

H B

8

HOUSE RESOURCES
STANDING COMMITTEE
March 11, 1982
5:30 p.m.

Members Present: Reps. Fanning and Sutcliffe, Co-Chairmen
Rep. Grussendorf
Rep. Barnes
Rep. Vaska

Members Absent: Rep. Carney
Rep. Halford

COMMITTEE CALENDAR

HB 667 "Relating to State control of land"

HB 8 "Relating to management and control of State land"

WITNESS REGISTER

Rep. Dick Randolph
Pouch V
Juneau, Alaska 99811
(907)465-4821
Position Statement: Prime sponsor of HB 8 - Tundra Rebellion

Dan Copeland
Soldotna
No address available
No telephone number available
Position Statement: To testify on HB 8

Lynette Clark
Fairbanks
No address available
No telephone number available
Position Statement: To testify on HB 8

Charles Adams
Anchorage
No address available
No telephone number available
Position Statement: To testify on both HB 8 and HB 667

Sen. Dean Rhoads
Nevada State Senator
No address available
No telephone number available
Position Statement: To speak on Sagebrush Rebellion/Tudra
Rebellion

Jim Bogart
Soldotna
No address available
No telephone number available
Position Statement: To speak on HB 667

Sandy Terrant
Fairbanks
No address available
No telephone number available
Position Statement: To speak on HB 8 and HB 667

Jimmy Montgonery
Soldotna
No address available
No telephone number available
Position Statement: To speak on HB 8 and HB 667

John Stephan
Soldotna
No address available
No telephone number available
Position Statement: To speak on HB 667

Les Anderson
Soldotna
No address available
No telephone number available
Position Statement: To speak on HB 8

Larry Haden
Anchorage
No address available
No telephone number available
Position Statement: To speak on law bills.

HB 8 Previous action unavailable

HB 667 Previous action unavailable

ACTION NARRATIVE

Tape #114
Recording
Number 24

(Teleconference) - Rep. Fanning: Several weeks ago a subcommittee for HB 8 and HB 667 was formed. The subcommittee reported back with no recommendations.

Number 38

Rep. Randolph: (Prime sponsor for HB 8 - Sagebrush Rebellion/Tundra Rebellion). Reason for legislation - wants aggressive action by legislation. Discussed map.

showing lands controlled by Federal government. Discussion of lands legislation in lower 48 by other states trying to gain control of their lands. Made not that there is less private land in Alaska than the size of Rhode Island. Mr. Randolph gathered enough signatures to get this concern on the ballot.

Watt has stated he prefers to turn land over to state and local governments. Best opportunity with Reagen in power, and Watt where he is to make significant gains.

Been in touch with Sen. Dean Rhoads (Nevada). He will call and give us a rundown of effort in legislation.

Number 132

Rep. Fanning: Is language in HB 8 and initiative identical? (Randolph's reply: No - Bill is over two years old.)

Number 147

Rep. Fanning: Are there changes that other states have made that we should make? (Randolph's reply: Yes - When we get to the mark-up.)

Number 169

Dan Copeland: Wants definition of land? Likes HB 8 except Sect. 6. Why is 6 included under Sec. 6?

Number 213

Rep. Randolph: They are there because they are needed for uniform legislation. This type of legislation will allow us to have dialog with the Federal government and major concessions.

Number 236

Lynette Clark: Sec. 4 - Federal government now holds over 80% of Alaska lands. The Rebellion was started as a way to tell the Federal government to get out of their lives; and I urge you to pass our legislation.

Number 308

Charles Adams: In favor of both bills. As a hunter, I noted hunting is better when land is in private hands. He has hunted all across the United States.

Number 352

Rep. Fanning to Sen. Dean Rhoads: What are your thoughts on proceeding with legislation? His reply: April 1979, Nevada passed their land bill. Western legislators feel passage of the Tundra Rebellion is very

important. The Land Rebellion was a strong campaigning component in both local and even in the Presidential election.

Since the election, we have less rules and regulations; and a lot of executive orders were suspended. Some lands have been transferred over for community expansion.

In 1980, Congressman Santini introduced a bill in the house, and Senator Hatch introduced a bill in the Senate. Most important of all, I think, is that almost every household in America was exposed to the question, "why should the federal government own one-third of America?"

The Santini/Hatch bills were of course an enhancement to our Sagebrush Rebellion legislation. The Santini legislation (BLM only); had to go through two really tough committees. One chaired by Mo Udall the other by John Seiberling, both of whom are extreme environmentalists. Neither are particularly fond of the Sagebrush Rebellion. We have little chance of a hearing in that committee.

Senator Hatch's bill (including Forest Service and BLM), had several sponsors on it when the bill was introduced. Some Senators have gone so far as to remove their names from the bill later on. I think this is the main reason this situation has worsened. There is practically no chance of a hearing on that particular measure. There is a particularly bad feature of the Hatch bill. That the two most important people on the committee, Senator McClaren, Chairman, and Senator Walt, were not sponsors of the legislation. That makes it tough to get a bill through the committee and the committee chairmanship.

The legislation to transfer lands to states in massive amounts is going to be difficult at this time. Our legal case is pending in the ninth circuit court in San Francisco, and it will take several months before we get an answer.

What we need to do, is to shift gears quietly. We need to continue to pressure legislation such as the Tundra Rebellion;

continue our legal actions, to state, congress and the administration. But, we also need to explore new ground. We need to make massive land exchanges, and we definitely should encourage disposal of surplus lands to be sold to the private sector. We must explore a new era of land ownership, some call it privatization. In the west, and I am sure it would work in Alaska; we could sell surface rights only. Sell it at realistic prices. Present user would have first option on the land, and pay-off would be over a thirty or forty year pay period. All recreation and access rights on all lands should be transferred over to state and local control. We already own the wildlife, there is no reason why we shouldn't manage the habitat. We would let the state and local government resolve conflicts. Gas and oil rights should be retained by the federal government. State and local governments should receive a bigger share of the pie for managing costs. (Side Two of Tape): All of the above revenues, should be ear-marked to reduce the national debt.

As I see it, I am sure as we discuss these issues, it is possible in round-two, of the President's federalism program -- (this is my name for programs of his that may come down the road), that the transfer of control of federal land will be prime candidates for state/local programs. I am sure the passage of the Tundra Rebellion will greatly add support to this direction, particularly to the President's federalist role.

With that, I would like to conclude, and urge you all on the committee to pass the Tundra Rebellion. I think it would serve as a signal back to Washington that we want some changes made.

Number 89

Rep. Randolph: Unfortunately, legislators and the administration could question worth of passing this type of legislation.

Number 102

Rep. Fanning: Alaskans listening can understand delays from U.S. Congress. Re: Earlier testimony from sportsman. There is some opposition and intrepidation on guaranteeing access.

Sen. Rhoads: I will never get support unless access is guaranteed to a reasonable amount. If this had been done before - some of the problems that exist would not.

Questions and Answers - From Rep. Fanning to Sen. Rhoads: As I understand your comment, passage of the Sagebrush Rebellion precludes, and in fact, you would be in agreement with the State mandating the assurance of access to other State lands and across private lands for traditional purposes; such as hunting, (be it subsistence, or sport, and fishing), could and should be mandated.

Let me ask you another question, many legislators up here see as a stumbling block. In the Alaska Legislature, this House Bill has been introduced for several years; but, there are some folks in our legislature who feel that before we deal with this, we should pass an amendment to the constitution of the State; relating to the land disclaimed by the State under the act admitting Alaska into the union. I know that several other western states have that same provision in their constitution, (Article 12 in our constitution - the disclaimer agreement.) I wonder if you could shed some light. Have other states dealt with these issues? In what order? What would your suggestions be?

Senator Rhoads reply: I think our attorney general gave us the best opinion as to what to do with that. We, and other states, considered putting that on the ballot. They told us it wouldn't do us any good, because, congress would also have to reject it. Our attorneys told us, that it is a moot question. It was illegal because prior court cases, (mainly a case in Alabama - Palmer vs. Akin). They did not have the right to make western states put that into their constitution, but they let the eastern and mid western states leave it out. They actually discriminated against us, and Alaska.

We have not gone to the trouble of taking it out of our constitution for this reason: Our attorneys say that when it goes through

the court cycle hopefully, it will be ruled illegal.

Number 200

Larry Hayden: Excellent points were made by Sen. Rhoads. Approves of teleconference. Environment in Washington D.C. is more favorable now than it has been for a long time. At very least, we want a greater partnership in managing Federal lands. Wants legislature to pass bills so Feds know we want more land turned over to the State.

Number 235

Jim Bogart: Disagrees with Rhoads statement that the Federal government should keep subsurface rights when land is released. Likes bill - but why do we have to crawl. The lands belong to us. We don't want part - we want it all. Sec. 38: Property of the people. As Rep. Randolph to speak.

Number 270

Rep. Randolph: The only real reason for limitations was an attempt to write something that would get passed. If parks were in it, it wouldn't pass.

Number 282

Jim Bogart: Why give up mineral rights?

Number 298

Rep. Randolph: In order to achieve conformity with what the other states had passed. I agree with you - but, it was at least a starting point. Progression is good. Passage of HB 8 or initiative is as an impetus to this.

Number 329

Jim Bogart: When will this bill to to a vote?

Number 334

Rep. Fanning: Mark-up will start Monday. We have no direct dates for floor action; but we will try to more it out on Monday.

Number 380

Sandy Terrant: Elected officials should pass legislation, so people know their representatives are working for them.

Number 399

Jimmy Montgomery: When Texas was taken into the United States, they keep all of their Federal lands. Supports all bills.

Number 421

John Stephan: Emphasis in the Kenai moose range has changed. Now emphasis is on fowl, wildlife, then humans, in that order. Supports the bill.

Number 460

Les Anderson: Supports HB 8. It's a shame we have to go through this to get our fair share.

Number 497

Rep. Fanning: If you want to receive the informational packet "Committee on Public Lands", leave your name with the nearest teleconference center.

Number 575

Dan Copeland: Discussion of payment of national debt with land money.

Tape 115 Number 009

Rep. Fanning: Agrees that Alaska should receive surface and subsurface rights.

Number 035

Jim Bogart: I really think you are on the right track. Agrees with remarks made by Stephan. People are now backing away from what the Federal government is doing.

Number 054

Rep. Fanning: There are many volatile issues on the ballot this year. Should the legislators fail to take action on issues the public feels is important, we are fortunate in Alaska to have the initiative process. It is unfortunate that at times legislators are not able to take action in that, we have to bring that process into play. I think that this year, due to the importance of some of the issues, the legislators will get a message loud and clear when the people throughout the State vote on these initiatives that we in the legislature have been unable to come to grips with.

Thank you for your participation and HRC will stand in adjournment. Meeting adjourned at 4:25 p.m.

TUNDRA REBELLION FACT SHEET

By REPRESENTATIVE DICK RANDOLPH

1. What is the Sagebrush Rebellion? Originally under the Constitution, states were sovereign entities which gave the federal government limited powers to act as their agents in such matters as mutual defense and as trustee for lands to be transferred to new states upon admission to the union. This arrangement worked out fairly well for eastern states which have little or no federal land within their boundaries. However, as western states were admitted to the Union, the federal government began to require disclaimers from new states as to their rights to the federal land within their borders as a condition of statehood. These disclaimers did not bother many states because at the time they were made it was federal policy to dispose of these lands anyway. In 1976, however, Congress passed the Federal Land Policy Management Act (Organic Act) which declared that the federal government would from now on hold these lands in perpetuity. This act (FLPMA) touched off the 'sagebrush rebellion' which uses two theories to support it.

(1) FLPMA was a clear breach of trust by the federal government of its Constitutional duty to transfer this land to the states, and

(2) The Constitutional Equal Footing Doctrine requires that western states receive title to this public land on an equal basis with eastern states.

The 'Tundra Rebellion' enacts legislation which declares state ownership of public lands so that through judicial and political efforts, this land can be transferred to local and private interests.

2. Why is the 'Sagebrush Rebellion' important? In Alaska, we refer to this movement as the Tundra Rebellion. Land is the most basic resource in production. Unless land is allowed to be used for human purposes, both recreational and productive, our economy will be stifled and consumers will suffer. Federal policy has been to deter productive use of public lands with the result that our nation is dependent on foreign sources of oil and other minerals. This dependence is unnecessary and has us in a near war situation in the Middle East. Most important is the issue of responsive government and individual freedom. Transfer of these lands to state, local, and ultimately private control insures that those who live on or near this land can decide its best use. That isn't possible when unelected bureaucrats living thousands of miles away control the land. Who has more concern for the land? Those who live on it or unelected bureaucrats in Washington? And who should decide its use, Alaskans or

someone else? Although some question the ability of Alaskans to manage their own land, the 'Tundra Rebellion' asserts that we are worthy and deserving of this trust. With eventual transfer of this land to private hands based on use principles, individuals will have the freedom to decide their destiny and better their lives through use of the land. Thirteen western states (sometimes called the new colonies) contain about 90% of all federal lands. This rebellion has become the new American revolution, fighting a distant federal government which imposes hardships on the western colonies.

3. What are the chances of ultimate success? Clearly, the 'Tundra Rebellion' is Alaska's best chance available to rectify the unjust treatment that it is receiving from the federal government, and to develop the economy of our state. For that reason alone it is worth doing.

So far, six states have passed 'rebellion' legislation. They are Nevada, Utah, Arizona, Washington, Wyoming, and New Mexico. All thirteen western states will hopefully pass this type of legislation by 1981. It is incredible that Alaska, with about 95% of its land in federal ownership, has not taken the lead in this effort.

The 'Rebellion' effort has gone beyond the hopes of judicial satisfaction. Political pressure is mounting. Legislation has been introduced in Congress to rectify the situation, and with western states uniting and increasing the pressure, relief may be coming from that avenue. Although Secretary Andrus disclaims the 'Rebellion's' credibility, he has so far been afraid to challenge Nevada in court, and some Interior Department solicitors have admitted the chances of success for Nevada. There is considerable legal precedence on the side of the rebellion. Three presidential candidates have endorsed the 'rebellion' concept. Votes in state legislatures which have passed this legislation have run 5 to 1 in favor of the 'rebellion.' It is clear that we have everything to gain and nothing to lose by this course of action. The initiative effort will encourage elected officials to act responsibly on this issue.

THE TUNDRA REBELLION
March 5, 1980

This is meant to be an easy to understand explanation of issues involved in a 'Sagebrush Rebellion' type of statute for Alaska and the court proceedings which would follow.

Firstly, one might ask why Alaska should pursue this course at all. The reasoning behind this effort is one of more local control with individual control over one's own life as an ultimate objective. The theory is that federal control offers the least amount of Alaskan and individual choice. If title is transferred into state hands, Alaskans will have more control, and the likelihood of eventual transfer of land into private ownership is greatly enhanced.

Since an understanding of the history of federal land control is essential to seeing the whole picture, and since the courts will likely lean heavily on historical factors, a brief historical sketch is appropriate.

Before the French and Indian Wars, France claimed lands west of the 13 colonies all the way to the Mississippi River. When they lost the French and Indian Wars, France gave this land to England. Upon this grant, the King of England proclaimed these lands to be 'Temporary Indian Land' and unavailable for extension of existing colonies. When the Declaration of Independence occurred, each colony became an independent sovereign state and started making claims to expand westward. Next came the Articles of Confederation.

The Articles of Confederation gave Congress no power to own land within a state. Ordinances and resolutions enacted under the Articles of Confederation confirmed the trust of the public lands and acknowledged the duty of the feds to

dispose of the land. Included in these was the Northwest Ordinance regarding land north of the Ohio River. It provided for the admission of new states on an equal footing and for a duty on Congress to dispose of this land. Congress was to dispose of this land until the area became a state, in which case it would be transferred to the state along with sovereignty.

Under the Articles of Confederation, each state maintained its sovereignty but the federal government was charged with resolving boundary disputes. The Confederacy did not own one foot of land in the original 13 colonies.

Also under the Articles of Confederation, original states were to give back to the federal government claims to westward land which they had made following the Declaration of Independence. This was so the feds could hold this land in trust, both to sell and pay off revolutionary war debts, and to transfer to new states upon admission.

It is the contention of Nevada, based on legal arguments discussed elsewhere, that the new Congress under the Constitution succeeded the old Congress as the trust administrator for the land to be transferred to new states.

The Constitution itself manifests an intention that Congress continue to hold the unappropriated lands in trust. This is evidenced in: (1) property clause of Article IV, Section 3; (2) the framers' intentions to create a federal system of government; (3) from express grant of power to Congress to admit states and implied power to acquire territory; (4) the limitation on the federal government's powers to acquire land for its own use in the "needful buildings" clause of Article I, Section 8; and (5) from the Equal Footing Doctrine. These will be briefly discussed elsewhere.

The first two new states admitted were Vermont and Kentucky in 1791 and 1792. No terms or conditions were placed on their admission to the union and the federal government kept no land within those states. Tennessee was

the third new state admitted in 1796 with specific language in their statehood act which guaranteed them admission on an equal footing with the original states in all respects whatsoever.

As new states were admitted to the Union, very little land was retained by the federal government until the Rocky Mountains were reached. From that point westward, most states had imposed on them, as a condition to becoming a state, that they forever disclaim all rights and title to any lands or other property not granted to the state under the authority of the Act. Because of this term of these statehood acts, many states, including Alaska, wrote into their state constitutions this disclaimer on land. It is interesting to note, however, that Section 3 of the Alaska Statehood Act, also requires that the Constitution of the State of Alaska not be repugnant to the Constitution of the United States. It is clear that any land disclaimers in statehood acts are ineffective to derogate from the grant under the Equal Footing Doctrine.

The Equal Footing Doctrine is a well settled truism of Constitutional law which has been developed by judicial interpretation. The actual term "equal footing" does not appear in either the Constitution or in the Articles of Confederation. The Supreme Court has repeatedly referred to the condition of equality between the states as if it is an inherent attribute of the federal union. In short, the Equal Footing 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. Cases, so far, leave the question open as to the application of the Equal Footing Doctrine to unappropriated lands within a state. At least this establishes no precedent against Alaska. Alaska would have to argue that the subject of unappropriated lands is a necessary incident of internal sovereignty affecting the dominion

or eventual dominion of the state over its unappropriated lands. The leading case on 'Equal Footing' (The Pollard case) clearly establishes that since the original thirteen states were specifically granted ownership of all navigable waters and the land thereunder, then the other states are also entitled to such ownership. This brings up an interesting question regarding federal rights to offshore natural resource rights and wild and scenic rivers designations.

One argument given by opponents of the 'sagebrush rebellion' is that the Equal Footing Doctrine only applies to political rights. This is countered, however, by the Pollard case and the fact that without federal relinquishment of land, states would be denied political "rights" such as large property tax bases.

Another Constitutional area involved in this issue is the "Property Clause" of Article 4 Section 3. This clause gives Congress power to dispose of and make all needful rules and regulations respecting territory or property of the United States. As can be readily seen, this clause is somewhat ambiguous in its application to the trust theory and Equal Footing Doctrine. State's advocates claim that this clause supports their case because it implies that Congress will dispose of its property, rather than keep it forever, and that the 'needful rules and regulations' only refers to those temporary ones which are applicable prior to disposal, or which specify the disposal itself. Opponents, on the other hand, argue that this clause only allows Congress to dispose of United States property if it so chooses, and that if it doesn't, then Congress may establish rules and regulations and keep the land forever. There are many complicated arguments in this regard, with the weight seemingly on the states' side. At any rate, it is likely that if a confrontation were to occur between the Equal Footing Doctrine and the federal government's interpretation of the property clause, the latter would yield. This is because of the relative importance of the two theories. The heavy

importance of the 'federal system of government' inherent in the Equal Footing Doctrine is a cornerstone of the Constitution. As such, it is more persuasive than an ambiguous interpretation of the property clause.

Another important concept in the 'sagebrush rebellion' issue is the "trust theory" which says that the federal government only holds land in trust for states until it can be transferred to them incident to statehood. The Articles of Confederation and ordinances thereunder recognized this trust theory, and, as mentioned in my historical discussion, the argument goes that this trust theory continued to be applied to Congress under the Constitution.

The Supreme Court has intimated on numerous occasions that it would deny the federal government the right to hold public lands permanently without the consent of the state. The Pollard case, mentioned previously, cites that whenever the United States shall have fully executed these trusts, the sovereignty of the new states will be complete throughout their respective borders, and they and the original states will be on an equal footing, in all respects whatever. Other cases indirectly support this trust theory, such as the Dred Scott case, which established that Congress cannot maintain what is in essence a territory or colony within any state in perpetuity.

In addition, a very strong argument can be made that the "necessary buildings, etc" clause of Article I, Section 8 of the Constitution clearly shows an intention for federal public land only to be held in trust. This clause specifically limits the federal government as to what land it can own within a state. This limitation includes forts, magazines and arsenals, dock yards, and other needful buildings upon consent of the state involved.

A brief examination of the constitutional powers of the states and the federal government is applicable to this issue as well. Under our Constitution the federal government was to have limited powers. Powers to remain with the

states were to be numerous and indefinite. Thus the power of the federal government was not to be exercised over internal or local objects such as land within states.

Some see Article 12, Section 12 of the Alaska Constitution as an impediment to a successful 'sagebrush rebellion' for Alaska. It is true that an Alaska 'sagebrush rebellion' initiative might be legally challenged as unconstitutional under Article 12, Section 12. However, this may not be true if the courts hold that federal retention of this land is unconstitutional in terms of the United States Constitution. Obviously, the Alaska Constitution would have to yield. In addition, HJR 51 calls for a constitutional amendment to be placed on the ballot which would take out that hindrance in our State Constitution.

Another potential problem with a successful legal challenge of federal control of Alaska land is the concept of sovereign immunity. This concept says that the federal government cannot be sued except in those cases where it has granted its permission. At first, Nevada was hoping the federal government would initiate suit against them over their statute. It became clear however, that the federal government chose to ignore the statute and put the burden on Nevada to find a way to initiate suit. Unfortunately, Nevada cannot bring the issue up very easily as a counterclaim to an ancillary suit by the feds, since counterclaims may not be for issues other than those which could have been brought as an original suit.

The way out of this dilemma appears to be a federal statute (28 USC 2409a) passed in 1972 which allows certain suits against the federal government in matters of settling title to land. One problem with this vehicle is that it contains a 12 year statute of limitations on suits. This means that any suit thereunder must be brought within 12 years of the date when the action arose or when the plaintiff would have known of the existence of the cause of action. The most likely argument is that since the statute was not in effect until 1972, an action couldn't have been

brought until that time and therefore Nevada, or Alaska, must bring suit by about 1984. Time is on the side of the federal government and they are probably delaying as much as possible and hoping to appropriate or reserve as much of the public land as possible prior to suit. It would behoove Alaska to start this process as soon as possible. Nevada's stance at this time is to wait in hopes of having other states pass similar legislation and join them in the suit. It is obvious that the Supreme Court is a political animal and that unified political pressure by western states will increase the possibility of success. One case relating to this issue pointed this out clearly by making the remark that the Supreme Court is a constitutional convention which is constantly in session.

It is to the state's advantage that there is no precedent on the issue of the Equal Footing Doctrine application to public lands. Alaska and Nevada could argue that not only are they unequal to the original 13 states, but that they are unequal to other public land states.

It is clear that any future suit by states to settle this issue will be based on the theory that the states should have received this land under the Equal Footing Doctrine shortly after statehood. Further, such suit would claim that since the land has not been transferred, it has been held in trust by the federal government for the states. Since there is no adequate remedy at law and since trusts are creations of an equitable nature, the remedy to be sought is an equitable one. The claim would be that the federal government has breached its trust responsibilities and that therefore a new trust administrator should be appointed. The only possibilities for a new trust administrator is the state itself or the courts. The courts do not have the administrative capacity to administer such a trust, and the trust would be virtually terminated if the state became the administrator. One other possibility is that as a remedy in equity, the court would order the feds

to begin the transfer of the land to the states with a timetable and certain conditions on interim management. The courts are reluctant to issue such orders to the federal government because they lack the capabilities to enforce such a decree short of a citation for contempt of court.

It is anyone's guess as to what would result from such a suit. Many guess that even though the legal weight of authority is on the states' side, the courts will find a way to resolve in favor of the feds because of the many years of established federal land management systems. They might be reluctant to disturb those systems. On the other hand, some theorize that the court will find some middle ground compromise position which will transfer at least a portion of the public lands to 'worthy' states on an equitable basis. In the end, since the courts rarely decide issues on the basis of principle, it is clear that political pressure will settle the issue. It is also clear that unless Alaska gains political leadership which will support this effort 100%, it may not be effective. This avenue for gaining state control of public lands appears to be about the only one available to us. If we pass it up, we may not get another chance short of Congressional action, mass civil disobedience, or secession from the United States.

NEVADA LEGISLATURE
SELECT COMMITTEE ON PUBLIC LANDS

LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710



ASSEMBLYMAN KAREN W. HAYES, *Chairman*
SENATOR NORMAN D. GLASER, *Vice Chairman*
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ASSEMBLYMAN ALAN GLOVER
ASSEMBLYMAN DEAN A. RHOADS

STAFF DIRECTOR: ROBERT E. ERICKSON (702) 885-5

March 4, 1982

The Honorable Dick Randolph
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Randolph:

Thank you for your efforts in Alaska along the lines of Nevada's "Sagebrush Rebellion." Although the movement in Alaska has apparently been called the "Tundra Rebellion" because of your lack of sagebrush, we understand that it is basically the same concept as that advocated by Nevada and several other western states.

As you know, it is vital for as many western states as possible to unify in a common protest of the massive and unnecessary federal landholdings in the western United States. Although there is apparently no "appetite" in Congress at present for wholesale land transfers into state or local control, as originally advocated by the "Sagebrush Rebellion," there is growing support on Capitol Hill for disposal of excess federal lands into private ownership. If the legislature and people of Alaska make known their support for a general divestiture of the federal lands, this would be another indication to the politicians in Washington that we in the West are indeed serious regarding public lands issues.

It should also be mentioned that Nevada's attorney general is continuing the fight on the basic issue behind the "Sagebrush Rebellion," namely that Nevada and other western states were deprived of their basic Constitutional rights by not being placed on an "equal footing" with earlier states in respect to the percentage of lands under state and private control. This matter will be reviewed in the next few months in the Ninth U.S. Circuit Court of Appeals. We will keep you informed of our progress along this legal front.

Page 2

Again, thank you for your efforts in Alaska which have complemented our "Sagebrush Rebellion" movement. We strongly encourage you to keep your public lands movement active in Alaska. We need to put as much pressure as possible on the Federal Government in order to reverse the current federal land situation.

Sincerely,



Assemblyman Karen W. Hayes, Chairman
Clark Co. Assembly District No. 13 (D)

Senator Norman D. Glaser, Vice Chairman
Northern Nevada Senatorial District (D)

Senator Don W. Ashworth
Clark County District No. 3 (D)

Senator Richard E. Blakemore
Central Nevada Senatorial District (D)

Assemblyman Alan H. Glover
Assembly District No. 40 (D)

Assemblyman Dean A. Rhoads
Assembly District No. 33 (R)

JAN 12 1982

United States Senate

WASHINGTON, D.C. 20510

January 4, 1982

The Honorable Dick Randolph
Alaska State Legislature
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Dick:

Thank you for your recent letter.

I certainly appreciate and share your concern over the issue of responsible land management. The Sagebrush Rebellion is a major issue in Idaho just as the "Tundra Rebellion" is in Alaska.

The Sagebrush Rebellion has been misrepresented as a land grab, despite numerous safeguards to assure that the lands will remain in government hands. The Western States, which have an excellent record as government land managers, are sending a message to Washington, D.C. that they are capable, if the BLM is not, to manage those government lands responsively and efficiently. The beautiful system of state parks, and state management of wildlife and other natural resources are testament to the fact that the federal government does not have a monopoly on land management talent.

I am a strong supporter of the concept of the Sagebrush Rebellion. I feel it is high time to send a message to the federal land managers that if they are incapable of managing the government lands responsibly and efficiently, that they should turn them over to the states. Consequently, I was pleased when Senator Hatch introduced S. 1245, although there are several reasons why I have not cosponsored the bill.

First, by including the Forest Service in the definition of lands for transfer, the debate will be shifted from the subject of land management to the subject of transfer. That inclusion will defeat the bill, in my opinion, since the Forest Service enjoys a greater reputation for responsive land management than do other land management agencies such as the BLM.

Secondly, the bill allows the state to select the prime federal lands for transfer. Such an action would leave the federal Treasury paying for losses incurred on unprofitable (and unwanted) federal lands. I feel that the land transfers should be complete, that is, they should include all of the land of a federal agency that is not managing the lands to their fullest multiple-use. Again, the issue of the bill should be land management, not land transfer.

The Honorable Dick Randolph
January 4, 1982
Page 2

As this legislation moves through Congress, I will closely monitor its progress, and will be active in its consideration. In the meantime, I will continue to work with Secretary Watt in his efforts to improve the administrative government land management policies.

Thanks for making me aware of your views.

With best regards, I am

Yours for a free society,

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

STEVE SYMMS
United States Senator

SS/wfc



TED SCHWINDEN
GOVERNOR

State of Montana
Office of the Governor
Helena 59620

UAK . . . 2

January 25, 1982

The Honorable Dick Randolph
House of Representatives
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Randolph:

Thank you for your letter of December 18, 1981, explaining some of the issues being covered by your "Tundra Rebellion". In many ways your "Rebellion" parallels that of Montana's "Sagebrush Rebellion".

I hope that you will keep my office informed of your progress and any information pertaining to your "Rebellion".

Sincerely,

A handwritten signature in cursive script that reads "Ted Schwinden".

TED SCHWINDEN
Governor

United States Senate

WASHINGTON, D.C. 20510

FEB 01 1982

January 22, 1982

The Honorable Dick Randolph
Alaska House of Representatives
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Mr. Randolph:

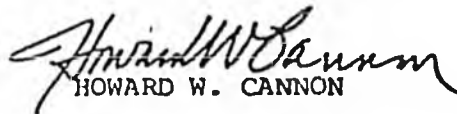
Thank you for your letter advising me of developments in the State of Alaska to secure greater control over present Federal land in that State, which you call the Tundra Rebellion. I appreciate knowing of your leadership in this effort in Alaska.

While the so-called Sagebrush or Tundra Rebellion efforts are mostly State initiatives, I want you to know I am a co-sponsor with Senator Hatch of his bill to provide for a legislated process for transferring public lands in the West to State control.

Thank you for your letter on this important matter, and you may be sure I will be supportive of the effort both in your State of Alaska, as well as Nevada and other Western States.

With best wishes, I am

Sincerely,


HOWARD W. CANNON

HWC:KAbv

COMMITTEES:
INTERIOR AND INSULAR AFFAIRS
SMALL BUSINESS

Congress of the United States

House of Representatives

Washington, D.C. 20515

FEB 0 2 1982

DISTRICT OFFICE:
2311 FEDERAL BUILDING
SALT LAKE CITY, UTAH 84138
(801) 524-4394

COUNTIES:

BEAVER	PIUTE
GARFIELD	SALT LAKE
IRON	TOOOLE
JUAB	WASHINGTON
KANE	WAYNE
MILLARD	

January 28, 1982

The Honorable Richard Randolph
House of Representatives
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Randolph:

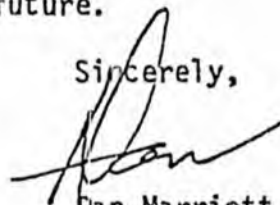
I have received your recent letter regarding the "Tundra Rebellion" and your initiative to transfer Alaskan lands from the federal government to the State of Alaska.

While I am pleased with the response that the Department of Interior under Secretary Watt has given to the land issues in the western states and Alaska, I believe there remains a fundamental inequality between states of the Union because of the distribution of land ownership.

It is unthinkable to many that the federal government should own 90 percent of the land in New York or Massachusetts, and yet citizens of these and other nonwestern states have no problem imposing that condition on your state and my State of Utah.

In the past, I have cosponsored legislation to redress this situation and I shall continue to do so in the future.

Sincerely,



Dan Marriott
Member of Congress

DM/c

WASHINGTON OFFICE:
2429 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515
TELEPHONE: (202) 225-5965

Congress of the United States
House of Representatives
Washington, D.C. 20515

SUBCOMMITTEES:
MINES AND MINING, CHAIRMAN
PUBLIC LANDS AND NATIONAL PARKS
ENERGY AND COMMERCE
SUBCOMMITTEES:
COMMERCE, TRANSPORTATION AND TOURISM
OVERSIGHT AND INVESTIGATIONS
SELECT COMMITTEE ON AGING
SUBCOMMITTEE:
HOUSING AND CONSUMER INTERESTS
U.S. CONGRESSIONAL TRAVEL
AND TOURISM CAUCUS, CHAIRMAN

DISTRICT OFFICES:
SUITE 4-620 FEDERAL BUILDING
300 LAS VEGAS BOULEVARD SOUTH
LAS VEGAS, NEVADA 89101
TELEPHONE: (702) 335-6575

SUITE 1129 FEDERAL BUILDING
300 BOOTH STREET
RENO, NEVADA 89502
TELEPHONE: (702) 784-5557

January 7, 1982

Representative Dick Randolph
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Randolph:

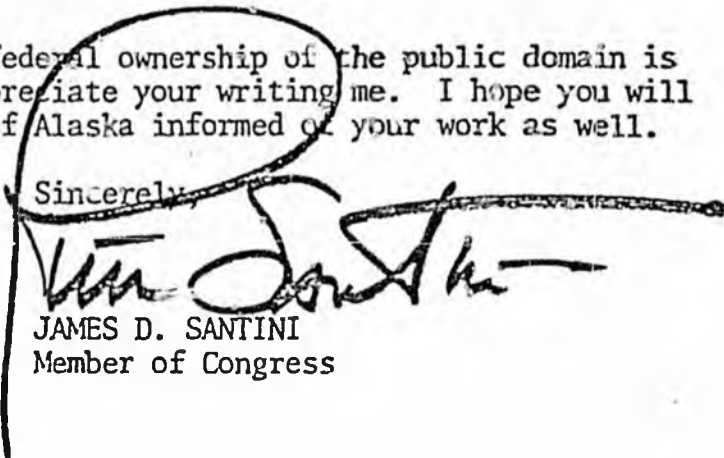
I very much appreciated hearing about the "Tundra Rebellion" in Alaska. Your goals and objectives are very similar to the Sagebrush Rebellion and I wish you the best of luck in your public initiative and in your legislative efforts.

As you may know, Nevada is 87 percent federally owned and controlled. I introduced H.R. 3655 in the House of Representatives to return millions of acres of federally appropriated lands (most federal lands with the exception of national forests, parks, and national wildlife refuges) to states to control and manage.

In fairness, I must tell you the support behind the Sagebrush Rebellion, which began in the Nevada Legislature, seems to be changing. The prime movers in my state have informed me they are temporarily putting off land transfers in favor of amending another federal proposal as a short term solution. You may want to contact Nevada Assemblyman Dean Rhoads, Tuscarora, Nevada to obtain his views and to discuss strategy. Assemblyman Rhoads has been very active on the Sagebrush Rebellion issue.

The whole question of federal ownership of the public domain is vitally important, and I appreciate your writing me. I hope you will keep Congressman Don Young of Alaska informed of your work as well.

Sincerely,



JAMES D. SANTINI
Member of Congress

JDS:mcs



FEB 11 1982

The State of Nevada
Executive Chamber

Robert List
Governor

Capitol Complex
Carson City, Nevada 89710

February 9, 1982

The Honorable Dick Randolph
Alaska House of Representatives
Pouch V, Juneau, Alaska 99811

Dear Representative Randolph:

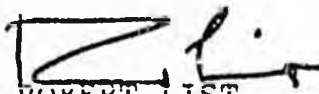
While I am not familiar with all the details of the "Tundra Rebellion", I can assure you that Nevada shares Alaska's interest in achieving genuine land reform in the West. However, I must respectfully disagree with your assessment of the Reagan Administration. We are, in fact, pleased by the efforts this Administration is making to be a more reasonable and responsive landlord.

We, too, are pursuing the judicial and legislative avenues for land reform while, at the same time, we are working with the federal administration to immediately reduce the burden of excessive control from Washington.

As you know, there have recently been discussions in Washington that the federal government could and should dispose of much unneeded real property to both reduce the national debt and eliminate massive operating bureaucracies. Furthermore, the States Rights Coordinating Council, composed of legislators in the western states, and the Western Council of State Governments have both passed resolutions with this in mind. Most recently, a resolution (SR 231) has been introduced in the U.S. Senate by Senator Charles Percy (R) Illinois which leads in the same direction.

Much good has been accomplished already in the land reform movement but we all need to work for permanent solutions for the future of the west. We, as westerners, must move forward with a unified front.

Sincerely,


ROBERT LIST
Governor



STATE OF NEW MEXICO
OFFICE OF THE GOVERNOR
SANTA FE
87503

BRUCE KING
GOVERNOR

June 17, 1980

Dr. William P. Stephens
P. O. Box 3189
NMSU Campus
Las Cruces, New Mexico 88001

Dear Bill:

I am pleased to appoint you to serve on the Public Lands Board of Review effective June 6, 1980 for a term ending at the pleasure of the Governor.

Your membership on this Board is a public service to the people of this state. Your willingness to serve is commendable, and we appreciate the contribution you will make.

Thanks for your help.

Sincerely,

BRUCE KING
Governor



STATE OF NEW MEXICO

OFFICE OF THE GOVERNOR

SANTA FE

87503

JAN 27 1982

BRUCE KING
GOVERNOR

January 6, 1982

The Honorable Dick Randolph
Alaska House of Representatives
1105 Cushman Street
Fairbanks, AK 99701

Dear Representative Randolph:

Thank you for your letter of December 18, 1981 setting forth your position on the "Tundra Rebellion." The question of federally administered public lands is, of course, a volatile issue with profound implications. The issue of control of the vital resources represented by these lands persists, to varying degrees, despite the apparent equivocation at the national level which you point out.

Due to this uncertainty, it is difficult to accurately discern the eventual outcome of this intense and pervasive question. Nonetheless, it is quite apparent that the fundamental questions which have been raised reflect a persistent doubt about the inviolability of the status quo. Increasingly, states have been asserting their prerogative to exercise greater control over the lands within their boundaries.

Recognizing the monumental implications of this issue, the second session of the thirty-fourth New Mexico legislature enacted into law a bill addressing state control of public lands. I am pleased to enclose a copy for your information.

I share the concern of many of those in the western states, both within and outside of government, regarding the critical importance of public lands, and will continue to advocate for the realization of states' prerogatives in this area.

Sincerely,

BRUCE KING
Governor

Enclosure

Randolph 3-31-82
HB8

Randolph —

Freeman — his resolution

Randolph →

Entertaining motion to amend:

Freeman: as far as mineral its. →

oil & gas ?

F: only a gesture — could it be
detrimental to us as far as our oil its.

This does conform to the intention —

Freeman: was admin. notified?

Jules: D.W.R.

Barnes: amicus curiae brief on side of Nevada —

Sec 3 deleted — 4-1

CS moved