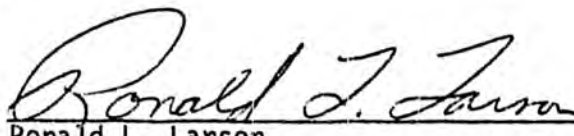
WHEREAS, the State of Nevada has commenced litigation on behalf of its citizens seeking return of many thousands of acres of public lands wrongfully held by the Federal government in violation of the Constitution and other provisions of law; and

WHEREAS, the citizens of the State of Alaska and, in particular, the citizens of the Matanuska-Susitna Borough share the concerns expressed by the citizens of the State of Nevada over the retention by the Federal government of nearly all lands in that State; and

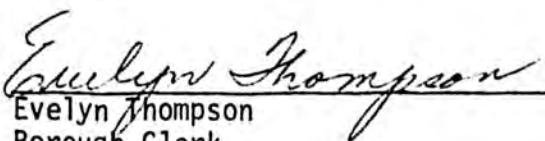
WHEREAS, Federal control of vacant western lands, together with certain Federal economic, environmental and other regulatory constraints creates unreasonable and arbitrary limits to industrial, agricultural, mineral and recreational development of the western states thereby wrongfully depriving those states of equal footing guaranteed to the States under the Federal Constitution.

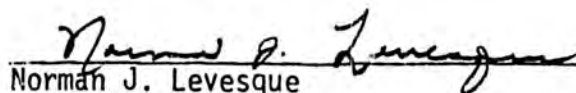
NOW THEREFORE, the Assembly of the Matanuska-Susitna Borough resolves that the State Legislature be urged, on behalf of the citizens of the Matanuska-Susitna Borough, to support and lend its assistance to the State of Nevada in its efforts to obtain return of public lands improperly withheld from them by the Federal Government.

PASSED AND APPROVED by the Assembly of the Matanuska-Susitna Borough this 7th day of August, 1979.


Ronald L. Larson
Borough Mayor

ATTEST:


Evelyn Thompson
Borough Clerk


Norman J. Levesque
Borough Manager

(SEAL)

SENATE BILL NO. 240—SENATORS GLASER, BLAKEMORE,
KEITH ASHWORTH, ECHOLS, JACOBSEN, SLOAN, LAMB,
GIBSON, NEAL, HERNSTADT, FAISS, CLOSE, DON ASH-
WORTH AND McCORKLE

FEBRUARY 15, 1979

Referred to Committee on Natural Resources .

SUMMARY—Provides for control of certain public lands by
State of Nevada. (BDR 26-251)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Contains Appropriation. .

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to public lands; creating the Nevada lands commission; provid-
ing for state control of certain lands within the state boundaries; providing
penalties; making an appropriation; and providing other matters properly
relating thereto.

1 WHEREAS, The intent of the framers of the Constitution of the United
2 States was to guarantee to each of the states sovereignty over all matters
3 within its boundaries except for those powers specifically granted to the
4 United States as agent of the states; and

5 WHEREAS, The attempted imposition upon the State of Nevada by the
6 Congress of the United States of a requirement in the enabling act that
7 Nevada "disclaim all right and title to the unappropriated public lands
8 lying within said territory," as a condition precedent to acceptance of
9 Nevada into the Union, was an act beyond the power of the Congress
10 of the United States and is thus void; and

11 WHEREAS, The purported right of ownership and control of the public
12 lands within the State of Nevada, by the United States is without founda-
13 tion and violates the clear intent of the Constitution of the United States;
14 and

15 WHEREAS, The exercise of such dominion and control of the public
16 lands within the State of Nevada by the United States works a severe,
17 continuous and debilitating hardship upon the people of the State of
18 Nevada; now, therefore,

19
20 *The People of the State of Nevada, represented in Senate and Assembly,*
21 *do enact as follows:*
22

23 Section 1. Chapter 321 of NRS is hereby amended by adding
24 thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

1 SEC. 2. As used in sections 2 to 10, inclusive, of this act, unless the
2 context otherwise requires:

- 3 1. "Commission" means the Nevada lands commission.
- 4 2. "Public lands" means all lands within the exterior boundaries of
5 the State of Nevada except lands:
6 (a) To which title is held by any private person or entity;
7 (b) To which title was held by the State of Nevada or any of its local
8 governments before July 1, 1979;
9 (c) Which are located within national parks, monuments or other
10 recreational areas;
11 (d) Which are controlled by the United States Department of Defense
12 or Bureau of Reclamation; or
13 (e) Which are subject to treaties between the United States and Indian
14 tribes.

15 SEC. 3. 1. There is hereby created the Nevada lands commission.

16 2. The commission consists of:

- 17 (a) Twenty members who shall be elected from the state senatorial
18 districts in the same proportionate numbers as senators are elected; and
19 (b) A chairman, who shall be appointed by the governor. The
20 chairman shall preside over the commission and may vote only in the
21 event of a tie among the commissioners present.

22 3. Except for initial appointments, the members of the commission
23 shall be elected in nonpartisan elections when members of the legislature
24 are elected and shall serve for terms of 2 years.

25 SEC. 4. 1. The commission may contract for or employ such profes-
26 sional and clerical personnel as are needed to carry out its functions.

27 2. The commission may adopt rules for its own governance, but no
28 regulation which imposes any limitation upon the people of Nevada is
29 effective until approved by the legislature.

30 SEC. 5. 1. The commission shall manage the public lands of the
31 state in an orderly and beneficial manner.

32 2. The commission may sell, lease, exchange or encumber the
33 public lands when specifically authorized to do so by an act of the
34 legislature and under the terms and conditions set forth in the act.

35 3. No public lands may be disposed of before July 1, 1981, except
36 for any sales or exchanges which were pending on July 1, 1979, or
37 rights-of-way for public purposes.

38 SEC. 6. 1. Subject to existing rights of the people, on and after
39 July 1, 1979, all public lands in Nevada, all waters on and below the
40 surface of the land and all minerals not previously appropriated are the
41 exclusive property of the State of Nevada.

42 2. Until equivalent measures are enacted by the State of Nevada,
43 the rights and privileges of the people of the State of Nevada under the
44 National Forest Reserve Transfer Act (16 U.S.C. §§ 471 et seq.), the
45 General Mining Laws (30 U.S.C. §§ 21 et seq.), the Homestead Act (43
46 U.S.C. §§ 161 et seq.), the Taylor Grazing Act (43 U.S.C. §§ 315 et
47 seq.) and the Desert Land Act (43 U.S.C. §§ 321 et seq.) and all rights-
48 of-way and easements for public utilities must be preserved under admin-
49 istration by the state.

1 3. Public lands in Nevada which have been administered by the
2 United States under international treaties or interstate compacts must
3 continue to be administered by the state in conformance with those
4 treaties or compacts.

5 SEC. 7. The public lands of Nevada must be used to the greatest
6 extent possible for recreation, wildlife habitat, agriculture, mineral and
7 timber production and for the development, production and transmission
8 of energy and other public utility services under principles of multiple
9 use which provide maximum benefit to the people of Nevada.

10 SEC. 8. The annual fees charged for grazing leases must not exceed
11 the fair market value of the leases, as determined upon consideration
12 of the prices for livestock and the costs of raising livestock. Each lease
13 must provide for a term of not more than 10 years.

14 SEC. 9. All proceeds of sales, fees, rents, royalties or other money
15 paid to the state under sections 2 to 10, inclusive, of this act must be
16 deposited with the state treasurer for credit to the state general fund.

17 SEC. 10. 1. The State of Nevada has exclusive jurisdiction to enforce
18 the provisions of sections 2 to 9, inclusive, of this act.

19 2. A citizen of Nevada may institute civil action to recover damages
20 for any injury or loss which he sustains as the result of any violation of
21 sections 2 to 9, inclusive, of this act.

22 3. Any person who attempts to exercise jurisdiction over the public
23 lands in a manner not permitted by the laws of the State of Nevada
24 shall be punished by imprisonment in the state prison for not less than
25 2 years nor more than 10 years.

26 4. Any corporation or other entity which attempts to exercise juris-
27 diction over the public lands in a manner not permitted by the laws of
28 the State of Nevada shall be punished by a fine of not more than \$5,000.

29 SEC. 11. 1. The legislative commission shall conduct a study of the
30 public lands of Nevada to determine, in conjunction with the respective
31 boards of county commissioners and the planning commissions of the
32 several counties:

33 (a) Which lands in each county should be made available for disposi-
34 tion;

35 (b) Which lands in each county should be retained by the state as
36 habitats for wildlife or for recreational or other public purposes; and

37 (c) Which lands in each county should be made available for county
38 administration in accordance with the appropriate provisions of NRS
39 regarding county property.

40 2. The legislative commission shall submit a report of its findings
41 and recommendations to the 61st session of the legislature.

42 SEC. 12. The governor shall appoint the first members of the Nevada
43 lands commission, who shall be representatives from the senatorial dis-
44 tricts in the same numbers as senators are elected, and who shall serve
45 until November 7, 1980.

46 SEC. 13. 1. There is hereby appropriated to the Nevada lands com-
47 mission from the state general fund the sum of \$125,000 for the bi-en-
48 nium beginning July 1, 1979, and ending June 30, 1981, for support of
49 the commission in carrying out the purposes of this act.

1 2. After June 30, 1981, the unencumbered balance of the appro-
2 priation made in subsection 1 shall not be encumbered and must revert
3 to the state general fund.

②

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
CAPITOL COMPLEX
CARSON CITY 89710

RICHARD H. BRYAN
ATTORNEY GENERAL

LARRY D. STRUVE
CHIEF DEPUTY ATTORNEY GENERAL

August 29, 1979

Senator Mike Colletta
P. O. Box 3188
Anchorage, Alaska 99501

Dear Senator Colletta:

Enclosed please find a copy of the Final Agenda for the Western Coalition on Public Lands Regional Meeting to be held at the Sahara Reno Hotel in Reno, Nevada, on September 6-7, 1979. We hope you are able to attend this important session dealing with the public lands.

Very truly yours,

RICHARD H. BRYAN
Attorney General

By

Harry W. Swainston
Harry W. Swainston
Deputy Attorney General

HWS:j11
encl

FINAL AGENDA
(Revised 8/25/79)

WESTERN COALITION ON PUBLIC LANDS
REGIONAL MEETING
Reno, Nevada
September 6-7, 1979
Sahara Reno Hotel
Third Floor Convention Center

Wednesday, September 5, 1979

- | | |
|-----------------|--|
| 1 p.m. - 6 p.m. | Early Registration, Lobby in Third Floor Convention Area |
| 4 p.m. | Western Interstate Region NACo Board of Directors and Public Lands Committee Joint Meeting |
| 6 p.m. | Reception |

Thursday, September 6, 1979

- | | |
|-----------------|--|
| 8 a.m. - 9 a.m. | Registration, Lobby in Third Floor Convention Area (Coffee, Tea, Danish) |
| 9 a.m. | Opening Session - Town Hall Room II |
- Nevada Hosts:
- Senator Richard E. Blakemore,
Chairman, Nevada Select Committee on Public Lands
 - Jack Pettiti, Commissioner, Clark County, Nevada, and Past Chairman, WIR/NACo

Welcoming Remarks:

- Governor Robert List, Nevada, Vice Chairman, Western Conference, CSG
- Jean Stoess, Vice Chairman, Washoe County Commission

Official Officers:

Senator Robert H. Ziegler, Sr., Alaska,
Chairman, Western Conference, CSG
(Presiding)
Cal Black, Commissioner, San Juan
County, Utah, and Chairman,
WIR/NACo

Keynote Speaker:

U.S. Senator Orrin G. Hatch, Utah

10:15 a.m.

General Session - Town Hall Room II
Retention Versus Disposal - State
Action, Federal Action

Moderator: Assemblyman Dean A. Rhoads,
Nevada
Alex J. Armijo, Commissioner of Public
Lands, New Mexico
Attorney General Richard H. Bryan,
Nevada
Frank Gregg, Director of BLM
Tom Nelson, Assistant Chief, U.S.
Forest Service

Noon

Lunch - Sahara Reno Opera House

Speaker:

Lt. Governor Terry Miller, Alaska
"Alienation of the West--The Rise of
the Western Coalition"

1:30 p.m.

Work Sessions (Panel Discussions)
1) The Sagebrush Rebellion - (Where
Do We Go From Here?)
2) Public Lands Payments - State/
County Relationships, and Current
Legislation in Congress
3) BLM (Organic Act Regulations and
Wilderness Review)
4) Forest Service (RARE II and Regu-
lations under RPA and NFMA)

3:15 p.m.

Break

3:30 p.m.

Work Sessions (Develop Positions)
1) The Sagebrush Rebellion - (Where Do
We Go From Here?)
2) Public Lands Payments - State/
County Relationships, and Current
Legislation in Congress
3) BLM (Organic Act Regulations and
Wilderness Review)
4) Forest Service (RARE II and Regu-
lations under RPA and NFMA)

Evening

Optional: Attendance at "My Fair Lady" in the Sahara Reno Opera House. The full Broadway production stars Douglas Fairbanks, Jr.

Friday, September 7, 1979

7:30 a.m. - 8 a.m. Coffee, Tea, Danish in Registration Area

8 a.m. General Session - Town Hall Room II

Moderator: Cal Black, Commissioner, San Juan County, Utah
U.S. Representative Don Clausen, Ranking Minority Member, House Interior and Insular Affairs Committee.
"The BLM Organic Act: Congress' Intent"

8:45 a.m. Report of the Work Sessions
Discussion and Establishment of Western Coalition Priorities and Responsibilities
Decision on Work Program for 1979-80

10:45 a.m. U.S. Representative James Santini, Chairman of Mining and Minerals Subcommittee of House Interior and Insular Affairs Committee.
"Land Management, Wilderness Review and the Future of Mining in the West"

11:15 a.m. Resumption of General Session.

12:15 p.m. Lunch

Speaker:
U.S. Senator Paul Laxalt, Nevada,
Co-Chairman, U.S. Senate Western Coalition

Adjournment

2 p.m. Followup of CSG, Nevada, and WIR/ NACo staff

2 p.m. Special Meeting - Subcommittee on Public Lands, CSG's Western Conference Agriculture Committee

Assembly Bill No. 413—Assemblymen Rhoads, Hayes, Mann, Marvel, Bergevin, Polish, Robinson, Banner, Hickey, Horn, Brady, Dini, Glover, Chaney, Bennett, Tanner, Stewart, FitzPatrick, Price, Prengaman, Fielding, Sena, Craddock, Barengo, Cavnar, May, Getto, Bremner, Malone, Westall, Vergiels, Weiss, Harmon, Rusk, Webb, Jeffrey and Mello

CHAPTER.....

AN ACT relating to public lands; creating a board of review; providing for state control of certain lands within the state boundaries; providing penalties; making an appropriation; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. Chapter 321 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this act.

SEC. 2. *The legislature finds that:*

1. *The State of Nevada has a strong moral claim upon the public land retained by the Federal Government within Nevada's borders because:*

(a) *On October 31, 1864, the Territory of Nevada was admitted to statehood on the condition that it forever disclaim all right and title to unappropriated public land within its boundaries;*

(b) *From 1850 to 1894, newly admitted states received 2 sections of each township for the benefit of common schools, which in Nevada amounted to 3.9 million acres;*

(c) *In 1880 Nevada agreed to exchange its 3.9-million-acre school grant for 2 million acres of its own selection from public land in Nevada held by the Federal Government;*

(d) *At the time the exchange was deemed necessary because of an immediate need for public school revenues and because the majority of the original federal land grant for common schools remained unsurveyed and unsold;*

(e) *Unlike certain other states, such as New Mexico, Nevada received no land grants from the Federal Government when Nevada was a territory;*

(f) *Nevada received no land grants for insane asylums, schools of mines, schools for the blind and deaf and dumb, normal schools, miner's hospitals or a governor's residence as did states such as New Mexico; and*

(g) *Nevada thus received the least amount of land, 2,572,478 acres, and the smallest percentage of its total area, 3.9 percent, of the land grant states in the far west admitted after 1864, while states of comparable location and soil, namely Arizona, New Mexico and Utah, received approximately 11 percent of their total area in federal land grants.*

2. *The State of Nevada has a legal claim to the public land retained by the Federal Government within Nevada's borders because:*

(a) *In the case of the State of Alabama, a renunciation of any claim to unappropriated lands similar to that contained in the ordinance adopted by the Nevada constitutional convention was held by the Supreme Court of the United States to be "void and inoperative" because*

it denied to Alabama "an equal footing with the original states" in *Pollard v. Hagan*, 44 U.S. (3 How.) 212 (1845);

(b) The State of Texas, when admitted to the Union in 1845, retained ownership of all unappropriated land within its borders, setting a further precedent which inured to the benefit of all states admitted later "on an equal footing"; and

(c) The Northwest Ordinance of 1787, adopted into the Constitution of the United States by the reference of Article VI to prior engagements of the Confederation, first proclaimed the "equal footing" doctrine, and the treaty of Guadalupe Hidalgo, by which the territory including Nevada was acquired from Mexico and which is "the supreme law of the land" by virtue of Article VI, affirms it expressly as to the new states to be organized therein.

3. The exercise of broader control by the State of Nevada over the public lands within its borders would be of great public benefit because:

(a) Federal holdings in the State of Nevada constitute 86.7 percent of the area of the state, and in Esmeralda, Lincoln, Mineral, Nye and White Pine counties the Federal Government controls from 97 to 99 percent of the land;

(b) Federal jurisdiction over the public domain is shared among 17 federal agencies or departments which adds to problems of proper management of land and disrupts the normal relationship between a state, its residents and its property;

(c) None of the federal lands in Nevada are taxable and Federal Government activities are extensive and create a tax burden for the private property owners of Nevada who must meet the needs of children of Federal Government employees, as well as provide other public services;

(d) Under general land laws only 2.1 percent of federal lands in Nevada have moved from federal control to private ownership;

(e) Federal administration of the retained public lands, which are vital to the livestock and mining industries of the state and essential to meet the recreational and other various uses of its citizens, has been of uneven quality and sometimes arbitrary and capricious; and

(f) Federal administration of the retained public lands has not been consistent with the public interest of the people of Nevada because the Federal Government has used those lands for armament and nuclear testing thereby rendering many parts of the land unusable and unsuited for other uses and endangering the public health and welfare.

4. The intent of the framers of the Constitution of the United States was to guarantee to each of the states sovereignty over all matters within its boundaries except for those powers specifically granted to the United States as agent of the states.

5. The attempted imposition upon the State of Nevada by the Congress of the United States of a requirement in the enabling act that Nevada "disclaim all right and title to the unappropriated public lands lying within said territory," as a condition precedent to acceptance of Nevada into the Union, was an act beyond the power of the Congress of the United States and is thus void.

6. The purported right of ownership and control of the public lands

within the State of Nevada by the United States is without foundation and violates the clear intent of the Constitution of the United States.

7. The exercise of such dominion and control of the public lands within the State of Nevada by the United States works a severe, continuous and debilitating hardship upon the people of the State of Nevada.

SEC. 3. As used in sections 2 to 9, inclusive, of this act, unless the context otherwise requires:

1. "Division" means the division of state lands of the state department of conservation and natural resources.

2. "Public lands" means all lands within the exterior boundaries of the State of Nevada except lands:

(a) To which title is held by any private person or entity;

(b) To which title is held by the State of Nevada, any of its local governments or the University of Nevada System;

(c) Which are located within congressionally authorized national parks, monuments, national forests or wildlife refuges, or which are lands acquired by purchase consented to by the legislature;

(d) Which are controlled by the United States Department of Defense, Department of Energy or Bureau of Reclamation; or

(e) Which are held in trust for Indian purposes or are Indian reservations.

SEC. 3.5. 1. There is hereby created a board of review composed of the:

(a) Director of the state department of conservation and natural resources;

(b) Administrator of the division of environmental protection of the state department of conservation and natural resources;

(c) Administrator of the division of mineral resources of the state department of conservation and natural resources;

(d) Administrator of the division of state parks of the state department of conservation and natural resources;

(e) State engineer;

(f) State forester firewarden;

(g) Chairman of the state environmental commission;

(h) Director of the department of energy; and

(i) Executive director of the state department of agriculture.

2. The chairman of the state environmental commission shall serve as chairman of the board.

3. The board shall meet at such times and places as are specified by a call of the chairman. Five members of the board constitute a quorum. The affirmative vote of a majority of the board members present is sufficient for any action of the board.

4. Except as provided in this subsection, the members of the board serve without compensation. The chairman of the state environmental commission is entitled to receive a salary of \$40 for each day's attendance at a meeting of the board and the travel expenses and subsistence allowances provided by law for state officers.

5. The board:

(a) Shall review and approve or disapprove all regulations proposed by the state land registrar under section 4 of this act.

(b) May review any decision of the state land registrar made pursuant to sections 2 to 9, inclusive, of this act if an appeal is taken pursuant to section 8.5 of this act, and affirm, modify or reverse the decision.

SEC. 4. 1. The division shall hold the public lands of the state in trust for the benefit of the people of the state and shall manage them in an orderly and beneficial manner consistent with the public policy declared in section 6 of this act.

2. The state land registrar may with the approval of the board of review adopt regulations necessary to manage the public lands in an orderly and beneficial manner and to carry out the provisions of sections 2 to 9, inclusive, of this act and the public trust created in those sections.

3. Except as provided in this subsection, the state land registrar may contract for or employ such professional and clerical personnel as are needed to carry out his functions. Any contract for professional services must be approved by the state board of examiners and any money necessary to compensate those persons must be approved for expenditure by the legislature or the interim finance committee.

SEC. 5. 1. Subject to existing rights, all public lands in Nevada and all minerals not previously appropriated are the property of the State of Nevada and subject to its jurisdiction and control.

2. Until equivalent measures are enacted by the State of Nevada, the rights and privileges of the people of the State of Nevada under the National Forest Reserve Transfer Act (16 U.S.C. §§ 471 et seq.), the General Mining Laws (30 U.S.C. §§ 21 et seq.), the Homestead Act (43 U.S.C. §§ 161 et seq.), the Taylor Grazing Act (43 U.S.C. §§ 315 et seq.), the Desert Land Act (43 U.S.C. §§ 321 et seq.), the Carey Act (43 U.S.C. §§ 641 et seq.) and the Public Rangelands Improvement Act (43 U.S.C. §§ 1901 et seq.) and all rights-of-way and easements for public utilities must be preserved under administration by the state.

3. Public lands in Nevada which have been administered by the United States under international treaties or interstate compacts must continue to be administered by the state in conformance with those treaties or compacts.

SEC. 6. The public lands of Nevada must be administered in such a manner as to conserve and preserve natural resources, wildlife habitat, wilderness areas, historical sites and artifacts, and to permit the development of compatible public uses for recreation, agriculture, ranching, mining and timber production and the development, production and transmission of energy and other public utility services under principles of multiple use which provide the greatest benefit to the people of Nevada.

SEC. 7. 1. Except as provided in subsection 2, no sale, conveyance or other disposal of the public lands may be permitted or authorized by the state land registrar, unless specifically authorized by an act of the legislature enacted after July 1, 1979.

2. To the extent that the public lands may be conveyed, leased, permitted, or licensed by the Federal Government or any of its agencies, the state land registrar is hereby authorized to convey, lease, license or permit the use of public lands to the same extent or in the same manner as those

lands are conveyed, leased, licensed, or permitted to be used by the Federal Government or any of its agencies.

3. All proceeds of fees, rents, royalties or other money paid to the state under sections 2 to 9, inclusive, of this act must be deposited with the state treasurer for credit to the state general fund.

SEC. 8. 1. Except as it is authorized pursuant to section 5 of this act or except as it may be authorized by the state land registrar pursuant to any authority conferred upon him by law, any sale, lease, exchange, encumbrance or other disposal of any parcel of or any interest in the public lands is void.

2. Any person who intends to perform or who actually carries out any act with respect to the use, management or disposal of any of the public lands under color of any statute, ordinance, regulation, custom or usage of the United States or otherwise, shall obtain written authorization from the state land registrar approving or confirming any such act, which authorization shall be given only to the extent it is authorized under the laws of this state.

3. Any person who does not obtain written authorization from the state land registrar as required by subsection 2 may be enjoined by the state land registrar from attempting to perform or continuing to carry out any act respecting the use, management or disposal of any of the public lands in any court of competent jurisdiction of this state within whose jurisdiction any of the affected public lands are located or the person resides.

4. Any person who receives any money or other consideration for any purported sale or other disposition of any public land which was made contrary to the provisions of sections 2 to 9, inclusive, of this act is liable to the state for that money or for the value of any other consideration. The money may be recovered in an action brought by the state land registrar in a court of competent jurisdiction of this state within whose jurisdiction any of the affected public lands are located or the person resides.

SEC. 8.5. 1. Any person who is aggrieved by a decision of the state land registrar made pursuant to sections 2 to 9, inclusive, of this act may appeal by letter to the board of review within 30 days after the date of the decision from which the appeal is taken. The letter must set out:

(a) The decision from which the appeal is taken;

(b) Legal grounds for the contention of the appellant that the decision exceeds the authority of the state land registrar; and

(c) Facts to support the contention, with sufficient particularity to permit the state land registrar to prepare for a hearing.

2. Upon receiving the letter, the board may:

(a) Dismiss the appeal if it appears from the letter to lack any merit; or

(b) Set a date for a hearing of the appeal which must be not less than 15 days nor more than 45 days after the date on which the board receives the letter. The board shall notify the state land registrar and the appellant of the date, time and place of the hearing.

3. Any hearing held by the board must be informal.

4. The state land registrar or his representative shall present at the hearing the facts considered in reaching his decision. The appellant or his



*file
Nevada
Sagehen
Rebellion*

July 25, 1979

Honorable Mike Colletta
Box 3188
Anchorage, AK 99501

Dear Mike:

Enclosed is a resolution passed by the Board of Directors of Commonwealth North yesterday in support of Nevada's valiant efforts to get the attention of the Federal government regarding public land policy.

Before taking our action, we heard from the author of the bill, Dean Rhoads, and we researched the Nevada position thoroughly.

We hope you will agree that Alaska should join Nevada as a "friend of the court" in the impending federal court test of the Nevada statute.

As well as our resolution, I have enclosed some relevant newspaper reports.

Sincerely,

Helen Fischer
Vice President

Governor William A. Egan, Co-Chairman • Governor Walter J. Hickel, Co-Chairman
Max Hodel, President • Helen Fischer, Vice President • Morris Thompson, Vice-President • William Sheffield, Vice-President
Robert Hartig, Secretary • Millett Keller, Treasurer • Carl Brady, Sr. • Larry Carr • Henry Hedberg • Loren Lounsbury • Dr. Glenn Olds
Glenn Simpson • William J. Tobin
Malcolm B. Roberts, Executive Director

935 West Third Avenue / Anchorage, Alaska 99501 / 907-276-1414

A RESOLUTION FOR ALASKA TO JOIN NEVADA AS A FRIEND OF THE COURT
IN THE STRUGGLE WITH THE FEDERAL GOVERNMENT OVER LAND MANAGEMENT

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF COMMONWEALTH NORTH:

WHEREAS, the Nevada State Legislature has passed into law a bill (A.B. 413) which places in State management 43.4 million acres of public land previously administered by the U.S. Bureau of Land Management, and

WHEREAS, this action was not taken precipitously but after years of careful study and repeated good-will efforts to convince Congress to administer public lands in Nevada fairly, responsibly and with sound conservation practices, and

WHEREAS, in spite, of these pleas, the Federal government has increasingly instigated and imposed regulations that have proven to be harmful to the welfare of the people of Nevada, opposing the necessary and natural expansion of communities and obstructing the wise use and development of its resources, and

WHEREAS, the State of Alaska is in a similar position and has felt the same frustrations to an even greater degree as, apart from Native owned lands, less than one third of one percent of Alaska's land is in private ownership, and

WHEREAS, Nevada's bold and precedent-setting action has focused national attention on a wide spectrum of public land issues in the Western states, issues of which most Americans have been totally unaware, and issues vital to the health and future of the State of Alaska, and

WHEREAS, Commonwealth North is a bi-partisan, non-profit organization, made up of Alaska businesspeople and labor leaders, Natives, and non-Natives, Democrats and Republicans, dedicated to the betterment of the commonwealth and the enlightenment of public policy.

BE IT RESOLVED that the Board of Directors of Commonwealth North urges the Governor and the Legislature of the State of Alaska to join Nevada as friend of the court (amicus curiae) in the impending Federal Court test of the Nevada Statute.

Passed by unanimous consent
July 24, 1979

EDITORIAL PAGE

The Anchorage Times

ROBERT B. ATWOOD
Editor and Publisher

WILLIAM J. TOBIN
Associate Editor
And General Manager

CLINTON T. ANDREWS JR.
Managing Editor

Wednesday, July 11, 1979

Page 4

A Compelling Case

WHEN THE LEADER of Nevada's "Sagebrush Rebellion" stood up to present his state's side of its land battle with the federal government, some Alaskans may have been disappointed. Assemblyman Dean A. Rhoads was not a wild-eyed, tubthumping, fiery rebel.

Instead, his state's "rebellion" turned out to be one based on quiet, sound and persuasive constitutional reasoning.

And those who beforehand glibly or disdainfully dismissed Nevada's challenge to the federal government looked silly.

If you can believe Assemblyman Rhoads — and the quiet-spoken rancher and legislator turned out to be a compellingly believable fellow — Nevada has Uncle Sam plenty worried.

THIS SO-CALLED rebellion, he told a breakfast meeting of Commonwealth North yesterday, does not fit your classic dictionary definition. The State of Nevada is not really up in arms in a literal sense. But it is sincerely challenging the federal government's control and administration of public lands in the state.

It argues that the Bureau of Land Management — and it is only BLM lands that are in dispute in the legal test — has not been a good trustee of public land in Nevada. It contends the state can do better.

It argues also that the federal government has not observed the constitutional doctrine of "equal footing."

In simplified form, Mr. Rhoads said, "this means that every state which entered the union after the first 13 has all the rights, privileges and responsibilities of the original states. These are rights that Congress, by law, may not diminish. With respect to public lands, the states west of the Rockies have not been treated equally with the states east of the Rockies."

BECAUSE of this unequal treatment, the leader of the Sagebrush Rebellion said, Nevada has become stymied and frustrated — unable to develop economically, unable to manage its lands for the benefit of its people, unable to escape the heavy hand of federal management over almost all of the land within

its borders.

From this frustration came legislation by which Nevada proposes to take control of all BLM land within the state. Forest Service land and other land controlled and managed by federal agencies, some 19 million acres, are not involved.

In Nevada BLM land is substantial — 43.4 million acres of the state's total acreage of 70.7 million acres. Only nine million acres are in non-federal ownership and only four million of them, according to Mr. Rhoads, are in "productive and useful private ownership."

The Sagebrush Rebellion would change that. The legislation passed with almost unanimous support in both the Nevada Senate and the Assembly, was signed into law a month or so ago and went into effect July 1. The state is now in the process of preparing regulations to implement the law.

IT IS at that point, when the regulations are put into effect, that the federal government is expected to respond by bringing suit to block state officials from taking control of the land away from Uncle Sam.

Then the battle will be joined. And it should be a good one. Indications are, the Nevada assemblyman said, that federal lawyers are extremely worried about the outcome of the case. He says Nevada legal advisors, including its attorney general, are equally optimistic.

To strengthen its case, Nevada is seeking a coalition of other Western states to join in the legal battle. Support, he says, is running strong.

Alaska is being invited to join because Alaska's land fights are similar to those of Nevada. Some Alaskans have responded that such a test has little legal merit and could anger federal officials and impair Alaska's D2 battle in the Congress.

Nonsense, says Assemblyman Rhoads. There has been no retaliation by federal officials or agencies against Nevada, a move some initially feared.

And besides, he asked a bipartisan group of Alaska legislators when he met with them at lunch yesterday:

"When you're behind 20-0, what difference does it make?"

'Sagebrush rebellion' mushrooms

By BRUCE SCOTT
Daily News reporter

Support for Nevada's "sagebrush rebellion" is mushrooming like backing for California's Proposition 13 did two years ago, Nevada Assemblyman Dean Rhoads said Monday.

Rhoads said legislation similar to Nevada's "sagebrush rebellion bill" is pending in six states and under consideration in two others, as well as the Senate Judiciary Committee. And Nevada legislators are stumping the country looking for even more allies.

The bill returns to the state some 43.3 million acres now under federal management.

"There are a lot of other states who feel their rights are being walked on and they're jumping on the bandwagon," he said. "It's sort of like the Howard Jarvis bill."

Jarvis co-authored California's Proposition 13, which severely cut property taxes. Several states followed suit.

"We need as much support from other states as we can possibly get," he told members of Commonwealth North, a bipartisan organization of Alaskan businessmen and politicians, at the Captain Cook Hotel Monday.

The "sagebrush rebellion bill," also known as AB413, went into effect July 1, two months after being passed by the Nevada state legislature.

The bill entrusts about 43.3 million acres of federal land within the state, administered by the Bureau of Land Management, to the Nevada Department of Conservation and Natural Resources.

And the bill makes it illegal for federal officials to exercise jurisdiction over the newly-acquired "state land" without the approval of the state land registrar.

"We believe that the legal arguments in support of our position apply to forest lands, too," Rhoads said.

"Because in Nevada our problems and frustrations come from our dealings with the BLM and not with the forest service, we chose only to address BLM land," he said.

Rhoads said the bill was prompted by Nevadans' frustration over the fact that only 13 percent of the land in the state is in nonfederal ownership.

Nevada is pinning the legality of the new law on the U.S. Constitution, which the state's legislators argue takes precedence over the Nevada constitution — which renounced future property rights as a condition of statehood.

This section of Nevada's constitution "is invalid," Rhoads said, "since Congress had no power to extract such a concession from the state."

Rhoads said Nevada expects a major court battle with the federal government over the state's efforts to regain control of its land.

"From meetings our attorney general has had in Washington, it is clear that the Justice Department is taking the matter very seriously," he said.

The state's legal case is based on what Rhoads called the "equal footing doctrine" of the U.S. Constitution, and the "trust theory."

Explaining the equal footing doctrine, Rhoads said that it has been determined in the courts that the states "are vested with absolute title to the beds of navigable waters (within the state) as of the time of statehood."

While no court has extended the equal footing doctrine to encompass unappropriated public lands as well as navigable waters, "neither has any court been asked to do so," he said.

He said that such an extension of the doctrine — giving the states absolute title to all unappropriated land as it existed at the time of statehood — would be consistent with "the intent of the framers of the Constitution."

In simplified form, Rhoads said, the "trust doctrine" means that "the lands that have come into the possession of the federal government as a result of purchase or war were held in trust pending disposal into private ownership."

"The central argument of the 'trust theory' is that the unappropriated, unreserved public lands located in Nevada do not belong to the federal government in its own right," he said. "They are held by the federal government in its capacity as trustee, pending their disposal."

representative may present matters in support of his contention that the state land registrar's decision exceeds his authority.

5. *If the appellant does not appear in person or by representative, the board may consider the matters set forth in his letter of appeal and may dismiss the appeal or take any other action which it finds to be reasonable and proper.*

6. *The board shall issue its order as soon as practicable after conducting the hearing. The order of the board is a final decision in a contested case.*

SEC. 9. *The attorney general may initiate or defend any action commenced in any court to carry out or enforce the provisions of sections 2 to 9, inclusive, of this act or seek any appropriate judicial relief to protect the interests of the state or the people of the state in the public lands. The right to enforce the provisions of sections 2 to 9, inclusive, of this act vests exclusively in the attorney general.*

SEC. 10. 1. *The department of conservation and natural resources shall conduct an inventory and a study of the public lands of Nevada to determine, in conjunction with the respective boards of county commissioners and the planning commissions of the several counties, the methods of management that will best satisfy the requirements of section 6 of this act and establish a basis for determining the best uses of the land.*

2. *The department of conservation and natural resources shall submit a report of its findings and recommendations to the 61st session of the legislature.*

SEC. 11. *There is hereby appropriated to the interim finance committee from the state general fund the sum of \$250,000 for the biennium beginning July 1, 1979, and ending June 30, 1981, for the support of the state land registrar and the division of state lands of the state department of conservation and natural resources in carrying out the purposes of this act, and for the attorney general for any litigation arising out of this act. All costs of litigation incurred by the attorney general in enforcing the provisions of this act are a charge upon the appropriation made in this section.*

· PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
· AS A UNIT IN THE ORIGINAL DOCUMENT.



STATE HEADLINES

The Council of State Governments

September 7, 1979 No. 79-18

DAVID CREATES GOLIATH-LIKE STATE DAMAGE

With a death toll exceeding 1,000 persons, damages totaling tens of millions of dollars, and in the wake of widespread power outages, Hurricane David swept itself up the east coast and out into the ocean as a "tropical depression" as the week ended. PUERTO RICO Governor Carlos Romero-Barcelo received a disaster declaration from President Carter, and governors in FLORIDA, GEORGIA, SOUTH CAROLINA, VIRGINIA, and northeastern coastal states were assessing damages as of Friday afternoon, deciding whether to ask for disaster assistance. Damages in Savannah alone were expected to peak at \$4 million. Florida Governor Robert Graham said elders citizens he ordered evacuated were "very happy and grateful" despite a few "isolated" instances of dissatisfaction.

WINTER WINS IN MISSISSIPPI

Former MISSISSIPPI Lieutenant Governor William Winter defeated present Lieutenant Governor Evelyn Gandy in a Democratic runoff for the governor's race. Winter will face Republican Gil Carmichael in November.

GOVERNORS WANT SOLAR CENTERS AUDITED BY GAO

Midwestern governors, who say there is "little evidence" that the federal regional solar centers are implementing programs to promote the commercialization of solar energy, have asked the U.S. General Accounting Office to do program audits on the regional solar energy centers. Another resolution adopted at the conference held August 26-28 in Osage Beach, MISSOURI, calls for a North American Energy Supply Policy which recognizes and embraces "continental" energy needs and supplies. Missouri Governor Joseph Teasdale is the new conference chairman. Vice chairman is Governor James R. Thompson of ILLINOIS, who will host the 1980 annual meeting. Conference speakers included newsman Howard K. Smith, actor Robert Redford, U.S. Senator Robert Dole of KANSAS, and OMB director James McIntyre.

NEW INITIATIVES WOULD COST \$5.2 BILLION

Two new CALIFORNIA constitutional initiatives being promoted by Howard Jarvis forces would halve the state's income tax and eliminate the business inventory tax reducing tax income by \$5.2 billion, according to the state's legislative analyst, William Hamm. The measures are targeted for the June 1980 ballot.

DELEGATE SELECTION CHALLENGED

WISCONSIN Attorney General Bronson C. La Follette has sued the state's Democratic Party, the U.S. Democratic Party, and the Democratic National Committee contending the political party's plans to set up a caucus system for selecting delegates to the 1980 convention violate Wisconsin's Open Presidential Preference Primary law. In a suit filed August 29 in the state's supreme court, La Follette says the delegate selection process effectively disenfranchises more than 700,000 citizens who voted in the last three Democratic presidential primaries.

AGs STUDY SAGEBRUSH CONTROL

The Public Lands Subcommittee of the Western Conference of Attorneys General will prepare a legal brief documenting the western states' case for public land reform. Meeting in Reno, NEVADA, September 5-7, the subcommittee also voted to establish an information exchange program on the "Sagebrush Rebellion" issue. For further information, contact the Western Office of the Council of State Governments, (415) 986-3760.

INDIAN LAND CLAIMS SETTLED

NEW YORK Governor Hugh L. Carey, the U.S. Department of the Interior, and the Cayuga Indian Nation have reached an agreement on the Indians' claim to land rights in Cayuga and Seneca counties. The state will turn over a state park to the Indians in late 1983. The federal government will return 3,629 acres of U.S. Forest Service lands and pay the Indians \$8 million. In MAINE, former president Richard Nixon's lawyer, James St. Clair, has been hired to defend the state if a 12.5-million-acre Indian land claim suit goes to trial.

CITIES GET GOOD NEWS, BAD NEWS

The good news for CALIFORNIA cities is that Governor Edmund G. Brown, Jr., has signed legislation empowering municipalities to assess special fees for police and fire protection when approved by two thirds of the persons voting on the issue. The bad news is Attorney General George Deukmejian has stated in an opinion that cities may not prohibit the transportation of radioactive materials within city boundaries because of current federal statutes and regulations.

STRIKING TEACHERS

Teacher strikes in 15 states have affected 650,000 elementary- to college-level students. Two states, MISSOURI and NEW YORK, settled with their educators. As of September 5, 13 states still had 33,000 teachers on strike. Affected states are ALASKA, CONNECTICUT, ILLINOIS, INDIANA, LOUISIANA, MICHIGAN, NEW JERSEY, OHIO, OKLAHOMA, OREGON, PENNSYLVANIA, RHODE ISLAND, and VERMONT.

VANPOOLING INNOVATION

The KENTUCKY Department for Human Resources (DHR) has initiated a new vanpooling operation for state workers under which the vans will be put out on bid by the state, bought and owned by a private leasing company, and driven by state employees. DHR will establish routes and fares, sell commuter passes, and assign employees and passengers to vanpools. For further information, contact Robert C. Ward (502) 564-7530.

PROPERTY SEARCHES OVERTURNED

A NEW JERSEY state appeals court has reversed a lower court decision and ruled that finding a small amount of marijuana is not sufficient cause to authorize police to conduct property searches.

INDIANA SEEKS LSA DIRECTOR

The INDIANA Legislative Services Agency is seeking candidates for the position of executive director. Applicants need a law degree, experience in the legislative process and with management of a professional staff, and some familiarity with text data processing and fiscal and management analysis. Resumes should be sent to Senator Martin K. Edwards, President Pro Tem of the Senate, in care of Arden R. Chilcote, Room 302, State House, Indianapolis, Indiana 46204. Anthony E. Ard, the former executive director, resigned August 31.

WELFARE WINNERS MIGHT BE LOSERS

The PENNSYLVANIA Department of Public Welfare and the state's revenue department are trying to locate public assistance recipients who fail to report winnings from the state's lottery. The computer match program will aim at winners of \$1,000 or more. Public welfare recipients who fail to report winnings could lose public assistance benefits, be prosecuted for welfare fraud, or be forced to reimburse the state for overpayments. The program has already located 118 such cases.

\$18 MILLION IN STATE SAVINGS PREDICTED

IDAHO Governor John V. Evans has received the report of his management task force appointed earlier this year making recommendations to streamline the state's government. The group estimates that implementation of the 212 recommendations in the report will lead to an annual savings for the state of over \$18 million.

MEMORANDUM

July 19, 1979

TO: Sharon Long
(D) (2) Information Office

FROM: Marcie Sharrock
(D) (2) Legislative Liaison

RE: "Sagebrush Rebellion"

Attached please find for your records a copy of Nevada Senate Bill No. 240, that provides for control of certain public lands by the State of Nevada.

STATE HEADLINES

May 18, 1979 No. 79-10

REVENUE SHARING IN CONFERENCE

The fate of states' \$2.3 billion portion of revenue sharing is in the hands of a House/Senate conference committee which will reconvene this week. On May 7, the House upheld by a 195-190 vote a recommendation by the House Budget Committee that the states' share of revenue sharing be deleted for fiscal 1980. Earlier, the Senate voted to keep the program intact.

DRINKING AGE HIKED

NEW HAMPSHIRE has become the second northeastern state to raise the legal drinking age from 18 to 20. MASSACHUSETTS took the same action in March. In CONNECTICUT, Governor Ella Grasso vetoed May 15 a bill which would have raised the legal age for buying alcoholic beverages in stores to 19 while leaving the age for drinking in bars at 18.

NUCLEAR WASTE HAULING HALTED

After a truck hauling Uranium 238 from CALIFORNIA to a radioactive waste dump site in Beatty, NEVADA, caught fire, Nevada Governor Robert List ordered an indefinite halt to nuclear waste shipments from California to Nevada. The governor said the material was improperly containerized causing the fire.

MICHIGAN WILL SUE OVER WASTE

MICHIGAN Attorney General Frank Kelley has told a U.S. House subcommittee his state will sue the U.S. Environmental Protection Agency for "doing virtually nothing" to prevent poisonous chemicals from being dumped at an Air Force base near Oscoda, Michigan. He said the chemicals are contaminating groundwater there.

AGE OF CONSENT RAISED

The NEW JERSEY legislature has revised its new penal code, scheduled to take effect September 1, to delete a provision lowering the age of sexual consent from 16 to 13. The lowered age of consent had been part of a reform of the state's rape code drafted by two local feminist groups to reduce the number of statutory rape cases brought by irate parents of sexually consenting teenagers.

TAX CAP SIGNED

Vowing to return to the next legislative session for a zero-growth tax cap, MASSACHUSETTS Governor Bruce King signed into law a 4 percent cap on property tax increases passed by the legislature. During a 10-day extension on signing the bill, volunteers from the governor's campaign staff attempted to collect 500,000 signatures on a petition favoring the zero percent lid.

ANTISMOKING ACTION

The NEBRASKA legislature voted May 15 to require separate smoking and nonsmoking areas in most public facilities. The bill was modeled on a four-year-old MINNESOTA law. In NEW YORK, the Assembly passed a measure to prohibit smoking in almost all public places unless there is a designated smoking section. A local antismoking referendum in Dade County, FLORIDA, was defeated May 9 by less than 1,000 votes.

DEFENSIVE STATE DRIVING

A defensive driving course for state employees who operate WEST VIRGINIA vehicles has resulted in a 16 percent reduction in losses during a seven-month comparison period, according to Robert Corey, risk manager for the state's insurance board. About 8,000 employees have taken the eight-hour National Safety Council course.

COAL BAN UPHELD

States do have the right under U.S. environmental law to stop utilities from importing coal from other states, a KENTUCKY federal court judge ruled May 7. A section of the 1978 Clean Air Act says states may force utilities to burn "regionally available coal" if importing coal will hurt the state's economy. OHIO officials exercised that authority by banning imports of low-sulfur coal. Kentucky and a coal company said Ohio's action unconstitutionally interferes with interstate commerce. The decision will be appealed.

OBSCENITY LAWS VOIDED

In a suit against the state's attorney general and two sheriffs, the RHODE ISLAND Supreme Court has ruled that the state's obscenity law is unconstitutional. In its May 14 decision, the court said the law is too broad because the legislature included in the definition of obscenity the phrase "patently offensive sexual conduct." The TENNESSEE Supreme Court has also declared unconstitutional the state's 1978 antiobscenity law which outlawed everything from topless waitresses to written articles about sex. The court said the law violated state and federal constitutional guarantees of free speech and free press.

CIGARETTE TAXES

WISCONSIN's cigarette tax laws do not apply to cigarettes sold by Indians, Attorney General Bronson C. La Follette said in a May 9 opinion to the state revenue department. The attorney general said U.S. Supreme Court decisions have made it clear that a general exemption from state taxes extends to Indian tribes and Indian persons within reservation boundaries.

APPOINTMENT AUTHORITY CHALLENGED

CALIFORNIA Governor Edmund G. Brown, Jr., has asked the state's supreme court to void Lieutenant Governor Mike Curb's recent appointment of a presiding justice of the Los Angeles appeals court. The lieutenant governor made the appointment while Governor Brown was out of the state. The governor asked the court to rule that the lieutenant governor may not exercise the governor's authority unless the governor is "temporarily disabled" instead of just traveling out of state or there is an "emergency" situation.

SALES TAX REMOVAL

NEVADA's sales tax on food would be eliminated if voters approve a measure placed on the June 5 ballot by the legislature as a partial alternative to a Proposition 13-style, citizen-initiated constitutional amendment (Question 6). Question 6 was approved by voters in November 1978, but must be approved again in November 1980 to become effective. If the food tax cut passes, it would self-destruct if voters opt for Question 6 in 1980.

COMPREHENSIVE JOB TRAINING

INDIANA Governor Otis Bowen has signed legislation providing state assistance for comprehensive job training and related services for the economically disadvantaged, unemployed and underemployed. The state will continue to provide aid through the new Opportunities Industrialization Centers Act even if the federal government eliminates its assistance.

TRI-STATE ENERGY PACT SIGNED

A 13-point emergency energy plan, which would include Sunday subway service and a reserve bus fleet, has been signed by VIRGINIA Governor John N. Dalton, MARYLAND Governor Harry Hughes, and DISTRICT OF COLUMBIA Mayor Marion Barry, Jr. The plan is designed to provide coordinated and complementary policies on energy in the D.C. area.

DOOR-TO-DOOR REGISTRATION

CONNECTICUT Governor Ella Grasso has signed legislation authorizing door-to-door voter registration. Another law signed by the governor (S.B. 3119) allows gas and electric companies to include the cost of state-approved promotional advertising in their operating expenses.

GASOLINE RATIONING

To correct a problem with the odd/even gasoline rationing plan which occurred when stations closed on the weekends, CALIFORNIA Governor Edmund G. Brown, Jr., issued another order requiring stations to retain one-sixth of their gasoline allocations and stay open on weekends under their own odd/even system based on the numbers in the stations' state licenses. In another action, a San Francisco superior court judge temporarily restrained gasoline stations from carrying out their threatened four-day moratorium until a hearing can be held on a state antitrust suit filed by Attorney General George Deukmejian. Station owners met later and decided to suspend their planned moratorium for 30 days. Assembly Speaker Leo McCarthy has named a legislative committee to investigate the gasoline shortage and gave the committee subpoena power. Assemblyman Mel Levine will chair the investigation.

INDIAN RIGHTS UPHELD

A federal district court judge May 8 upheld the unlimited fishing rights in certain MICHIGAN waters granted to Indians in two nineteenth century treaties with the U.S. government. In the decision, involving the Bay Mills and Sault Ste. Marie Chippewa tribes, the judge held that the state has no authority to impose regulations on Indians or limit treaty rights—that such regulation rests with Congress.

ABORTION RULING

States are not required to go any further in providing their own funds for abortions than federal law requires, the U.S. Supreme Court ruled in a MASSACHUSETTS case. The court refused to hear a challenge to a state law that removed state financing from all abortions except those necessary to prevent the death of the mother or in instances of rape or incest. Federal law requires Medicaid funding of abortions "in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term."

POLITICAL STATUS HEARINGS

A commission on the political status of AMERICAN SAMOA completed hearings recently in Honolulu. The commission, led by former legislative leader Aumoeualogo Salanoa, is considering three alternatives for the territory's political status—continued territorial status, an Organic Act of Congress, or commonwealth status similar to PUERTO RICO and the VIRGIN ISLANDS.

URBAN UPLIFT

The IOWA legislature has passed an urban revitalization bill providing significant property tax exemptions on the value of improvements made by owners to residential, commercial or industrial property in blighted urban areas.

HEW REMAINS RESTRAINED

A federal judge May 11 refused to lift a temporary restraining order which stops the U.S. Department of Health, Education, and Welfare from cutting off some of the \$89 million in aid to the University of NORTH CAROLINA. The university and HEW are involved in a dispute over desegregation of the state's university system.

MENTAL COMMITMENT RULING

States must now present a stronger case in mental institution commitment proceedings than in other civil cases, the U.S. Supreme Court ruled in a TEXAS case April 30. The Court said, "clear and convincing evidence" must be presented before a person can be involuntarily committed.

**SUNSET
MANAGER
SOUGHT**

The NEW HAMPSHIRE Sunset Committee is seeking a program manager to administer, supervise, and coordinate state sunset program evaluations. Minimum of five years' experience in managing program evaluations and bachelor's degree required; master's degree preferred. Salary based on experience. Submit resume and salary history to New Hampshire Sunset Committee, Room 301, State House, Concord, New Hampshire 03301.

**EMPLOYEES GET
COST OF LIVING**

GEORGIA state employees will receive 8.5 percent cost-of-living pay raises for the 1980 fiscal year. After obtaining clearance from the President's Council on Wage and Price Stability, Governor George D. Busbee approved the increases which will be given in two segments of 5.5 percent on July 1, 1979, and 3 percent on January 1, 1980. The pay raises are not in violation of the federal guidelines because the two segments fall within different program years.

**LAND REFUNDS
OFFERED**

The Federal Trade Commission (FTC) has announced that thousands of buyers of undeveloped COLORADO land may be eligible for 70 percent refunds because of deceptive claims by the sellers. About 75,000 acres of the land have been sold—primarily through ads in national magazines and newspapers. The refund agreement between the FTC and Bankers Life and Casualty Company of Chicago, 11 other companies and one individual also enjoins Bankers Life and the others from misleading consumers in future land sales, including Colorado and FLORIDA where the companies have most of their land holdings.

**NEW PRISONS
PROPOSED**

Citing the inadequacy of the state's current reformatories and a voter-approved measure eliminating "good time" sentence reductions for certain offenders, MICHIGAN Governor William G. Milliken has outlined a \$404 million corrections improvement program. The plan calls for eight new prisoner facilities including a prototype regional facility. The governor said construction could be accomplished with bonds or the general fund, but added he prefers a pay-as-you-go approach. The governor said the voter-approved measure will increase prison population by 2,200 persons for a total of 18,400.

**GEOTHERMAL
OWNERSHIP**

WASHINGTON Governor Dixy Lee Ray has signed legislation giving private property owners the right to tap geothermal energy sources beneath their lands. Although opponents of the bill argued that geothermal steam should remain in the public domain, supporters said private ownership of the resource would encourage its development.

**CONTROLLING
WESTERN LAND**

In an address to the Western Conference of the Council of State Governments, ALASKA Lieutenant Governor Terry Miller urged western states' delegates to form a coalition to take control of western lands from the federal government. The proposal received quick endorsement from NEVADA delegates. The federal government controls 87 percent of Nevada land. Congress is considering bills involving millions of acres of Alaska land which were declared national monuments by President Carter.

**INTEREST RATE
HIKED**

A long-standing controversy over interest rates was settled in TENNESSEE when the legislature passed a bill increasing the maximum interest rate to 10 percent on loans under \$1,000 and setting a floating rate of 5 percent above the federal discount rate on loans over \$1,000.

Senator Pat Rodey
Western Coalition Meeting On Public Lands
September 5-7, 1979

276-3222

TRAVEL Sept. 5 Western #720 Anc 9am - Sea 2:05 pm
 Air West #41 Sea 4:55pm - Reno 6:22pm

 Sept. 7 United #312 Reno 10:40am - Sea 12:11pm
 Western #989 Sea 9:25pm - Anc 10:38pm

HOTEL Sahara Reno Hotel (Reservation 9/5-6)
 (702) 322-1111
 Mail Deposit of \$36.00 to
 Sahara Reno Hotel
 Attention: Room Reservations
 P.O. Box 1291
 Reno, Nevada 89504

Note Date of arrival on Check, as well as
name of meeting

TR Charged to Legislative Council

No. 197270



THE WESTERN CONFERENCE of

The Council of State Governments



Conference Staff
The Council of State Governments
Western Office
165 Post Street, 5th Floor
San Francisco, California 94108
(415) 986-3760

Preliminary Agenda

WESTERN COALITION MEETING ON PUBLIC LANDS

Sahara - Reno Hotel
September 5-7, 1979

Wednesday, September 5

Afternoon

6:00 p.m.

Early Registration

Reception

Thursday, September 6

8:00 a.m.

9:00 a.m.

Registration (coffee available)

Opening Session

-Nevada Hosts:

Senator Richard E. Blakemore, Chairman, Nevada
Select Committee on Public Lands
Jack Pettitti, Commissioner, Clark County,
Nevada, and Past Chairman, WIR/NACo

-Welcoming Remarks:

Governor Robert List, Nevada, Vice-Chairman,
Western Governors' Conference, CSG

-Official Officers:

Senator Robert H. Ziegler, Sr., Alaska, Chairman,
Western Conference, CSG
Cal Black, Commissioner, San Juan County, Utah,
and Chairman, WIR/NACo

-Keynote Speaker:

U.S. Senator Orrin G. Hatch, Utah

10:15 a.m.

Work Sessions

- Public Lands Payments - State/County Relationships
- Organic Act Regulations
- Wilderness Review
- Current Legislation in Congress

Noon

Lunch

-Speaker:

U.S. Senator Dennis DeConcini, Arizona,
Co-Chairman, Senate Western Coalition (invited)

1:30 p.m.

Work Sessions

- Public Lands Payments - State/County Relationships
- Organic Act Regulations
- Wilderness Review
- Current Legislation in Congress

3:30 p.m.

General Session: Nevada's Sagebrush Effort

-Moderator:

Assemblyman Dean A. Rhodes, Nevada

-Panelists:

Governor
Attorney General Richard H. Bryan, Nevada
Lieutenant Governor Terry Miller, Alaska
staff, U.S. Senator

Evening

Free for your own activities. Special rate available
for Performance of "My Fair Lady" starring
Douglas Fairbanks, Jr. (See Registration Form)

Friday, September 7

9:00 a.m.

-Speaker:

U.S. Representative James Santini, Nevada (invited)

Topic: Implementation of RARE II and BLM
Wilderness Review on the Future
of Mining in the West

General Session

-Moderator:

Cal Black, San Juan County Commissioner, Utah

- Report of the Work Sessions
- Discussion and Establishment of Western
Coalition Responsibilities
- Assignment of Coalition Responsibilities
- Decision on Work Program for FY 1979-80

10:30 a.m.

Break

11:00 a.m.

Continuation of General Session

12:15 p.m.

Lunch

-Speaker:

U.S. Senator Paul Laxalt, Nevada, Co-Chairman,
Senate Western Coalition (invited)

Adjournment



August 10, 1979

Honorable Mike Colletta
Alaska State Senator
Box 3168
Anchorage, AK 99501

Dear Mike:

We were very pleased to see the Legislative Council take action to study the Nevada land fight.

There are vital questions at stake in that struggle over federal ownership and management of land, and Alaska must stay in the thick of that battle.

Thank you for your efforts on behalf of the State and our future.

Sincerely,

Helen Fischer
Vice President

and the Board of Directors of Commonwealth North

Governor William A. Egan, Co-Chairman • Governor Walter J. Hickel, Co-Chairman
Max Hodel, President • Helen Fischer, Vice President • Morris Thompson, Vice-President • William Sheffield, Vice-President
Robert Hartig, Secretary • Millett Keller, Treasurer • Carl Brady, Sr. • Larry Carr • Henry Hedberg • Loren Lounsbury • Dr. Glenn Olds
Glenn Simpson • William J. Tobin
Malcolm B. Roberts, Executive Director

935 West Third Avenue / Anchorage, Alaska 99501 / 907-276-1414

Colletta - ✓

Rodney - 276-5929 ✓

Hanges - 3rd at town -

Wiles - 276-4340 ✓

De Hoon - ✓ 3600

Ron Brink - ✓

Wiles

Rodney - 5th avenue

TR

8 Hotel

Airline
reservations

6th
return
with
of 6

4 hours

8/21

Joe Hayes out of town
till Sept 10
will be attending Reno
conference
Reservations arriving 9/5
for meeting 6th & 7th
Council of State Governments
San Fran (415) 986-3760

Sahara Reno Hotel

single/double \$36⁰⁰
Registration Fee \$25⁰⁰
My Fair Lady \$15⁰⁰

WESTERN STATE'S LAND COMMITTEE

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Sept 5, 1979 Staffs, Western AG's
Sept 6,7, 1979 Western Coalition, State Legislatures

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COMMITTEE TO RESTORE THE CONSTITUTION, Inc.

Inspired by the Hon. John Janney (1877-1967), last of a long line of Virginia patriots.

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November 8, 1979

Senator Mike Colletta
1016 West 6th Ave., Suite 435
Anchorage, Alaska 99501

Dear Senator Colletta:

REF: Alaska House Bill No. 398, "An Act relating to state control of certain land within state boundaries.."

June Allen, Officer of the Governor, Anchorage, asked that I send you background information on the origins of subject bill which would claim State sovereignty over 96.4% of Alaska territory now claimed by the federal government.

Enclosed August & September bulletins, and April, 1978 Committee of Correspondence letter (blue) published by the Committee to Restore the Constitution, Inc., cites the 'equal footing doctrine' basis for the successful "Sagebrush Rebellion", center of interest by thirteen western states and national media.

Alaska, too, may claim jurisdiction over 'public lands' as did Governor Robert List of Nevada. All that is necessary is public education on the principles of state sovereignty and support for reintroduction of Alaska House Bill #398. Neither the Supreme Court nor the U.S. Congress have authority in the matter.

You are invited to use information contained in CRC publications in any manner you deem appropriate and helpful to assert Alaska sovereignty over land, water and minerals within her borders.

Sincerely,

Archibald E. Roberts, Lt. Col., AUS, ret., Director, CRC

Encl: as stated

Copy: Alaska State Senators & Representatives

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"If every person has the right to defend - even by force - his person, his liberty, and his property, then it follows that a group of men have the right to organize and support a common force to protect these rights constantly." *THE LAW*, by Frederic Bastiat, Paris, 1850.

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SCOPE OF NEVADA'S 'GOVERNMENT LANDS' ACT COMPARED TO LOUISIANA PURCHASE

THE LOUISIANA PURCHASE, 827,192 square miles of land bought by the United States from France in 1803 for \$15,000,000, extended from the Gulf of Mexico to Canada and from the Mississippi to the Rocky Mountains.

Nevada's Assembly Bill No. 413, 15 February 1979, declaring sovereignty over 49 million acres of land within State borders (property now controlled by the Bureau of Land Management) challenges the entire concept of 'government lands'. The statute became effective 1 July 1979.

At stake is 1,188,148 square miles of territory, an area greater than the Louisiana Purchase.

Involved are the ambitions and future of the people and governments of twenty-four states west of the Mississippi River, including Alaska and Hawaii.

Eleven federal agencies now claim jurisdiction over 760,414,810 acres within State boundaries. Nevada says that continued federal dominion deprives the State and its people of fees and revenues, inhibits use and development of resources, and violates constitutional guarantees of State sovereignty.

An example is extraction fees for coal, gas, oil, oil shale and other energy resources on 'government lands' now paid by industry to federal agencies. These funds, if paid to state treasuries instead, could free western states of revenue sharing blackmail and strike at the heart of unconstitutional federal regionalism.

Nevada's action will affect the Bureau of Land Management, U.S. Forest Service, Corps of Engineers, Bureau of Reclamation, U.S. Park Service, Bureau of Indian Affairs, Fish and Wildlife Service, Nuclear Regulatory Commission, U.S. Navy, U.S. Air Force, U.S. Army and others.

"Like a wind-whipped brush fire, Nevada's 'sagebrush rebellion' threatens to spread into a states rights revolt against federal land control across the West", reported the Fort Wayne Indiana JOURNAL GAZETTE, 28 July 1979.

"Today", the Journal Gazette said, "ranching and mining interests see potential wealth in the land, and the States see taxes flowing away to Washington."

District Attorney T. David Horton, Counsel, Committee to Restore the Constitution, who drafted the original Nevada statute, quotes the "equal footing doctrine" as authority for State sovereignty over lands within its borders.

"Both the enabling legislation of Congress and the Presidential Proclamation announcing Nevada's admission, recognize her to be on an 'equal footing' with the other Parties to the Constitution", Horton declared.

Chapter XXXVI of 13 United States Statutes at Large (1864) provides that:

"said state (Nevada), when formed, shall be admitted into the Union upon an equal footing with the original states in all respects whatsoever."

The Presidential Proclamation signed by Abraham Lincoln 31 October 1864, echoed the same requirement:

"... the said State of Nevada is admitted into the Union on an equal footing with the original states."

"Nevada could not have been on an 'equal footing' if she did not have sovereign ownership of her land". Attorney Horton pointed out.

"Nevada has always owned her public lands", Horton noted. "Federal bureaucrats can have no authority from the Constitution to rule over the public lands. The Constitution gives no such authority. Their present control is due solely to the fact that Nevada has, until now, allowed it."

Nevada Governor Robert List, then Attorney General, in a 66-page opinion, "Equal Footing Doctrine and Its Application by Congress and the Courts", May 1977, noted:

"The constitutional doctrine of equality of states, also referred to as the equal footing doctrine, is a well settled truism of constitutional law although the term 'equal footing' does not appear in the United States Constitution, nor was it employed in the Articles of Confederation."

In *Escanaba Co. v. Chicago*, 107 U.S. 678 (1883), Mr. Justice Field writing for the United States Supreme Court described the State of Illinois' admission to the Union:

"On her admission she at once became entitled to and possessed of all the rights of dominion and sovereignty which belonged to the original States. She was admitted, and could be admitted, only on the same footing with them. The language of the resolution admitting her is 'on an equal footing with the original States in all respects whatsoever'. 3 Stat. 536. Equality of constitutional rights and power is the condition of all the States of the Union, old and new."

"What is the solution to a problem where the Constitution requires one thing and bureaucrats are doing something else?", asked Mr. Horton during public debate on the Nevada 'public lands' issue, 19 August 1976.

"The solution", he said, "is simple, Enforce the Law. It is as important for the Nevada State Legislature to pass statutes that stop violations of the Constitution as it is to pass statutes prohibiting burglary or robbery."

The framers of the Constitution understood this clearly. Many members of the Kentucky legislature of 1799 knew personally those who had set up the Constitution. On 19 November 1799 the Kentucky legislature resolved:

"Whensoever the general government assumes undelegated powers, its acts are unauthorized, void and of no force; that to the Contract (the Constitution) each State acceded as a State and is an integral party; its co-states forming as to itself, the other party; that government created by this Contract was not made the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion, and not the Constitution, the measure of its powers. But, that as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself as well of infraction as of the mode and measure of redress."

James Madison said:

"The ultimate right of the parties to the Constitutional Compact to judge whether the Compact has been dangerously violated, must extend to violations by one delegated authority as well as by another; by the judiciary as well as by executive; or the legislature."

"But it is not just a right of the State Legislature to enforce the Constitution with regard to Nevada's public lands", Attorney Horton said in his 1976 testimony. "It is a duty. Each

(continued page 2)

SCOPE (cont.)

State legislator is bound by his oath 'to support this Constitution'. By 'this Constitution' is meant the Agreement between the States as the framers and adopters intended it."

The New York legislature of 1833 roundly condemned: "The dangerous heresy that the Constitution is to be interpreted not by the well understood intentions of those who framed and those who adopted it, but by what can be made out of its words by ingenious interpretation".

Mr. Madison's Report puts an end to this subterfuge that would destroy the Constitution:

"If the decision of the judiciary be raised above the authority of the sovereign parties to the Constitution, the decisions of the other departments, not carried by the forms of the Constitution before the judiciary, must be equally authoritative and final with the decisions of that department.... However true therefore it may be that the judicial department is, in all questions submitted to it by the forms of the Constitution to decide in the last resort, this resort

must necessarily be the last in relation to the other departments of the government; not in relation to the rights of the Parties to the Constitutional Compact, from which the judicial as well as the other departments hold their delegated trust. On any other hypothesis, the delegation of the judicial power, would annul the authority delegating it; and the concurrence of this department with the others in usurped powers, might subvert forever, and beyond the possible reach of any rightful remedy, the very Constitution which all were instituted to preserve."

"The rule of law: 'A sovereignty is never estopped', means that a State is never prevented by delay from exercising any of its powers", charged Mr. Horton.

Nevada's Assembly Bill No. 413 declaring sovereignty over 49 million acres of land within State borders is an example of a State exercising its sovereign powers. It is a beginning.

Shouldn't your State legislators be told about the Nevada action?

end

FACTS BEHIND THE NATIONAL CRISIS*

*From a thirty minute television interview with Archibald E. Roberts, Lt. Col., AUS, ret., Director, Committee to Restore the Constitution, Inc., and Mr. John Adams, KQTV, St. Joseph, Missouri 6 April 1979.

MR. ADAMS: Our guest today is Lt. Col. Archibald Roberts. Mr. Roberts, or Colonel, what should I call you?

COL. ROBERTS: Whatever you like John. Whatever you are comfortable with.

MR. ADAMS: Colonel, you are a retired Lt. Col. from the United States Army. Could you give us first of all a little background. I know why you are here, we'll go into that later.

COL. ROBERTS: 'OK' John. I am the director of the Committee to Restore the Constitution, a national organization headquartered in Fort Collins, Colorado. The Committee is involved in bringing the facts behind the national crisis to the attention of the American people. Now, we know that there are many who talk about problems in America. The Committee is unique in that we offer a solution to those problems. Perhaps, we can start talking about the solution rather than just the problem itself.

My position, at least here, while on this tour, is to speak around the States of Kansas and Missouri to help our chapters, (we are organized by county chapters), to assist in bringing these facts before county commissions and state legislative bodies. For example, in the State of Kansas we have a concurrent Resolution #5010 which calls for the formation of a joint committee of the state legislature to investigate federal regionalism and land control. Now, we have gone through this process in the State of Missouri. In fact, we did this two years ago.

MR. ADAMS: 'OK'. Before we go any further, could you explain federal regionalism and land control.

COL. ROBERTS: You bet. Unfortunately, although the impact of federal regionalism is directly associated with the problems that Americans are faced with today, such as capricious zoning laws, land control laws, gun legislation, forced busing, socialized medicine, and a host of impositions placed on the American people without their knowledge or consent, there is really very little knowledge about the source of these problems. The core issue, John, is federal regionalism. Federal regionalism is a new kind of government which was created by former President Richard M. Nixon in 1969. On the 27th of March of that year, Mr. Nixon merged the fifty sovereign states into ten federal regions in violation, I might add, of the prohibitions of Section 3, Article IV, of the Constitution...

MR. ADAMS: Which is...

THE SILENT REVOLUTION

COL. ROBERTS: Which prohibits the merger of two or more states into larger political units. This act was, of course, in violation of the Constitution. But, I think it sets the stage for everything that has happened since. The creation of regional government established the provincial capitols. For example,

the capitol for Kansas and Missouri is Kansas City, provincial capitol for federal region VII.

Now the reason that regional government is illegal, is that it replaces elected officials with appointees. And the way it does it is by the use of federal revenue sharing funds withheld or awarded on the basis of whether or not a local unit of government will go along with regional guidelines and administrative laws set up by the regional headquarters. This is fiscal blackmail. It's the use of tax dollars to coerce local units of government into going along with regional government and the impositions inherent in the program. So, we are confronted by the violation of law. Law is the absence of force. But here we have appointed officials under regional government using tax dollars to blackmail local governments into adopting regional programs. This is the danger inherent in regional government. It is a new kind of government imposed upon the people without their knowledge or consent.

What we are asking the State legislatures in Kansas and in Missouri to do is to define the law. The law is the Constitution of the United States, John. If it is found that any of these programs under regional government violate specific prohibitions of the Constitution, it is clear that the state legislators, each of whom has taken an oath of office to defend and preserve the Constitution, must do whatever is necessary to enforce the Articles of the Constitution within the borders of the state.

That is the basis of our campaign. Number one, to show that federal regionalism does change local and state government without the knowledge or consent of the people. Number two, that federal regionalism seeks to change or modify the freedoms of person or property (such as the rights of private property guaranteed under the Fifth Amendment). And third, to prove that federal regionalism is an attempt to overthrow the Constitution and erect a new kind of government on the ruins of the Republic.

MR. ADAMS: You are saying that President Nixon had in mind, had plotted to overthrow the government...

HIDDEN POWER BEHIND REVOLUTION

COL. ROBERTS: John, we have to get into the origin of this problem. I think it is clear that the revolution of the magnitude that we are talking about, could not be achieved by any individual, much less the college revolutionary, or the black community, or the Chicano community. None of these have the necessary financial authority to create the kind of revolution that we are talking about. Mr. Nixon called regional government a "silent revolution" and it is certainly that because it is changing the face of our government all over the United States. When we talk about Mr. Nixon launching federal regionalism we are merely talking about a man who was used as an instrument to create a new kind of government by the passage of Executive Order #11647, Executive Orders, unconstitutional as they are, therefore indicate that some power, some vast authority, forced the President and all of the succeeding administrations to go along with this conspiracy (your word). But the conspiracy is real. We have found by our

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own investigations, John, that regional government is a consolidation of government into a new system. In other words, a centrally controlled government from Washington, D.C. But the necessary financing of this kind of control over our federal government is exercised by the tax-exempt foundations. In our own research, now over nineteen years of investigation...

MR. ADAMS: Are you talking about churches and foundations like that?

COL. ROBERTS: No, we are talking about the Rockefeller Foundation and the Carnegie Foundation and the Ford Foundation. These are the foundations that funded the regional revolution in the United States. For example, John, when we examined the situation in the states to locate the origins of these new administrative laws and regulations, we found in Montana, for example, that the new Constitution for the State of Montana (allegedly originating in the halls of the Montana State University in Bozeman) was not the product of post-graduate students that were promoting this but rather that they had received a blueprint for the introduction of a new constitution for Montana from the Brookings Institution.

The Brookings Institution, we found by further research, is funded by the Rockefellers. So here we have a clear example of the kind of insidious control and the emotionalizing and propagandizing of the people of Montana to enter into an alleged review of the old Constitution to introduce the new one.

We also found that the new Constitution for the State of Montana did not originate in the halls of the state legislature as the Montana people were told. Instead, the new Constitution was taken out of what is called ACIR Blue Book. The Advisory Commission on Intergovernmental Relations Blue Book is a collection of ten major works. All of them deal with specific facets of the economy, the government, society itself, and that there is a collection therefore of recommended laws, regulations, administrative procedures, set up by a mail order house called the Advisory Commission in Intergovernmental Relations. We also found that the ACIR is a quasi-legal end of government and that it was launched and initiated and inspired by the Rockefeller family, in this case, Nelson Rockefeller. So we have, over the years, shown the interlock of this silent revolution with vast resources which have been accumulated under the tax-exempt foundations, some of which I have identified. We are in fact talking about a conspiracy as you suggest.

MR. ADAMS: What would Nelson Rockefeller, who was once a Vice President of the United States, have to gain by overthrowing the Constitution?

GOVERNMENT AS A BUSINESS

COL. ROBERTS: Well, I think everything, John. Because you see at the turn of the century, where we must begin, these families, Ford, Rockefeller, and Carnegie, are involved in a master plan to change the form of government in the United States from a republic with elected officials to a centralized government controlled from Washington. They realized that the most profitable business in the world, or at least in the United States, is government. Government is the most profitable business because government can allocate special privileges, such as tax exemption, and privileges in industry and finance. This means, therefore, that those who control the government can write the rules for the advancement of their own interests.

Therefore, the interlocking and international governments that we are dealing with, and we are now an international government, and of the multi-national corporations and international banking system, such as the Chase Manhattan Bank, mean that we are subjects of a world government concept. Regional government is world government in action at the local level. In other words, regionalism is the replacement of elected officials with appointees who are responsible, not to the electorate, but to a central government operating under what is called administrative law. Regionalism is a government of men rather than law. And this is the issue that we are bringing before the people.

MR. ADAMS: Are you saying... maybe I have you wrong here. I want to clear something up. Are you saying that it was Nelson Rockefeller's plan in effect, maybe not immediately but in the future looking on down the road, that it might have been Nelson Rockefeller's plan to rule the world?

COL. ROBERTS: Well, you are talking about the generation of Nelson Rockefeller, whereas we are talking about families. This is a continuity. None of this could occur overnight. Revolutions not only are expensive, but they take long periods of time to gestate. So what we are talking about is the end result of a long period of preparation.

MR. ADAMS: I see.

NEWSTATES CONSTITUTION

COL. ROBERTS: And when we speak about this kind of operation, let me give you an example. Perhaps, you recall that in 1976 which was our Bicentennial celebration that there was some talk about the Constitution being reviewed to determine if it was a horse and buggy constitution. What most Americans were not aware of is that the Constitutional Convention was to be used as a springboard for degrading the U.S. Constitution and to introduce what is called the Newstates Constitution. The fact is, you see, that although that first move failed, there is a thirteen year campaign on right now to introduce that Newstates Constitution and replace the Constitution of the United States. The interesting thing about this, John, is that the Newstates Constitution was prepared at what is called the Center for the Study of Democratic Institutions in Santa Barbara, California. The Center for the Study of Democratic Institutions took ten years to prepare the so-called Newstates Constitution. The cost was \$2.5 million a year for ten years. That is \$25 million. We believe, therefore, that the people who financed this study, to prepare what is called the Newstates Constitution, are sincere. They really believe that they can replace the Constitution with this new document.

Now, the financing for this \$2.5 million a year came from the Ford Foundation, and it is called the Fund for the Republic. This is the evidence that we must understand. Despite the ignorance, or perhaps the deliberate withholding of information from the American people regarding these moves, the end results are real.

The Newstates Constitution was published in a book called the "Emerging Constitution" by Rexford G. Tugwell. Rexford Tugwell is a Socialist. He has a long history of promoting world government and the system that we now are witness to. The Newstates Constitution produced by Mr. Tugwell and 100 other change artists at the center in California, is an attempt to validate the so-called merging of the fifty states into ten federal regions. It also proposes that our government shall be a government of appointees rather than elected officials.

So, we know that they have already prepared a largely secret program to eventually coerce the American people by various types of emergencies. I think if you read the paper you can see that. The objective is to condition us to believe that we must have a new modernized kind of government under this Newstates Constitution. The fact is that all of the apparatus, that is, the new government called regional government, already exists. We do have the new provincial capitol in Kansas City for a four-state region. We do have the Councils of Government which combine the formerly free counties of the states. Therefore, we have already established this third layer of government.

MR. ADAMS: I may be wrong, excuse me, but it is my understanding that the reason regional government or the regions were set up under the Nixon administration was simply to consolidate a lot of work that was ordinarily done by governmental agencies in each state and we put them all together in one office, in this case, you are pointing out our region, Kansas City, which you are terming a capitol of the region. But that is the largest city in the region with the exception of St. Louis, that's the largest city in the four states and it is located closest to the center of the four-state area and it makes sense to the federal government that if you are going to save money by consolidation that you would want to have the city that you do it in in the most central point to that. Is that a logical argument?

WHAT IS THE LAW?

COL. ROBERTS: Logical, perhaps. But legal is something else. We are not really talking about streamlining government. We're not really talking about bringing government closer to the people. We're not really talking about efficiency in government, because all of these stated

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FACTS (cont.)

aims obviously have proven to be false. They are propaganda ploys. The reality is that we are talking about "what is the law?". The law is the Constitution of the United States. If these programs, however emotionally attractive they may be, if they violate the prohibitions of the Constitution, then we are involved in a revolution. In other words, an attempt to overthrow the Constitution.

MR. ADAMS: Why didn't anybody in government point this out or see this as a violation to the Constitution? Are they part of this conspiracy?

COL. ROBERTS: No, not necessarily so, John. We use the word conspiracy mostly to identify those agencies and consolidations of political and financial power which inspired the program.

MR. ADAMS: The Rockefeller Foundation.

COL. ROBERTS: Yes. We do not necessarily mean those who are brought into the system, and this includes government officials as well as elected officials in Washington, because they, of course, pass the laws or the administrative laws, which have promoted this program. It does not mean that they have to be a part of the conspiracy itself in order to support it. The federal agency is not going to warn us that what they are doing is illegal because then they would be subject to criminal sanctions under Title 18, U.S. Criminal Code. Those individuals who are found to be in collusion to overthrow the Constitution are subject to criminal sanctions. Obviously they are not going to suggest that they are doing something in violation of their oath of office.

The reason that we go to the state legislature for corrective legislation and corrective action, John, is not because the federal government is supreme. Quite the reverse. You see, under the Constitution, the states, the first thirteen states, then sovereign nations, created the central government by the first three Articles of the Constitution. This means that we are talking about principal versus agent. That is, the state is the principal. It has the power and the authority to correct the excesses of its agents in Washington. We have been bound, that is, the American people and the states and their local governments, have been bound by the action, the illegal actions, of agencies in Washington, because the principal, the state, has so far failed to challenge the unconstitutional acts of its agents.

MR. ADAMS: Would you suggest one of the things that we touched on earlier, Colonel, was the fact that it was a type of blackmail to get the governments to go along with because of revenue sharing. And you suggest that we may rid ourselves of revenue sharing? Would that be one solution?

NO FREE LUNCH

COL. ROBERTS: There is, of course, that to consider, but I think that the reality is that revenue sharing is on the way out because it is bankrupting the federal government. We are already bankrupt. We are a trillion dollars in debt. So that is a minor issue. What regional agents are sharing is not money but debt. What happens is that when revenue sharing allocations are made on the basis of specific funding of programs, then whether it be a multi-county sewage system or whatever the case might be, that eventually those federal funds are terminated. They begin with the federal government allegedly financing up to eighty percent of the cost but after a year or two the federal government funds run out and the local unit of government must then raise the taxes, or the mill levy on private property, in order to meet the increased costs. Now, this happened in Colorado, my state, where the government budget for the State of Colorado, twenty years ago, was three hundred million dollars. Last year the budget was one billion three hundred million dollars. That increase is totally due to the mandated programs set up by Federal Region VIII in Denver, Colorado.

This is the reality of the so-called free lunch, that is, revenue sharing funds. There is no free lunch. Eventually the producer, the farmer, rancher, businessman, and so on, must pay for these programs. They are bankrupting the business community, the farm and ranch people. All across the nation this is a pattern of destruction of the producing element of this society.

MR. ADAMS: You don't see yourself as a Senator McCarthy of the 1970's or anything like that?

COL. ROBERTS: Well, that is a little inaccurate. Let me point out that in Indiana where we are very active, we have formed coalitions with other organizations which are similarly concerned. This includes the Catholic Church and the Baptists involved in the Right to Life, for example. It includes sports organizations, gun owners, and so on. Our representation in the State of Indiana now totals one million people. We have a voice in the State Legislature.

It is because of this concern, and hurt of the individual citizen, that we are able to bring together the disenfranchised and the exploited citizens of whatever level and to point out how their particular problem relates to a central core problem: regional government. Therefore the solution must be the elimination of this third layer of government called federal regionalism. When that is done, all of the evils flowing from regional government will dissipate.

MR. ADAMS: When you are having your meetings like you are having some in Kansas right now, do you find a good turnout?

THE CONSTITUTIONAL CONVENTION TECHNIQUE

MR. ADAMS: A recent poll showed that most people in the United States, most Americans, are on the wave length right now where they think that the less federal government, the better. Now, this obviously goes along with you so you are not having any problem finding that true in the places that you are going to.

COL. ROBERTS: No. What we have found difficult in some instances is to translate an individual's problem, loss of a farm, for example, because of elevated taxes, or in the case of the tractorcade in Kansas, to the realization that the march on Washington by tractors would not solve the problem, because Washington is the source of the problem rather than the source of its solution. We had to translate that issue of parity into its proper context, which is that the federal government sets the rules which will eventually bankrupt the individual and independent farmer and to put him off the land so that they are able to create what is called a corporate farm. In other words, vast areas controlled by a central agency of farm produce manufacturing. This means that we are going into a system where Americans will soon find themselves serfs on the land that once was theirs. Americans will be merely producers on the land, but have no title to it. These are the realities that we must finally grapple with. The problem is much greater than merely one man's problem. But one man's problem translated into a solution will solve everybody's problem.

MR. ADAMS: Do you support the recent move that's going on right now to meet for constitutional convention?

COL. ROBERTS: Well, this, of course, has been a very emotional issue. The Constitutional Convention technique, John, is a means to capitalize on the dissidence and on the emotional issues or factions which deal with balancing the federal budget, or gun control, water control, land control, or whatever, and the assurances that if a Constitutional Convention is called it will deal only with that narrow issue of balancing the budget. But the reality, John, is that when a Constitutional Convention is called, if it is called, it will not be limited to any particular issue. The representatives who go on to this meeting will be given carte blanche by the states and if you remember when we had our first Constitutional Convention they threw out the original Articles of Confederation and the delegates adopted a completely new law, the Constitution of the United States.

So a Constitutional Convention is not limiting and we know that the Constitutional Convention is indeed being promoted and advanced through these various agencies controlled by such groups as the tax-exempt foundations for that very purpose. In other words, it is a very sophisticated revolution to exploit the American people by these various interest areas and to bring them into a main stream of demand for a Constitutional Convention. But, what is forgotten is that the same people who created the Newstates Constitution will control that so-called Constitutional Convention.

MR. ADAMS: Thank you very much. We're running out of time, Colonel. Our guest has been Colonel Archibald Roberts, Committee to Restore the Constitution, Fort Collins, Colorado.

end

COMMITTEE TO RESTORE THE CONSTITUTION, Inc.

"If every person has the right to defend - even by force - his person, his liberty, and his property, then it follows that a group of men have the right to organize and support a common force to protect these rights constantly." THE LAW, by Frederic Bastiat, Paris, 1850.

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NEVADA CLAIMS VAST "GOVERNMENT LANDS"

GOV. ROBERT LIST SIGNS BILL DECLARING STATE SOVEREIGNTY OVER 49 MILLION ACRES OF TERRITORY "OWNED" BY FEDERAL GOVERNMENT. ALASKA, OREGON, OTHERS MAY FOLLOW.



Nevada's legislature passed and Governor Robert List signed in early June a State law of such mind-boggling magnitude that it makes inflation and energy issues picayune by comparison.

Central to Nevada's challenge of federal claim to western lands is the "equal footing doctrine" which describes the admission and status of new states on a basis of constitutional equality of right and power with the original States. The doctrine prohibits Congress from imposing, by consent or otherwise, conditions on admission to statehood which infringe upon the equality of the new state in relation to the other States.

Implementing statute is Nevada Assembly Bill No. 413, dated 15 February 1979, "AN ACT relating to public lands; creating a board of review; providing for state control of certain lands within the state boundaries; providing penalties; making an appropriation; and providing other matters properly relating thereto".

The Nevada law flows from a Senate Bill No. 398, dated 25 March 1977, drafted by Attorney T. David Horton, Counsel, Committee to Restore the Constitution, a Colorado non-profit corporation. (See, "Nevada Challenges 'Public Lands' Concept", CRC Committee of Correspondence letter, April 1978.)

Horton's argument is that the land clearly belongs to the State of Nevada by way of the Constitution; it merely needs enforcement; it is not a matter of the federal government giving or approving anything.

"Article 1, Section 8, Clause 17 of the Constitution". Horton says, "specifically restricts federal agencies and prohibits them from having any lands within the boundaries of a state once formed unless: 1. They are purchased; 2. Consent of the Legislature is given; 3. They are used for the erection of forts, arsenals, dockyards or other needful buildings."

Complaints, authorities and provisions of the 1979 Act are set out in seven pages of text. Among its highlights:

SEC. 5. 1. Subject to existing rights, all public lands in Nevada and all minerals not previously appropriated are the property of the State of Nevada and subject to its jurisdiction and control.

SEC. 5. 3. Public lands in Nevada which have been administered by the United States under international treaties or interstate compacts must continue to be administered by the state in conformance with those treaties or compacts.

SEC. 7. 3. All proceeds of fees, rents, royalties or other money paid to the state under sections 2 to 9, inclusive, of this act must be deposited with the state treasurer for credit to the state general fund.

Nevada's Attorney General Robert List (prior to his election to the office of Governor) enunciated the sovereignty of the State regarding unappropriated lands within its border in a sixty-six page opinion, "Equal Footing Doctrine and Its Application by Congress and the Courts", May 1977.

"The Power of Congress to admit new States into the Union does not carry with it the authority to maintain colonies or territories in perpetuity", said the Attorney General. "The retention under federal

dominion in perpetuity of vast areas of public lands within the boundaries of a State by Congress is an exercise of a power after statehood which is denied by the Constitution before statehood. Such a situation places the equal footing doctrine in direct conflict with the Property Clause, a conflict, which if litigated, might well result in a Supreme Court holding that Congress must pursue an active plan of disposal of unappropriated public lands", he said.

Harassed by Bureau of Land Management excesses, mining and ranching interests have spurred Nevada into calling on other western states to join in battle against federal dominion over state lands. Nevada's Legislature has appropriated \$250,000 to back their challenge.

The Nevada action involves no less than 87% of the entire State. That's how much is now under federal dominion. In all western states the federal government controls 607 million acres. That much land is more than twice the area of all European countries combined. One-third of the State of Colorado is controlled by the federal government, and the percentage for other western states is eye-popping: 96.4% of Alaska; 66.2% of Utah; 63.7% of Idaho; 52.3% of Oregon; and 45% of California. The U.S. Government claims 64% of all land in 13 western states - in contradiction to constitutional prohibitions.

Nevada argues that the U.S. Constitution and historic court rulings show the U.S. government was supposed to hold these lands in trust and turn them over to the territories when statehood was achieved. The State wants the revenues from the vast acreage involved. Ranchers fear that Washington,

(continued page 2)

NEVADA (cont.)

under pressure from environmentalists wielding lawsuits, will cut back grazing on public lands. Ranchers and miners are in a rage over congressionally ordered plans to create new wilderness areas.

Constitutionally and historically the law is on the side of Nevada. Sovereignty over lands and resources within the borders of each of the original thirteen colonies, which by constitutional compact created the Union, is clearly set out in the Declaration of Independence:

"We, therefore, the representatives of the United States of America in General Congress assembled...solemnly publish and declare That these United Colonies are, and of right ought to be free and independent states...; and that as free and independent states, they have full power...to do all other acts and things which independent states may of right do."

Significantly, Article II, Articles of Confederation, adopted by the Continental Congress 15 November 1777, confirmed the sovereignty of each state.

"Each State retains its sovereignty, freedom and independence and every power, jurisdiction, and right, which is not by this confederation expressly delegated to the United States..."

Further, Article IX provided that no state shall be "deprived of territory for the benefit of the United States".

At the time the Constitution became effective (1789) and the thirteen independent nations became a Union, each state had, and continues to retain, dominion, title, as well as jurisdiction of all lands within its borders.

"The internal sovereignty of these States was complete from the time they declared themselves free, sovereign and independent States and became thus entitled to all the rights and powers of sovereign states." *Harcourt v. Gaillard*, 1827, 12 Wheat. 523 527.

In a related case the Bureau of Land Management, attempting to appropriate coal under 91,780 acres of privately owned land in Alabama, has instituted litigation against 47 property owners and coal mining companies charging "trespass".

Mr. James Free, Washington correspondent for the BIRMINGHAM NEWS, stated in an article, "Lawyer Says State Owns Coal Lands in Dispute", 11 March; "But David Horton, a Carson City, Nevada Attorney and long time fighter against what he calls federal usurpation of state's property,

says that all this coal really belongs to the State of Alabama. And he cites the U.S. Constitution and an 1845 U.S. Supreme Court decision to back up his claim".

The Supreme Court decision cited by Horton came in the case of *Pollard vs. Hagan*. At issue was an attempt by Congress to retain control over public land in Alabama and Mississippi as a condition to their admission into the Union.

The two States refused to disclaim title to the public lands in their respective borders, and the issue was brought to federal court, which ruled that:

"The United States have no constitutional capacity to exercise municipal jurisdiction, sovereignty, or eminent domain, within the limits of a state, or elsewhere, except in cases in which it is expressly granted."

The high court also declared, "The right of Alabama and every other new state to exercise all the powers of government which belongs to and may be exercised by the original states of the Union, must be admitted".

Horton said this ruling has never been overturned and suggested that the Alabama Legislature use its power to "block the pretensions of Bureau of Land Management bureaucrats".

In Oregon Representative Curt Wolfer's House Bill No. 2430 defining, "title to 'public lands' be vested in the State of Oregon", received initial hearing 3 May 1979. Testifying in favor was Archibald E. Roberts, Lt. Col., AUS, ret., Director, Committee to Restore the Constitution.

Patterned after Nevada's original Senate Bill No. 398, the Oregon bill is undergoing modification in compliance with recommendations by members of the Agriculture and National Resources Committee, according to Mr. Michael Kelsay, Legislative Aide.

In Alaska Representative Ray Metcalfe's House Bill No. 398 claiming 'public lands' for the State, will be introduced when the legislature reconvenes on 14 January 1980, reported Ms. Jennie Noah, Administrative Assistant, Legal Services Division.

Nevada's Legislature has focused the attention of legislators and citizens on an issue of immense importance: enforcement of the U.S. Constitution within the borders of the State.

The Denver ROCKY MOUNTAIN NEWS, in an editorial of 10 June, "Landlord of West", concluded, "Should Nevada prove successful in its land grab, it could do more to change the physical nature of our nation than anything since the Louisiana and Alaska land purchases".

REGIONAL BUREAUCRACY PART IV

TRANSCRIPT OF TESTIMONY BEFORE JOINT INDIANA COMMITTEE ON CORRECTIVE LEGISLATION

CONTINUED FROM THE JULY CRC BULLETIN

One of the clearest examples of this can be found in the history of the Habeas Corpus Act which all lawyers take for granted today. But it was not always so. There was a time when six members of the British Parliament were seized on the streets of London and thrown into the Tower of London for refusing to vote the King's revenue at a time when all British citizens had a right of habeas corpus. But it was only after the British Parliament enacted the Habeas Corpus Act and gave effective process to the vindication of that right, that we today can enjoy that right of habeas corpus.

Similarly, so far as the limitation in the Constitutional compact is concerned, they are very plain and very clear and we have a milieu of examples of where federal agents have exceeded these expressly enumerated powers. The question for this legislature and for any legislature is to determine whether or not they are going to continue to implicitly ratify the unauthorized acts of its' agents.

So far as the acts of regionalizers in Indiana are concerned, they are acting as agents of the State, because they have no authority under the Constitution. The Constitution prohibits...

SENATOR EDWARDS: Excuse me, but do... what may be the theory of this act is one thing, and I think we all understand what you are striving toward and I am not trying to initiate a Constitutional debate or a legal debate between lawyers, which I happen to also be on occasion when I am not practicing the legislative practice, but what is the intent and what is in fact written before us and we are asked to consider as a document may vary. What you are saying to me and what I read in this document, are not necessarily the same thing. I am concerned as a technician that if in fact this does require us to make a judicial decision. I am still not satisfied that you have given me an answer to that question.

MR. HORTON: No, I am saying that you are making a finding, a legislative finding.

SENATOR EDWARDS: But you are asking us to declare something void.

MR. HORTON: This is correct.

SENATOR EDWARDS: And you don't consider that to be a judicial determination.

MR. HORTON: Oh, no. Just like the powers of contempt are not the exclusive province of a court. But legislatures have the

(continued page 3)

power to directly punish for contempt just like courts do. Similarly if the legislature finds that there is an attempt in 11647 to exercise: (1) powers that were not delegated by this state in agreeing to the Constitution; (2) to exercise them in a manner that is prohibited by the agreement itself. In other words, being legislative in nature and being exercised by so-called Executive Order.

SENATOR EDWARDS: Let me ask you a question as a constitutional lawyer, do you not agree with the concept that the constitutionality of an Executive Order is well established?

MR. HORTON: Oh, heavens no. By no means. In other words, there is such a thing as a valid Executive Order. This is something where a head of a department, in this case the President, tells the Secretary of State or the Secretary of Defense what to do. But that's not the nature...

SENATOR EDWARDS: But, I think you are agreeing with me in the fact that we may be disagreeing or debating whether or not in fact this executive order is constitutional. But I think, if I understand the answer to your question, you are really saying that you do agree that the constitutionality of an executive order, assuming that we can both agree that the content is proper, is well established.

MR. HORTON: There is such a thing as a valid Executive Order, yes. 11647 happens to not be one of them.

SENATOR EDWARDS: That may be exactly right and the only thing that concerns me as a legislature is that you are asking us to make that determination and we are really crossing the separation of powers into the judicial branch of government.

MR. HORTON: Well, I think if you look at it as a question of defining what the problem is that you are addressing yourselves to legislatively, then you won't find the quandry or the qualms that many lawyers will feel. In other words, we lawyers are part of this problem. We continually think in terms of handling situations such as this by bringing a lawsuit. You have a client come into your office as a private practitioner with a problem. If you don't know what the answer is off the top of your head or you can't find it in a book, you say we can always put our nickel, or your thousand dollars as the case may be, into the slot machine of this litigation, pull the handle, it will come out jackpot or lemons.

SENATOR EDWARDS: Well, maybe you do that in Nevada. I don't know that we do that here.

MR. HORTON: I think in this particular case...

SENATOR EDWARDS: Paramutual has been declared unconstitutional in the State of Indiana.

MR. HORTON: I think that you will find this sort of thing go on in every law shop. The point, however, is in trying to address it in the terms that we ordinarily use as lawyers. We overlook the plenary power of the state in dealing with the basic constitutional infraction. And it is this that the statute is addressed to.

Now, if you feel, for example, that the description in the statute is too broad, it is perfectly feasible to single it out for specific use. For example, if it were addressed specifically to the actions of OSHA, you have probably had plenty of problems here, they have had plenty of problems in South Dakota for example, so much so have they had problems that they have solved their problems almost without a statute, but they are still coming in with a statute patterned after this that is addressed to the question of there being no authority in the federal agencies to address themselves to the general police powers exercised under OSHA. Therefore the act in South Dakota of the OSHA-crats can be, and if the bill passes, will be made a criminal act. And it will also provide several remedies for its enforcement.

SENATOR EDWARDS: I would point out in Indiana we're still attempting to fight regionalism and federalism by using Indiana's own version of OSHA and operate under that rather than under the federal...

MR. HORTON: Well, I don't know whether that's necessarily fighting... Of course it's... if you are going to have to take a pill like that you may prefer to have one with a local sugar coating. But when the shots are called, by the life tenure bureaucrats and in an area that is specifically prohibited to them by the Constitution, then it is whether you have a formal OSHA bill in Indiana or not. It is, again, the state power that is being used or misused in these areas.

SENATOR EDWARDS: Well, I don't think you and I basically disagree in conceptual arguments on federalism. I think my concern is one of a technical nature as to the nature of this bill. I won't utilize all the time. Representative Becker, you indicated you had a question.

REP. BECKER: Thank you, Mr. Chairman. I don't care who answers this question. Somebody that is learned in the particular bill.

We as legislators are sworn to uphold the Constitution. One of the things that we are not able to legislate is a criminal act that is vague. The Constitution has been interpreted to say that any criminal law cannot be vague. In other words, the man on the street has to know what the law is so that if he does commit the crime he does know at the time that he is committing a crime.

Now, my question with the bill that is before us today deals in that area and section II says "any act by branch or agency of the federal government purporting to group a state or states into a 'so-called region' is void in Indiana" and then the penalties come afterward.

My question is, can anybody please describe for us, and the list may go on and on and on, but, what is a so-called region so that the citizens of the State of Indiana and the elected officials would know when they are treading upon this criminal activity.

MR. HORTON: I think that in the front of the April '78 issue of the Committee of Correspondence of the Committee to Restore the Constitution, you will find identified in the broad black lines the various regions that are referred to in Executive Order 11647 and it means that if you have an effort after Senate Bill 100 becomes law, for example, in Region V, I believe it is, for governmental powers to be exercised that have an effect in Indiana, even though they may have an effect in Illinois, where they may not object to it, or in Wisconsin where they may not object to it. If it has an effect in Indiana to this precise extent, the Constitution is being violated because the states, in spite of its prohibition, are being combined to that precise extent. In that respect it is an additional violation of the Constitution.

Now, that would be prohibitive conduct. Examples of it will depend upon what they are trying to do. But if they are trying to, by means of Executive Order 11647, exercise any kind of governmental power on a regionalistic basis then they had better stay out of Indiana.

Now, so far as whether or not to modify Senate Bill 100 in order to limit its scope. This concern of not having specifically defined criminal acts set out, is something that can be handled very nicely by using, let's say, an OSHA modification. You can have an EPA modification if they are giving you some trouble there.

I learned at the first meeting of the interim committee that you were even having a public land problem. We've got a dandy bill in Nevada that will do the trick beautifully.

The important thing is not that all bases be covered, but that a base start to be covered. Once the state starts to use its legislative powers to correct constitutional infractions, the writing will be plainly on the wall. I anticipate that if, let's say, the Public Lands Bill goes through in Nevada, that our BLM bureaucrats who try to control 88% of the State will come to the office, if they don't transfer them out, which is option number one. They will take the phone off the hook, they will lock the door behind them and they will sit there and read funny papers rather than run the risk of being accused of the prohibitive conduct that is in the proposed Senate Bill 398.

Now, this is perfectly precise enough to stop the type of prohibited conduct that you are trying to arrest. We haven't tried, even in the Lands Bill, to cover all of the areas that public lands are involved in. We left out the so-called 'green hornets'. The Forest Service. But it was thought to be technically completely immaterial whether they were put in or weren't put in, because they would realize that in the definition of what lands this bill applies to. Two words alone would be needed in the event the Forest Service continued to get out of line.

So if you make a start and cover one base, take any base you want, if you make a start and start to correct the constitutional infractions in any area, you will find that the benefits of that permeate the entire state and a lot of your problems won't arise.

REP. BECKER: You would agree then that this is vague. As the bill is written here.

BUREAUCRACY (cont.)

MR. HORTON: I don't feel that it's vague because if you look at 11647 and see what they are trying to do and you lay that along side of...

REP. BECKER: Excuse me, this bill doesn't... preamble... But the law itself, that part that the elected officials are going to be held accountable for says "any act by a branch or agency of the federal government purporting to group a state or states into a so-called region" and anybody that is an elected official that purports to enforce or uphold, which I think would mean anybody that has a dealing with that, would be committing a crime in the State of Indiana.

Now, I would tend to agree with what you are saying at the last, and maybe we would be better off picking a few examples and saying that is bad and unconstitutional and we're not going to support that in the State of Indiana. I personally have a problem with the language being too vague and that if we do anything we end up being declared unconstitutional to begin with.

MR. HORTON: What ever you feel comfortable with is the thing to go with. The important thing is not to try to fix all infractions in one fell swoop. The important thing is to start and if you start in one little corner you will find that the whole picture begins to improve.

SENATOR EDWARDS: Senator Peterson.

SENATOR PETERSON: Senator Edwards, ladies and gentlemen, I appreciate your testimony very much. I am not sure who may want to answer the question, whomever feels that it is most appropriate.

I think all of us share your concern for bureaucracy whether it be at the federal level or the state level. I think all of us encounter bureaucracy at the local level. Senator Edwards and Representative Becker's questions are very much legal points that I think are well taken and should be well considered by your group.

I'd like to ask you a question about the thrust of your philosophical approach. Mr. Dodd's remarks concern me somewhat. I think there will be legislation passed in this General Assembly that may well be unconstitutional and there may be aspects of what you are fighting against that may well at some time be unconstitutional. Yet, I don't think there is a legislator in this General Assembly who is involved in any conspiracy to destroy mayors or county commissioners. Isn't it possible that what you are fighting against is a difference in philosophy? But when you come to us and find a conspiracy dating back to prior, to World War I, to destroy our government, beginning with the various foundations, do you consider the various Presidents from Wilson forward to be a part of that conspiracy or do you consider them duped by that conspiracy? Or is it possible that it is not a conspiracy, that within our great government, exist people who differ in philosophy and at one time or another we have the federal government or local governments or even state government extending themselves beyond their constitutional limits?

MR. HORTON: I think you are going to get two barrels on this. Col. Roberts has indicated he wants seconds.

I would say that it is not entirely by any means the result of a conspiracy. Many things happened that are not a result of a conspiracy. However, I think the best way to gauge what they are up to is by what they say themselves. In this case the Carnegie-Hiss Foundation, they call it the Carnegie Peace Foundation, but as Mr. Dodd has pointed out to you they were engaged in other activities that explain not just the original objectives of those who formed it, but some of the very anomalous conduct of such presidents as Nicholas Murray Butler and various others who have preceded to use this grant-making power in a way where I think it could best be described as a conspiracy.

However, this is immaterial as to whether or not the state can or should do something about it. The basic question is what is the end result. If the result is something that goes against the basic structure of constitutional limitation and the authority and responsibility of elected officials to keep their powers, not because we locals are perfect, but because we are more accountable and also we are more lawful. A state legislature is a plenary body. It has all legislative powers unless it is prohibited by either the state or the federal Constitution. The exact reciprocal is the case with Congress. Yet we find the Congress legislating in all kinds of different

areas. Or pretending to. They may do this in this state and in any other state as long as the body having the authority to speak for the state in its highest sovereign capacity, does nothing. They don't need any authority under the Constitution because they can get all the authority they need from usurpation.

But usurpation is a bilateral act and it is not necessarily the result of conspiracy. Even when good-meaning people and sometimes they are the most dangerous, come forward and undertake to exercise governmental powers that are prohibited under the Constitution, because they have such pure motives and humanitarian aims. Sometimes they can do a lot more damage than the actual scoundrel who is merely trying to line his pocket. I'd a lot rather deal in law enforcement with a scoundrel than with a fool.

Similarly, when it comes to determining whether it is a philosophical difference or whether it is the result of people putting their heads together, conspirators curiously enough, tend not to let us in on their secrets until after it is too late to remedy the deprivations. Consequently, even the law of conspiracy is governed by inferences, circumstantial evidence that you can't use in other types of crimes, for example. Because of the covert nature of it. But from the legislative standpoint, it is completely immaterial as to whether it is the result of a conspiracy or not. The question is does it violate the terms of the compact and if it does, do you want to continue to ratify it?

I'll pass this over to the Colonel.

COL. ROBERTS: Mr. Chairman, I would respectfully recommend the refocusing of the members of this Committee on the reality that now confronts us, namely, that we are involved in a revolution.

I do not believe that it is pertinent to discuss the detail as to whether or not this body, at this point, has authority to deal with revolution. I believe that it is clearly the responsibility of this body to deal with the revolution called federal regionalism. It is obviously going to deteriorate into a much more serious aspect unless something is done. The fact that federal regionalism itself is a conspiracy, I think, is evident. It is evident from not only the material that we have provided this evening, but in the documents that are presented to the two Committees.

One of these is the Newstates Constitution. The Newstates Constitution is the result of ten years of study by the Center for the Study of Democratic Institutions in Santa Barbara, California. That study was funded by the Ford Foundation in the amount of two and a half million dollars a year for ten years, an investment of twenty-five million dollars. The preparation of this Newstates Constitution, which is to replace the Constitution of the United States, is prima facie evidence that we are dealing with a revolution of such magnitude that it cannot be ignored by this or any other state legislative body. It is a conspiracy. It is funded by those agencies which do have vast financial resources and political authority available to them. Namely, the vast reservoirs of money collected under the tax exempt foundations.

It is therefore the responsibility of courageous men and women in this legislative body to challenge the conspiracy, to call a halt to the march toward dictatorship. To expose and to explain that this Newstates Constitution is a reality and that it is the objective to call a constitutional convention in the Congress of the United States for the purpose of introducing this Newstates Constitution.

This Newstates Constitution, incidentally, is taken out of "The Emerging Constitution" by Rexford G. Tugwell, who is the principal author of the Newstates Constitution. Those of you who are familiar with Rexford G. Tugwell, realize that he is a Socialist and that this new Constitution does reflect a Socialist government for the United States of America to replace elected officials in the Congress with appointees under regional government. To give color of law, to validate the regional concept by the merger of the states into the ten federal regions.

These are conspiracy movements. They are funded, as Mr. Dodd so eloquently pointed out, by the tax-exempt foundation families who began this conspiracy at the turn of the century.

It is within your powers to reverse this revolution and to restore control of government to the people of Indiana where it properly belongs.

end



COMMITTEE OF CORRESPONDENCE

"Each of us has a natural right—from God—to defend his person, his liberty and his property. These are the three basic requirements of life, the preservation of any one of them is completely dependent upon the preservation of the other two."

THE LAW, by Frederic Bastiat, Paris, June 1850

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Fort Collins, Colorado 80522

GROWING STRUGGLE FOR STATE SOVEREIGNTY



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I-Numbered Regions

●-Regional Capitols

-Emerging Sovereign States

Legislators in five more States (since April 1977) have joined the growing struggle for state sovereignty and constitutional law.

Michigan, Iowa, Nebraska, Colorado and Idaho, united with Indiana, Oregon, Illinois, Kansas, Georgia, Ohio, Texas, New Mexico, Wisconsin, South Dakota, Minnesota, Nevada and Missouri, have introduced implementing resolutions or activated state commissions to consider charges by the Committee to Restore the Constitution that the federal regional concept: (1) Seeks to transfer political authority from elected officials to appointed regional planners, (2) Intends to seize control of private property and production facilities, and (3) Is an attempt to erect a socialist state upon the ruins of the Republic.

Completed public hearings in Indiana, Missouri and South Dakota confirm the indictment of "criminal conspiracy." Both Senate and House bodies of the South Dakota legislature voted "do pass" on a corrective statute which would have placed the power and authority of the State at the disposal of individuals who challenge federal executive orders, administrative laws, and other unconstitutional edicts. On 24 February 1978, Governor Richard F. Kneip vetoed Senate Bill No. 102 thus denying the people of South Dakota protection against the

tyranny of federal regionalism. Governor Kneip's unconscionable action, contemptuous of his oath "...to defend and preserve this Constitution", and the people of South Dakota he was elected to serve, promises serious countermeasures by an already exasperated electorate.

A similar situation, with equally explosive potential, exists in Indiana where Senator Robert J. Fair, Chairman, Rules and Legislative Procedures Committee, blocked voting by Senate and House members on Senate Bill No. 16. SB Sixteen would have "outlawed" regional governance in Indiana; provided criminal sanctions for violators, and offered injured citizens legal remedy to recover property and damages sustained as a result of regional planning and programming. Irate men and women promise to blow the dome off the Indiana State Capitol Building when the legislature reconvenes.

Insolent, tax-gorged and Washington-pampered regional administrators, who consider elected officials expendable, are part of the problem of national crisis. Their removal by corrective state legislation is the beginning of a solution to the problem.

The criminal few who oppose the people will perish.

NEVADA CHALLENGES "PUBLIC LANDS" CONCEPT

State legislative remedy aimed at wresting control of sixty-million acres of Nevada land from the federal government, Senate Bill No. 398, introduced by Senator Norm Glaser and Senator Rick Blakemore, continues to generate both public and private support in Nevada, and in other western States where similar conditions of federal control over vast tracts of real estate exist.

Attorney T. David Horton of Battle Mountain, Nevada, legal counsel for the Committee to Restore the Constitution said in testimony before the Senate Natural Resources Committee on 6 April, 1977, twelve days after its introduction, that, "SB #398 may be the most important piece of legislation in Nevada's history; it will open up our vast resources to development rather than restrictions and stagnation; it will broaden our economic base and increase our economic autonomy; it is developing the type of measure that will protect Nevada gaming from any further federal crusade against it."

SB #398, "An ACT relating to public lands; creating the Nevada lands commission; providing penalties; making an appropriation; and providing other matters properly relating thereto", addresses the problem of State sovereignty involving eighty-seven percent of the total land area in the State.

Senator Glaser explained that the bill was patterned after the initiative petition that was widely circulated throughout the State. Thrust of the petition drive was inspired by Mr. Horton's erudite assessment of "Equal Footing Doctrine", set out in a definitive, "Public Lands and Federal Bureaucracy", article, CRC bulletin, January 1977.

The proposed statute "deals with a problem that has plagued Nevadans for over 100 years", Glaser told his fellow lawmakers. The problem was the domination of public lands in Nevada by federal agencies. These problems "were brought into sharp focus last year with the passage of the Bureau of Land Management Act", he said. The regulations to implement the Act were an example of "government by men, and not by law." He said ranchers, miners and sportsmen "all are beginning to feel the pressure."

"Senate Bill 398 will bring control (of Nevada land) to the Legislature", Glaser said.

Senator Richard Blakemore, alluding to possible coercive reaction by federal agencies, told the committee that the threat of loss of federal funds for highway construction was "a bug-a-boo." States with no federally-controlled lands within their borders receive seventy-five percent federal funding. Nevada gets about ninety-five percent for construction and nothing for maintenance. "If we drop to the lowest rate," Blakemore continued, "we would still get seventy-five percent government (federal) construction funds." In addition, Nevada would get the revenues from the public lands now garnered by the Bureau of Land Management.

Horton's argument is that the land clearly belongs to the State of Nevada by way of the Constitution; it merely needs enforcement; it is not a matter of the federal government giving or approving anything. "Article I, Section 8, Clause 17 of the Constitution specifically restricts federal agencies and prohibits them from having any lands within the boundaries of a state once formed unless: 1. They are purchased; 2. Consent of the Legislature is given; 3. They are used for the erection of forts, arsenals, dockyards or other needful buildings."

Horton asked, "What can be done when our Constitution says one thing and the processes of law have become twisted so as to do what the law forbids? The answer to usurpation has always been - not litigation - but legislation - define the law and then enforce it."

"The citizens of Nevada strongly support the efforts of this committee and the Nevada Legislature to bring to Nevada the enjoyment of all the sovereign rights of a Member of the Constitutional Compact - rights that Nevada had always had - rights that she must now exercise if she is to keep from surrendering them; not to the Divine Right of Kings, that was our enemy in former times, but to the Divine Right of Bureaucrats."

Nevada State Attorney General, Robert List, further enunciated the sovereignty of the State regarding unappropriated lands within its border in a sixty-six page opinion, "Equal Footing Doctrine and Its Application by Congress and the Courts", May, 1977.

"The equal footing doctrine is a Supreme Court created doctrine", said Mr. List in a concluding summary, "which describes the admission and status of new States on a basis of constitutional equality of right and power with the original States. The doctrine prohibits Congress from imposing by consent or otherwise conditions on admission to statehood which infringe upon the equality of the new State in relation to the other States. Such conditions are invalid except insofar as they are a recognition of the limitation placed upon the States under the Constitution or as legislation within Congress' granted powers. The equal footing doctrine is generally concerned with political matters, but it does include areas of significant property interests."

"The power of Congress to admit new States into the Union does not carry with it the authority to maintain colonies or territories in perpetuity," he said. "The retention under federal dominion in perpetuity of vast areas of public lands within the boundaries of a State by Congress is an exercise of a power after statehood which is denied by the

Constitution before statehood. Such a situation places the equal footing doctrine in direct conflict with the Property Clause. A conflict which, if litigated, might well result in a Supreme Court holding that Congress must pursue an active plan of disposal of unappropriated public lands."

An article by Laura Horton, HUMBOLDT SUN, Winnemucca, Nevada, 21 April 1977, revealed a great number of land-oriented organization spokesmen testifying in favor of SB #398, and confirming opinion by individual citizens.

Dwayne Worthington, Chairman, Northeastern Nevada Miners and Prospectors Association, observed, "What becomes of Nevada's Public Lands can best be decided by the People of the State. Nevada's land should be governed by Nevadans, not by the

(continued on page 4)

S.B. 398

SENATE BILL NO. 398—SENATORS GLASER AND BLAKEMORE

March 25, 1977

Referred to Committee on Natural Resources

SUMMARY—Provides for control of certain public lands by State of Nevada, (BDR 26-1000)

FISCAL NOTE: Local Government Impact: No.
State or Industrial Insurance Impact: Contains Appropriation.

Explanation—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to public lands; creating the Nevada lands commission; providing for state control of certain lands within the state boundaries; providing penalties; making an appropriation; and providing other matters properly relating thereto.

1 WHEREAS, The intent of the framers of the Constitution of the United
2 States was to guarantee to each of the states sovereignty over all matters
3 within its boundaries except for those powers specifically granted to the
4 United States as agent of the states;

5 WHEREAS, The imposition upon the State of Nevada by the Congress of
6 the United States of a requirement in the enabling act that Nevada "dis-
7 claim all right and title to the unappropriated public lands lying within
8 said territory," as a condition precedent to acceptance of Nevada into
9 the Union, was an act beyond the power of the Congress of the United
10 States and is thus void;

11 WHEREAS, The purported right of ownership and control of the public
12 lands within the State of Nevada by the United States is without founda-
13 tion and violates the clear intent of the Constitution of the United States;
14 and

15 WHEREAS, The exercise of such dominion and control of the public
16 lands within the State of Nevada by the United States works a severe,
17 continuous and debilitating hardship upon the people of the State of
18 Nevada, now, therefore,

19 The People of the State of Nevada, represented in Senate and Assembly,
20 do enact as follows:

21 Section 1, Chapter 321 of NRS is hereby amended by adding
22 thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

23 SEC. 2 As used in sections 2 to 10, inclusive, of this act, unless the
24 context otherwise requires

1 1. "Commission" means the Nevada lands commission.
2 2. "Public lands" means all lands within the exterior boundaries of
3 the State of Nevada except lands:

4 (a) To which title is held by any private person or entity;
5 (b) To which title was held by the State of Nevada or any of its local
6 governments before July 1, 1977;

7 (c) Which are located within national parks, monuments or other rec-
8 reational areas;

9 (d) Which are controlled by the United States Department of Defense
10 or Bureau of Reclamation; or

11 (e) Which are subject to treaties between the United States and Indian
12 tribes.

13 SEC. 3. 1. There is hereby created the Nevada lands commission.

14 2. The commission consists of:

15 (a) Twenty members who shall be elected from the state senatorial
16 districts in the same proportionate numbers as senators are elected; and
17 (b) A chairman, who shall be appointed by the governor. The chairman
18 shall preside over the commission and may vote only in the event of a
19 tie among the commissioners present.

20 3. Except for initial appointments, the members of the commission
21 shall be elected in nonpartisan elections when members of the legislature
22 are elected and shall serve for terms of 2 years.

23 SEC. 4. 1. The commission may contract for or employ such pro-
24 fessional and clerical personnel as are needed to carry out its functions.

25 2. The commission may adopt rules for its own governance, but no
26 regulation which imposes any limitation upon the people of Nevada is
27 effective until approved by the legislature.

28 SEC. 5. 1. The commission shall manage the public lands of the state
29 in an orderly and beneficial manner.

30 2. The commission may sell, lease, exchange or encumber the public
31 lands when specifically authorized to do so by an act of the legislature
32 and under the terms and conditions set forth in the act.

33 3. No public lands may be disposed of before July 1, 1979, except
34 for any sales or exchanges which were pending on July 1, 1977.

35 SEC. 6. 1. Subject to existing rights of the people, on and after July
36 1, 1977, all public lands in Nevada, all waters on and below the surface
37 of the land and all minerals not previously appropriated are the exclusive
38 property of the State of Nevada.

39 2. Until equivalent measures are enacted by the State of Nevada,
40 the rights and privileges of the people of the State of Nevada under the
41 National Forest Reserve Transfer Act (16 U.S.C. §§ 471 et seq.), the
42 General Mining Laws (30 U.S.C. §§ 21 et seq.), the Homestead Act (43
43 U.S.C. §§ 161 et seq.), the Taylor Grazing Act (43 U.S.C. §§ 315 et
44 seq.) and the Desert Land Act (43 U.S.C. §§ 321 et seq.) and all rights
45 of way and easements for public utilities shall be preserved under admin-
46 istration by the state.

47 3. Public lands in Nevada which have been administered by the
48 United States under international treaties or interstate compacts shall con-
49 tinue to be administered by the state in conformance with those treaties or
50 compacts.

— 3 —

1 SEC. 7. The public lands of Nevada shall be used to the greatest
2 extent possible for recreation, wildlife habitat, agriculture, mineral and
3 timber production and for the development, production and transmission
4 of energy and other public utility services under principles of multiple use
5 which provide maximum benefit to the people of Nevada.

6 SEC. 8. The annual fees charged for grazing leases shall not exceed
7 the fair market value of the leases, as determined upon consideration of
8 the prices for livestock and the costs of raising livestock. Each lease shall
9 provide for a term of not more than 10 years.

10 SEC. 9. All proceeds of sales, fees, rents, royalties or other money paid
11 to the state under sections 2 to 10, inclusive, of this act shall be deposited
12 with the state treasurer for credit to the state general fund.

13 SEC. 10. 1. The State of Nevada has exclusive jurisdiction to enforce
14 the provisions of sections 2 to 9, inclusive, of this act.

15 2. A citizen of Nevada may institute civil action to recover damages
16 for any injury or loss which he sustains as the result of any violation of
17 sections 2 to 9, inclusive, of this act.

18 3. Any person who attempts to exercise jurisdiction over the public
19 lands in a manner not permitted by the laws of the State of Nevada shall
20 be punished by imprisonment in the state prison for not less than 2 years
21 nor more than 10 years.

22 4. Any corporation or other entity which attempts to exercise juris-
23 diction over the public lands in a manner not permitted by the laws of the
24 State of Nevada shall be punished by a fine of not more than \$5,000.

25 SEC. 11. 1. The legislative commission shall conduct a study of the
26 public lands of Nevada to determine:

27 (a) Which lands should be made available for disposition; and
28 (b) Which lands should be retained by the state as habitats for wild-
29 life or for recreational or other public purposes.

30 2. The legislative commission shall submit a report of its findings
31 and recommendations to the 60th session of the legislature.

32 SEC. 12. The governor shall appoint the first members of the Nevada
33 lands commission, who shall be representatives from the senatorial dis-
34 tricts in the same numbers as senators are elected, and who shall serve
35 until November 7, 1978.

36 SEC. 13. 1. There is hereby appropriated to the Nevada lands com-
37 mission from the state general fund the sum of \$125,000 for the biennium
38 beginning July 1, 1977, and ending June 30, 1979, for support of the
39 commission in carrying out the purposes of this act.

40 2. After June 30, 1979, the unencumbered balance of the appropria-
41 tion made in subsection 1 shall not be encumbered and shall revert to
42 the state general fund.

*T. David Horton, Attorney, Battle Mountain, Nevada, member, District of Columbia, Virginia and Nevada Bar, Chairman, Executive Council, Defenders of the American Constitution, Inc., Publisher, Square Dollar Series, Professional witness before numerous Congressional Committees, Graduate, Ohio State University, American University, Washington, DC, Catholic University, Washington, DC, and Hamilton College, Clinton, New York. Legal Counsel, Committee to Restore the Constitution, Inc.

NATIONAL RIFLE ASSOCIATION STILL HAS TROUBLES...

By Major Reginald Shinn, Chairman pro tem, AMERICAN PISTOL AND REVOLVER ASSOCIATION

With the revolution that took place in Cincinnati in 1978 at the annual meeting of the National Rifle Association, it appeared that the pro-gun and pro-Constitution group (for which the N.R.A. had been established) had regained control of the organization from the hands of certain "environmentalists" who seemed to be following the recommendations of the Oram Report which would have decentralized the pro-gun advocates of N.R.A. and developed N.R.A. into a "Sierra Club" type structure.

When the revolt was over, and the smoke cleared, some of the top echelon people had been removed from office without mercy and Mr. Harlan Carter was chosen as the Executive Vice-President and Robert Kukla, who had been an assistant to Carter, was selected to head the Institute of Legislative Action.

THE FIRING OF KUKLA

However, all was not perfect, and during the period from the hiring of Kukla until the quarterly Executive Committee meeting in Sacramento, California on January 4th, there was fear that the job of fighting gun control was not being adequately handled, and eventually there arose a rift between Harlan Carter and Bob Kukla and the followers of each leaving the vast majority of members wondering "Wot happened!" Being that both men are very popular with the general membership, and with the A.P.R.A. membership as well, any rift is a detriment to N.R.A. and N.R.A. is the loser.

Your Chairman pro tem was honored to have been present at this meeting and present during the hearings, and it was his impression that the hearing was held on a very "professional" basis, and that there was no ill will shown toward Mr. Kukla by any of the Committee members and that the only concern was whether or not the personal problems of Mr. Kukla would preclude him from performing the important tasks of the future.

It was your Chairman's opinion that the past was judged by the Committee to judge the future, and no more. There was good reason to retain Kukla and there was also sufficient doubt to relieve him from his duties: it was a difficult decision, indeed!

A NEW SPECTOR ON THE HORIZON

While there did not seem to be much publicity on the matter in the mass media, the "gun" and "hunter" periodicals, of course, carried many articles and one of the most interesting was that of a series of questions asked of both Carter and Kukla and taped with their permissions. Later, both conversations were given voice stress analysis, a modern lie-detecting technique. While the results were inconclusive and left the reader to make up his own mind on the details of the rift, they seemed to show that Harlan Carter may have had more difficulty in his recollection of events.

The questions that were asked appeared not to reach into

the question of future performance, but, rather, into past matters.

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION GUN-CONTROL MEASURES AND THE DEVELOPMENT OF A NATIONAL POLICE FORCE

Now comes an accusation that is easily resolvable: that the N.R.A. has been taken over by L.E.A.A. forces. If the accusation is accurate, then N.R.A. members have reason for alarm, and A.P.R.A. should take an active part; because L.E.A.A. is one of the most insidious disasters to have ever been voted into law by the Congress.

Not only is L.E.A.A. silently getting gun control laws passed by the various State legislatures without proper notice to the public, it is well on its way to establishing a National Police Force through Revenue Sharing procedures and through the "Regional Government" wherein the United States was divided into ten separate States by Executive Order of Richard Nixon while the newspaper and TV headlines featured his trip to Communist China in betrayal of the freedom-loving Chinese people.

If our N.R.A. leaders are embracing L.E.A.A., then N.R.A. is being defeated in their pro-gun stance from within; and the N.R.A. support for L.E.A.A. is self-defeating.

A formal resolution denouncing L.E.A.A. and asking for its abolition by the Congress would clear the air and reassure the N.R.A. membership.

A NECESSARY RESOLUTION

Be it resolved, then, for the assurance of all concerned, that the National Rifle Association go on record of favoring abolition of the Law Enforcement Assistance Administration in recognition that a National Police Force has been developed and that gun-control bills are being passed in the State Legislatures; and that such are inconsistent with and incompatible to a free society; and, that such forces are contrary to the dictates of that great contract between man and his government, the United States Constitution.

A.P.R.A. has, as one of its objectives, the free, unfettered right to keep and bear arms, and A.P.R.A. opposes all gun registrations and all other restrictions upon gun owners; and it would be in keeping for A.P.R.A. to pass a similar resolution to outlaw L.E.A.A. as a threat to our freedom; and as a threat to remove from the people the means by which Citizens can protect themselves from oppressive government.

A.P.R.A. and N.R.A. members will never be interested in living in a society where a National Police Force exists and has all the guns while the citizens have none.

Such a resolution will be prepared and presented to the N.R.A. membership in Salt Lake City in April, and all Life Members are urged to attend.

NEVADA CHALLENGES (cont.)

Washington demi-gods and leeches." Worthington presented the committee with petitions containing over 2,000 signatures of registered voters who support the Nevada Public Lands Ownership Act.

Doug Miller, chairman of the State Advisory Mining Board, State President of the Miners and Prospectors Association, Member of the Nevada Mining Association, Western Mining Council and Northeastern Nevada Miners and Prospectors Association, said, "We the taxpayers buy all the highway maintenance, including I-80.

"In 1975 we produced in this State 258.4 million dollars. This year, \$211.2 million. Take five percent of that as our net mining proceeds.

"The federal agencies in their overall plans are taking over all the activities that the State normally has. Can you imagine the Legislature legislating on 13 percent of our land in the State of Nevada for 650,000 people? Somewhere along the line we have to meet our adulthood. I think Nevada has now reached it. I just can't see further harassment and controls by federal agencies when we are still able to take care of our own needs."

Chuck White, Executive Vice President, Nevada Farm

Bureau, said, "We support State ownership of lands managed on a multiple use concept. The legislation before you at this time really is just the first step on a very long trip. And we can only make that trip if we can make that first step. We would urge your passage of this bill."

The American Legion, Chamber of Commerce, County Commissions, Development Corporations, Land Action Association, Veterans of Foreign Wars, Nevada Cattlemen's Association, Citizens Against Bureaucracy, American Institute of Mining Engineers, and other organization spokesmen testified in favor of the bill. No one testified against Senate Bill No. 398.

"All the States east of the Mississippi River have been given back their public lands, (but) the government has retained public lands in many of the western states, including Nevada", Senator Glaser observed.

The legislation proposed by Senators Glaser and Blakemore would create a Land Commission empowered to sell, lease, or exchange land in Nevada when authorized to do so by the State Legislature.

Full text of the bill accompanies this article.

Times 8/15/77

Legislators Visit Nevada

Four Alaska legislators will travel to Nevada the first week in September for a meeting with Nevada state officials regarding Nevada's challenge to federal land ownership within its boundaries.

Recent action by the Nevada Legislature requires the state of Nevada to proceed to court on the issue, which has become known as "the Sagebrush Rebellion."

The Alaska Legislative Council has named a special committee to consider how the challenge relates to Alaska. Sens. Mike Colletta and Pat Rodey and Reps. Bill Miles and Joe Hayes, all of Anchorage, are the committee members.

Colletta said Friday the committee has been directed to report back to the council this fall after "seeing what is necessary to get Alaska involved."

"I also spoke informally to the attorney general (Avrum Gross)," Colletta said. "He said we could hire private counsel, if we were more comfortable."

The plan is to talk to the Nevada officials "and see the best way we can help them," the senator added. "We are going to decide whether to join their suit, when it is filed, or file our own law suit. There's a lot of confusion over this issue."



Attorney General Avrum Gross has decided not to move into the court building, according to Rep. Russ Meekins.

State panels named

The Associated Press

JUNEAU — Legislators have been named to consider what Alaska might do to support Nevada's so-called "sage brush rebellion" and to grab additional office space in the State Capitol from the attorney general.

In addition, a committee will be named to consider a look at Alaska's future patterned after a Brookings Institute project following the first sale of Prudhoe Bay oil leases 10 years ago.

Attorney General Avrum Gross has reversed a previous decision to vacate the offices on the fourth floor of the capitol and move across the street to the court building, according to Rep. Russ Meekins.

"I'd ask the help of the Legislative Council in getting the fourth floor," Meekins said. Meekins also said that Rep. Jim Duncan, chairman of the joint Budget and Audit Committee, has been told to vacate his fourth floor offices.

Funds had been appropriated to construct a skywalk from the capitol to the court building, but there has been disagreement on what floors it would link, according to members of the Legislative Council.

Sen. George Hohman, chairman of the council, named a committee of House and Senate members to approach Gross on the question.

The attorney general has said that legislators cannot move an administration department.

The council also established a committee to study recent legislation passed by the Nevada Legislature, which provides the basis of an expected lawsuit challenging federal ownership of lands under the Bureau of Land Management in that state.

Rep. Fred Brown and Sen. Pat Rodey said that while Alaska's attorney general has said the Nevada law is clearly unconstitutional, there are other legal issues which Alaska should be willing to support, perhaps by joining in the lawsuit.

"There are lots of other legal issues that have not been explored to any depth," Rodey said. Several legislators will meet with Nevada officials later this month.

The Alaska future study was suggested by Sen. George Hohman, to look at what kind of followup has been made to the Brookings study 10 years ago.

Citizens from throughout the state would be involved in the project, examining the state's mineral revenues, human resources and environment.

The Legislative Council was also told that negotiations for an out-of-court settlement are being conducted with Sharman Haley, a self-professed socialist who was fired from her legislative research job after she participated in a demonstration on the capitol steps.

She was later reinstated, given back pay, then fired before the research division was dismantled.

She has claimed her constitutional rights to free speech were violated and filed suit.