

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 86 / 273

713 SCOM122: ALASKA LANDS FILE 1977-78



Alaska Lt. Gov. Terry Miller said recently that rebellious residents of his state, outraged by "ignorant and arrogant husbandry by a distant and often uncomprehending federal government," have gone so far as to threaten to shoot any federal agent who tries to stop them from hunting and fishing on land set aside by the President last year for national monuments.

"The Mason-Dixon line has shifted," Miller said. "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 from the South its traditional title as America's regional underdog...."

"Nobody disagrees that the vast open spaces and natural treasures of the West should be preserved for future generations. However, the race to save us from ourselves by federal bureaucrats, resulting in wholesale wilderness allotment, is punitive—to the land as well as to man."

There is no evidence, however, that the federal government intends to give up the land without a fight—and it would seem to have precedent, and the law, on its side.

When the western states started to trickle into the Union in the mid and late 1800s, one of the conditions for statehood imposed on them by the federal government was that they give up any future claims to the federal lands that were left within their borders.

There was so much land and so few people that nobody gave much thought to such agreements in those days and

even when Alaska finally became a state just 20 years ago it compliantly wrote into its state constitution, just as other western states had done before it, a section forever disclaiming "all right and title in or to any property belonging to the United States...."

However, Nevada and its sister states now claim they were blackmailed into surrendering control of the land, something that was not required of eastern states. As a result, they did not enter the Union on an "equal footing," and that, they claim, was a violation of the federal Constitution.

At stake are an estimated 700 million acres (over one million square miles) of land—virtually everything the federal government owns in the West and Alaska that is not already set aside for military compounds, Indian reservations, and public parks—which constitute 93.5 percent of all land now controlled by Washington.

More than 86 percent of the land in Nevada is owned by the federal government. California is 45 percent federally owned, Arizona 43 percent, Colorado 36 percent, Idaho 64 percent, Montana 30 percent, New Mexico 34 percent, Oregon 53 percent, Utah 66 percent, Washington 29 percent, and Wyoming 48 percent. In Alaska, more than 96 percent of the land is in federal hands.

"I take the concerns that drive the Nevada action very seriously," Guy Martin, an Alaskan brought to Washington as Assistant Secretary of Interior for land

and resources, told the *Los Angeles Times* recently, "because I understand there is a great deal of frustration. But it's very difficult for me to take the specific act (the Nevada sovereignty law) seriously. It's almost inconceivable that Nevada could prevail."

Martin and the Interior Department's associate solicitor for energy and resources, John D. Leshy, said it would take "a major reversal of past law" for Nevada—and thus the other states—to win its case.

"The Nevada Constitution says its people disclaim all rights and title to land other than what was deeded to it at statehood," Leshy said. "There is similar language in the constitutions of all western states. The Supreme Court traditionally has held those kinds of agreements are binding."

But New Mexico's chief deputy attorney general, Tom Dunigan, said the states have to make it clear to the federal government that if there is any chance at all of success "we're going to have to go ahead with it." And Hatch, the Republican senator from Utah, is attempting to help the movement along with a bill in Congress that would permit the western states to take title to the federal land.

Rep. Morris K. Udall, a Democrat from Arizona and chairman of the key House Interior Committee, has taken a dim view of the Hatch bill and recently had a discouraging word for the westerners. The Sagebrush Rebellion is not going anywhere in Congress, Udall said.

But Hatch had an answer for that. Any western congressman or senator who (Continued on page 71)

adopts such an attitude, "ignoring the will of the vast majority of people," the senator said, is in danger of "losing his position in government." The rebellion might go on for years, he said, but "we think it's a winnable battle."

There is not complete unanimity in the states, however, and Gov. Edmund G. Brown, Jr. stymied the rebellion in California recently by vetoing a bill modeled after the Nevada legislation which had been sponsored by a southern California assemblyman. Brown said that before authorizing any effort by the state to take over federal lands in California there should be a review of state land management practices.

"The federal as well as the state management of land within California," he said, "is not what it should be. As stewards of the future, we should direct our attention to improving land management as we debate which jurisdiction should legally control."

Some public officials in Nevada and elsewhere also have spoken out against the rebellion. Among them is Nevada State Sen. Clifton Young, who reflected the sentiments of many environmentalists and others when he said he feared the worst if the states should suddenly find themselves the guardians of millions of acres of land—a land grab by developers and speculators.

Not only would Nevada forfeit an estimated \$20 million it now gets annually

from the federal government in lieu of taxes it otherwise would collect if the federal land was in private hands, the state might find costs of managing the land excessive in comparison with the income it would get from mining, grazing, and other fees and feel the pressure to sell off large tracts to developers.

"There is no pot of gold at the end of the rainbow," Young said. "My position is extremely unpopular. The way to get a ripple of applause in Nevada is to criticize the federal government or the Bureau of Land Management. Land is an issue that lends itself to a touch of demagoguery."

"But if it ever looked like the state was going to get that land, they'd (the developers) spring out of the desert like wildflowers. I just feel safer if the key's back there in Washington."

When the Nevada bill was wending its way through the legislature Young often was booed, hissed, and sometimes cursed when he would attempt to state his position. On one occasion, an elderly woman stood up, waved her finger at him and shouted, "You son of a bitch. We don't need your kind around here."

An analysis of costs and benefits of Nevada should take over the federal lands within its borders: estimated state revenues from the land to include the sale of 30,000 acres of prime property in the Las Vegas Valley near the state's glittering, neon-dotted gambling capital. The estimated value of the Las Vegas land was \$28,000 an acre.

Ironically, it is doubtful that the average citizen in most of the western states ever would realize any significant benefit from a land transfer, or even notice the difference. A few jobs might be created by development on what is now public land; there might be some tax reductions as land moved into private hands and came on to the tax rolls or as revenues from the newly state-owned land went into state coffers. For the most part, however, much of the groundswell of public support behind the rebellion seems symbolic—an indication of a general, and long-standing, resentment against Washington.

Alaska Gov. Jay Hammond said the land issue had so polarized the people in his state that "there are those that believe anything short of demanding secession from the Union is unacceptable capitulation to an oppressive federal government, while some others charge that anything short of instant wilderness for Anchorage is excessive environmental degradation."

Alaska's frustration over land, in fact, has less to do with whether it should be in state or federal hands than over how much of it should be set aside for parks, wilderness areas, wildlife refuges, and

national forests, and that is a fight still being waged in Congress. There also is little doubt that Alaska environmentalists are very much in the minority.

When federal lawmakers failed to act last year on an Alaska lands bill, the President, on the recommendation of Secretary of Interior Cecil D. Andrus, invoked under the federal Antiquities Act an order setting aside 56 million acres in Alaska for national monuments. That touched off a storm of protest which culminated in a massive demonstration near Mt. McKinley National Park and a rally in Fairbanks at which the President was hanged in effigy.

Later, a Carter effigy was tossed into the water off the town's dock in the little southeastern Alaska fishing village of Ketchikan.

"Alaska is clearly the testing ground for the preservationists' land ethic," Ron Sheardown of the Citizens for Management of Alaska Lands, said. "If they win this battle, the public lands of every other western state will also fall under their domination and be lost to any practical economic usage."

several citizen organizations, many of them heavily weighted with developers and mining and oil and gas interests, that have sprung up in the state to fight what they consider a "federal lock-up" of their lands. They differ only in degree of militancy.

Jerry Gilliland, the Interior secretary's assistant in Alaska, said there are several reasons why land is such an emotional issue in the state, and his is an explanation that is equally valid in Nevada and some of the other states.

"There is so little private land available," he said. "In the past 15 years, there has been no homesteading and prices are very high. The other part of it is that people moved up here with the romantic notion of getting a cabin in the woods on cheap land. They find it disillusioning when they can't fulfill that dream. And the big companies don't want to see any areas precluded from resource development."

Among the more militant Alaskans is Fairbanks real estate developer and miner Joseph E. Volger, who moved to the state in 1942 and now distributes bumper strips with messages such as "Independence Now" and "To Hell with the 48," a reference to the lower 48 states. He also has one that reads, "Government, Public Enemy No. 1."

Volger heads a group that wants to break away from the United States and form its own country, perhaps in concert with western Canada.

"There's only one thing I'm dedicated to," he said. "I want to die in a free country. The original 13 colonies got their

land. There is unfair and unequal treatment of Alaska and other western states. There is total federal domination."

No one gives Volger's group much chance of succeeding. But ex-Alaska Gov. Walter J. Hickel, who served as Secretary of Interior under former President Richard M. Nixon, said he had "never seen the level of animosity toward the federal administration that there is here now." People, he said, just want the federal government "off their backs."

JAN 11 1980

242

Shadowy company outwits ecologists on Alaskan claim

By CURT MATTHEWS

Washington Bureau of The Sun

Washington—A British corporation little known in the United States is gearing up to haul off, without compensation to this country, a precious U.S. asset worth \$7 billion.

The firm is Rio Tinto-Zinc Corporation Ltd., a worldwide mining conglomerate that has staked claim to a massive molybdenum deposit in southeast Alaska.

The mineral is used to harden steel, and demand for it is rising sharply among major steel-producing nations, particularly Japan and Germany. Over the next 20 years, Rio Tinto-Zinc plans to extract "moly" in Alaska with a value conservatively estimated at \$7 billion.

Under the provisions of the federal mining law of 1872, Rio Tinto-Zinc can mine the valuable resource from federal lands, sell it to steelmakers and pay nothing in direct compensation to Alaska or the United States.

That any company could pull off such a financial coup in a world where nations are increasingly chauvinistic about their natural resources reflects a combination of good luck and careful corporate strategy.

It was good luck that, of the many corporate-sponsored geologists climbing the mountains of Alaska in 1974, one with ties to Rio Tinto-Zinc discovered the giant vein of molybdenum in the Misty Fjords area, 50 miles east of Ketchikan, near the tip of the state's southern panhandle.

And it was careful corporate strategy that last year produced a congressionally mandated exception allowing the company to develop its valuable find, even though it lies in an area conservationists seek to preserve as a wilderness.

Alaska's natural wealth first spawned the Klondike gold rush in the 1890s, followed by the oil boom of the past two decades. The next rush is expected to be over Alaska's largely untapped mineral lode.

The Misty Fjords molybdenum deposit, third largest in the world, has been a symbolic arena of confrontation between those who favor liberal development of the state's rich resources and those who support rigid government controls to protect America's last remaining wilderness areas.

Of particular concern to such groups as the Sierra Club, the Alaska Coalition and other conservationists was the location of the Misty Fjords deposit on high ground that drains into a complex of rivers producing about 20 percent of the salmon caught in southeast Alaska each year.

When Congress failed in 1978 to pass the Alaska lands bill, President Carter acted to set aside more than 150 million acres of federal land in Alaska as monuments and wilderness, including the Misty Fjords area. Many Alaskans, already upset at the way the federal government has blocked economic development in their state, were irritated further by Mr. Carter's bold move.

Although the battle has dragged on in Congress for more than two years, with the \$7 billion fortunes of Rio Tinto-Zinc hanging in the balance, many representatives and senators drawn into the fray have never heard of the company.

That is because Rio Tinto-Zinc kept a low profile during the battle over future use of federal lands in Alaska.

The London-based mining conglomer-

Shadowy British firm claims precious mineral in Alaska

ate accomplished this by ducking behind a 100 percent-owned subsidiary—the United States Borax and Chemical Corporation—that led the charge in Congress to open Alaska's resources for development. That U.S. Borax is no longer "U.S." and is more interested in molybdenum than in borax were points largely overlooked on Capitol Hill in Alaska.

One congressman who did probe the background of U.S. Borax and Rio Tinto-Zinc, Representative John R. Seiberling (D. Ohio), was not much impressed with what he found. He called the parent British firm "a multinational corporate shark."

Corporate shark or corporate fox, Rio Tinto-Zinc soon may emerge as the big winner in the long fight over how best to manage federal lands in Alaska. A compromise was worked out between conservationists and resource developers as Congress neared recess last month. It specifically provides access—a 9-mile mountain road—that will permit Rio Tinto-Zinc U.S. Borax to develop its big molybdenum find.

Alaska's two senators and lone representative in Congress generally were responsive to constituents in their state urging resource development as a means of boosting the state's lagging economy. The company says it will employ 750 persons directly in mining operations, generating 2,000 more support jobs in the area—a plus for Alaska's high unemployment problem.

Last May, the House of Representatives voted 268-157 to pass an Alaska lands bill that specifically recognized the legality of the Rio Tinto-Zinc-U.S. Borax molybdenum claim, but restricted access to the deposit and sharply limited development around it.

Representatives of U.S. Borax insisted in Congress that, unless more liberal development provisions were included in the bill, it would not be economically feasible to develop the Misty Fjords mine. They pressed their cause before members of the Senate Committee on Energy and Natural Resources.

Late in November, that committee agreed on a bill that guaranteed the 9-mile access road, opened more of the Misty Fjords area to mining operations and, to satisfy the conservationists, tightened administrative controls over mining on all federal lands in Alaska.

For Rio Tinto-Zinc and its wholly owned U.S. subsidiary, the most important provision of both the House and Senate versions of the Alaska lands bill is specific recognition that a road will be permitted

across an otherwise protected wilderness area to allow development of a valuable resource.

Although the legislation has yet to gain full congressional approval, both sides say they intend to stick by the compromise version worked out by the Senate, and that new bills reflecting the compromise will be introduced in both House and Senate early in the coming session. Barring some unforeseen hitch, prompt passage of the Alaska lands bill is expected this year.

Congressional staff personnel in the House and the Senate who have followed the Alaska lands legislation agree that U.S. Borax got what it went after in the fight over development of federal lands in Alaska.

"The key thing was the road," says Roy Jones, a member of the House Interior Committee staff who followed the legislation as a special consultant when it went to the Senate. "U.S. Borax wanted the road, and as much of the Misty Fjords area as possible opened for mineral mining."

According to Senator Paul E. Tsongas (D. Mass.) the legislative compromise worked out by the Committee on Energy and Natural Resources greatly pleased the U.S. Borax executives, who had all but lived on Capitol Hill during the last year.

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British firm claiming U.S. metal

FRONT PAGE

Senator Tsongas emerged as the principal Senate spokesman for environmental interests in Alaska in recent months. He did so, he has said, because it appeared to him at one point that U.S. Borax was attempting to dictate to Congress the terms of legislation regarding Alaska lands.

John Ferguson, a former top aide to Senator Ted Stevens (R, Alaska) and for the last 18 months the U.S. Borax representative in Washington, is somewhat uneasy with the idea that his client got what it wanted in the compromise worked out last year.

Mr. Ferguson says that U.S. Borax is concerned that because the molybdenum deposit is still within a designated wilderness area, permits for roads and other land infringements must be obtained from the U.S. Forest Service. Many regulations regarding mining on Alaska's federal lands are yet to be promulgated by state and federal officials, he adds.

Yet he repeats emphatically that the company intends to stand by the compromise and hopes that it holds up when Congress reconvenes. Both sides predict it will.

Carl Randolph, president of the U.S. Borax, told reporters in Alaska last year that the firm has already invested more than \$7 million to develop its molybdenum find and, articulating a corporate policy that was carried out on Capitol Hill last year, said the firm intended to "hang tough" in the legislative fight over development restrictions.

Although Rio Tinto-Zinc, the company that looms as a potent force in Alaska's future, is little known in the United States, the company is well known internationally. There have been at least two highly critical assessments of the company's operations.

Mining in national parks or declared wilderness areas, such as the Misty Fjords region of Alaska, is not new to Rio Tinto-Zinc. Some years ago the firm came under sharp criticism in Britain when it surveyed for copper and gold in British national parks.

Richard West, who wrote a history of the firm in 1972 and noted its penchant for the low profile when dealing with sensitive legislative matters, said, "This anonymity helps to explain the feebleness of the protest against RTZ's hopes of mining in the national parks."

The other critical assessment of RTZ was produced by Diane Hooper, an independent British researcher, in 1977, and

details the background of an attempt by Rio Tinto-Zinc and a number of other major mining and petroleum firms to control world supplies of uranium. That effort led to an antitrust suit against RTZ by Westinghouse Corporation, which was being sued itself for failure to deliver uranium it had contracted to sell.

The company prefers to operate in stable, white-ruled, conservative countries such as Australia, New Zealand, South Africa, Canada and Rhodesia.

In 1978, the most recent year for which figures are available, Rio Tinto-Zinc reported an operating profit of more than \$220 million.

The Spanish-sounding portion of the firm's name, which translates to "clouded river," reportedly has its origins in a Spanish copper mine owned and operated by a predecessor firm that formed the core of the present company in 1954.

One reason Rio Tinto-Zinc's foothold in Alaska has gone largely unnoticed during the Alaska lands debate is that oil, not minerals, is seen both in Alaska and in Congress as the resource of greatest immediate value.

Early last month, a group of Alaska businessmen, frustrated at how slowly the federal government and the major oil companies were moving to develop Alaska's oil resources, presented a program in Washington to gain media attention regarding the situation.

The businessmen, led by two former governors, Walter J. Hickel and William A. Egan, released a report urging federal action to expedite the leasing of potential oil and gas reserves in Alaska for prompt development by major oil companies.

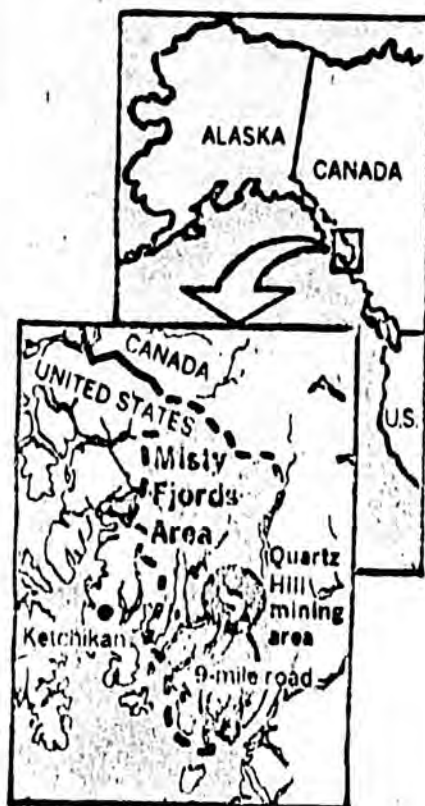
However, as important as petroleum is to the immediate economic well-being of Alaska and the United States, some experts on Alaska resources say that, in the long run, hard-rock minerals will prove even more important.

Patrick L. Dobey, a consulting geologist for the Alaska Coalition and former chief geologist for the State of Alaska, believes that the energy issues surrounding the Alaska lands legislation are a "smokescreen," and that the primary interest of the oil companies, like that of Rio Tinto-Zinc, is minerals.

Mr. Dobey says over 95 percent of the federal lands in Alaska with potential oil reserves already are open to exploration and development, and the real aim of resource developers is to open up as much of Alaska as possible to the mining of hard-rock minerals.

He and others have noted that the most visible lobbyist during debate over the Alaska lands legislation, aside from U.S. Borax, was the Atlantic Richfield Oil Company, the parent firm of Anaconda

Copper, which has extensive mineral claims in Alaska. Sohio, another major U.S. oil company with mining divisions active in Alaska, also urged Congress to open federal lands to the type of development that Rio Tinto-Zinc sought in the Misty Fjords area.

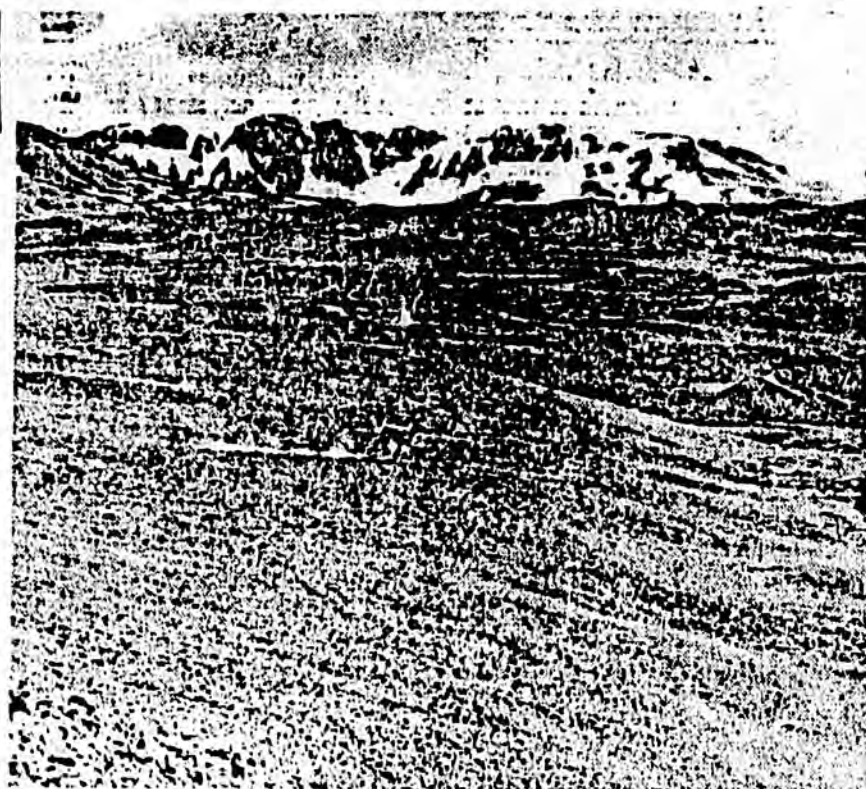


State Island Advance

STATEN ISLAND, N. Y.

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JAN 9 1980 *RJR*



Alaska's unspoiled wilderness may be dotted with oil rigs.

Christian Science Monitor Photo

Section to the Advance
from Christian Science Monitor

WASHINGTON, D.C. — The untold quantity of oil beneath Alaska's vast wilderness acres is adding a provocative dimension to the debate between conservationists and developers over the future of the state's public lands.

But even as the 3-year-old congressional fight intensifies, both sides are looking for a speedy resolution. One key congressional observer believes a compromise could be hammered out by spring.

At stake are between 102.2 million and 127.5 million acres of Alaskan wilderness.

Three main issues separate environmentalists, whose bill won House approval last summer, and Alaskan businessmen, whose bill has been forwarded by the Senate Energy Committee:

Q Whether to allow widespread oil exploration in the Arctic National Wildlife Range at the northeastern corner of the state.

Q How best to protect southeastern Alaska's wilderness areas, where timber and minerals are key attractions to developers.

Q How to configure and manage the dozens of new national parks, refuges, forests and wilderness areas.

The energy issue takes on a new currency with the recent constrictions in foreign oil supply and the upward spiral of oil prices.

By rapidly developing Alaska's subsurface energy, contends Commonwealth North — a group of Alaskan business leaders led by former governors Walter Hickel and William Egan — the United States could reduce by nearly half its foreign oil imports.

In a study issued in early December, Commonwealth North says that the House version of the Alaska bill could "cripple the state's ability to help the nation."

But in rebuttal, the Alaska Coalition, a conservation lobby, says the energy question has been answered adequately in the House bill. The coalition calls the

Commonwealth North study "unreliable" and "an attempt to mislead the public."

"This is another in a series of attempts to turn the Alaska lands bill into an energy issue..." says Alaska Coalition chairman Charles Clusen.

The Commonwealth North report says Alaska has reserves that "will range from 300 to 600 billion barrels" and easily could produce 4.5 million to 5 million barrels of oil a day. It recommends expedited exploration and leasing — especially in a section of the Arctic National Wildlife Range which "promises to contain a giant oil field, as big or bigger than Prudhoe Bay."

This arctic preserve is an important site to the Alaska Coalition because of its wildlife population.

Pat Dobey, formerly chief petroleum geologist for the State of Alaska and now affiliated with the coalition, says geologic studies of Alaska are highly variable, often exaggerated and ignorant of economic and logistical feasibility. Dobey maintains oil companies will have all the acreage they can use for exploration under the coalition-supported bills.

Hickel states that "in all likelihood, there would be very little adverse impact from the introduction of seismic work and test wells." But Clusen expresses concern that the "porcupine" caribou herd, one of the largest such herds in North America, would be hurt by oil activity in the Arctic preserve.

Who is right? The region is so vast and isolated — and the issue so emotionally charged — that no objective and conclusive studies have been made.

Which view will prevail? Environmentalists seem to have the edge in congressional support, but Alaska's two senators, Ted Stevens (R) and Mike Gravel (D), support the development-oriented bill and have indicated they might try to block any bill they do not favor.

FLAGSTAFF, ARIZ.
ARIZONA SUN
D. 8,350

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EDITORIAL

9285

Udall's Right

Rep. Morris K. Udall of Arizona's 2nd Congressional District is right in believing his race for a 11th term may be one of the toughest of his political career.

Democrat Udall told a press conference that outside interests, such as Alaska businessmen and Texas oil interests, angered by his pro-environment positions, will be big contributors to his Republican challenger this year.

Udall has supported the Alaska Lands Bill which would

create nine national parks and remove much Alaskan land from private use.

However, Udall admitted some of his financial support will also come from outside interests, including environmentalists, who support his congressional voting record.

Udall appears to be running scared but his press conference remark about Sen. Barry Goldwater was something he should have avoided.

Udall commented that

Goldwater should take a look at his own statements in 1968 when he sought the Senate seat

vacated by Sen. Carl Hayden.

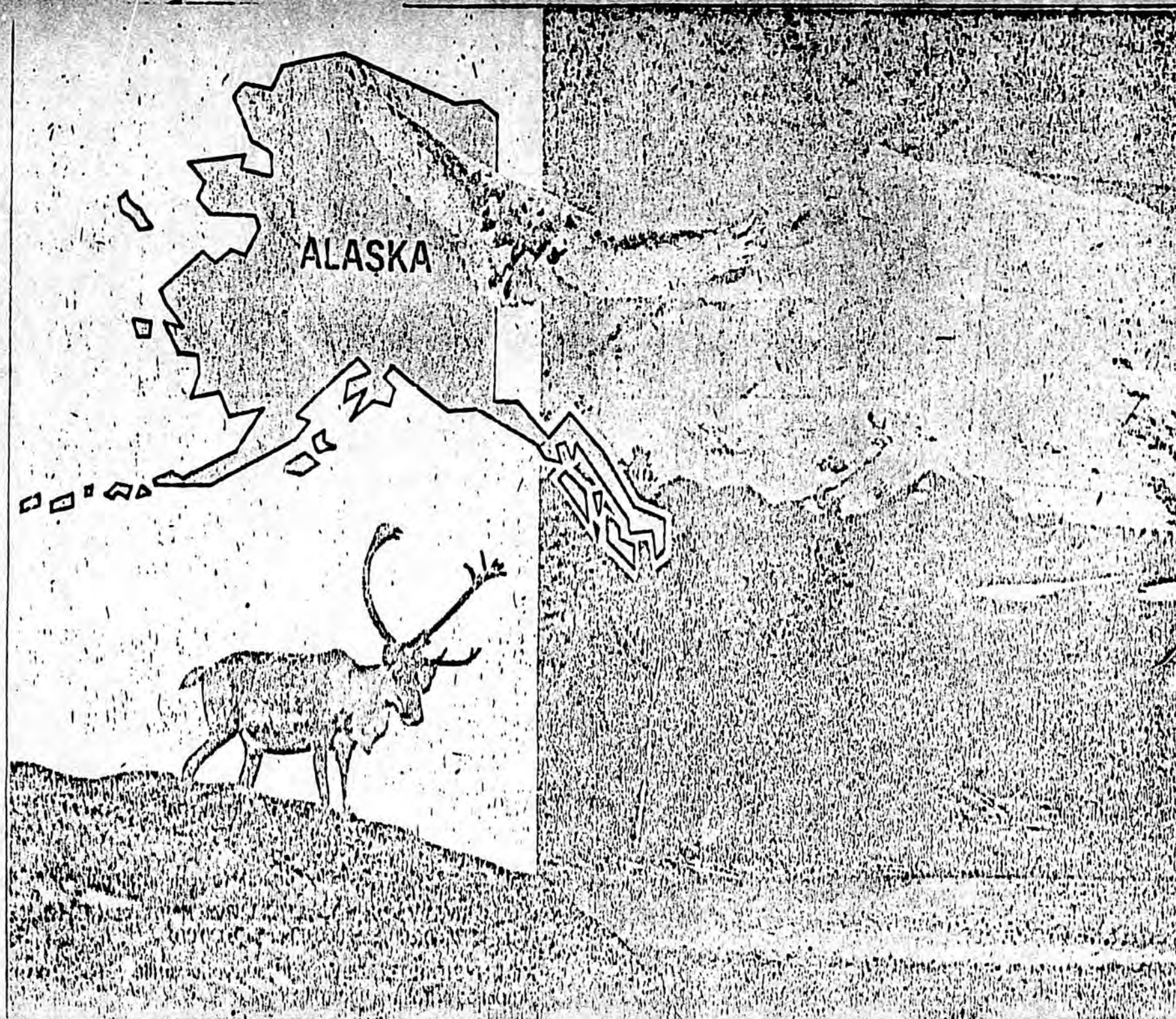
As Goldwater attempted to get back into the Senate after giving up his seat to run for president in 1964, Udall said Goldwater advised the elderly Hayden, who was undecided about retiring, that he was "too old and younger blood was needed."

Udall isn't likely to pick up any votes in his 2nd District by chiding Goldwater.

ALASKA NEEDS NEW SURVEY MAP

WACKENBACH, H. J.
THE RECORD
D. 12, 1980, 199, 201

JAN 15 1980



Unfortunately, the debate over the management of public lands in Alaska has shifted away from long-term, comprehensive planning to the immediate concerns of every special interest imaginable.

We have witnessed the results of unchecked development in much of the country. In Alaska, we have the chance to strike a balance, to set a wiser course for development. The Tsongas-Roth substitute meets this challenge.

JAN 15 1980

Chuck Clusen is Chairman of the Alaska Coalition, a non-profit organization comprised of more than 50 environmental, labor and civic groups nationwide working to preserve Alaska's national interest wildlands.

By Charles M. Clusen

Once a land of wild seacoast, of rolling hills and hardwood forests, New Jersey is now the nation's eighth most populous state and a center of business and industrial activity. This familiar pattern of development, one that has recurred throughout the country, has left its mark on all but scattered pockets of land. Local residents have realized too late that with greater foresight the harmful effects of development could have been mitigated. The costs of random development have been too high, the areas saved too few, and the wilderness legacy for the future too small.

In New Jersey, the choices have been made. But in Alaska, we have one last chance. Alaskan natives — Indians, Es-

kimos and Aleuts — continue the rural subsistence tradition of their ancestors. Independent miners still search the streams for gold, and each year new log cabins appear in the wild. There are opportunities in Alaska for a way of life which exists nowhere else in America today.

Alaska's vast wilderness encompasses some of the nation's highest mountains, deepest canyons and largest glaciers. The bald eagle, in many states known only as a symbol, still thrives along Alaska's endless coastal shores. But the immensity of this great northern land is deceptive. Vegetation is often sparse, and large areas are needed to sustain wildlife. A single bear will range one hundred square miles in search of food.

In order to protect important wildlife habitat, whole ecosystems must be preserved. Congress must draw appropriate boundaries and designate management agencies with close attention to ecological principles. The lands thus saved will be a continuing resource not only for local wildlife but for subsistence and sport hunters, for photographers and visitors of all kinds, for the area's commercial fishermen, and most importantly, for the future.

We cannot afford to prohibit development. We cannot afford to reduce jobs or hamper economic growth. We cannot usurp Alaska's independence or dictate her goals. But we can choose to pattern development carefully and conscientiously on the federally owned lands in

the state. Alaska's frontier spirit can be preserved without perpetuating the tradition of boom and bust development. This was the intent of the original Alaska National Interest Lands Conservation Act.

When the late Senator Lee Metcalf, D-Mont., first introduced the Alaska lands bill in the Senate in 1977, he called it "our nation's last chance to take bold and imaginative action to protect our most spectacular wildlife and wilderness resources." Since then, the senator's vision of a bill which would protect some of Alaska's rich natural heritage has been all but lost. The disappointing bill recently reported out of the Senate Energy and Natural Resources Committee more closely resembles a developer's dream come true.

A similar, development-oriented bill was reported out of the House Committee on Interior and Insular Affairs last spring. However, in an impressive display of strong, bi-partisan support the

full House rejected the committee bill in favor of a substitute version which provided a careful balance of development and conservation. The entire New Jersey delegation voted with the majority in passing the substitute bill.

Senators Tsongas and Roth have taken the same courses in the Senate. The Tsongas-Roth substitute, cosponsored by twelve senators, offers the full Senate a clear alternative to the inadequate Senate committee bill. Based on the text of the House-passed bill, this bill incorporates significant compromises contained in the committee bill but retains vital concepts which form the heart of the legislation.

The proposals set forth in the House-passed bill and in the Tsongas-Roth substitute in the Senate are the product of years of public hearings, study, and debate. Conservation unit boundaries have been adjusted wherever possible to avoid conflicts with development interests, and countless revisions of the bill have been

made to accommodate state, local, and private concerns.

Each of the areas proposed for protection contains wildlife and wilderness values of national significance. Accordingly, the Tsongas-Roth bill adds these areas to the national conservation system, placing each one under the jurisdiction of the agency best qualified to manage its particular resources. Thus the National Park Service will administer the areas of special scenic or historical significance, while prime wildlife habitat will be managed by the Fish and Wildlife Service. The result is a coherent land use plan which adequately protects key resources while allowing development to proceed in areas of high economic potential.

Unfortunately, the debate over the management of public lands in Alaska has shifted away from long-term, comprehensive planning to the immediate concerns of every special interest imaginable. Tactics employed by the Senate

and private industry have at times been heavy-handed and misleading.

Such changes are ludicrous. The State of Alaska received the largest land grant of its kind in U.S. history and was authorized to select its generous 104 million-acre entitlement from among all federal lands which were vacant, unreserved, and unappropriated at the time of selection. Although the state complains of delays in the transfer of lands, 65 percent of the grant — an area larger than the entire state of New Jersey — is already being leased, developed or managed by the state. Nothing in the proposed legislation would prevent the state from receiving its full entitlement or cause delays in the conveyance of state elections.

Once the transfers have been completed, the State of Alaska will have a tremendous land bank on which to base its economic growth. Lands already chosen

by the state, such as Prudhoe Bay, contain some of the best resource potential in Alaska. Yet, through a nation-wide media campaign, the state is extolling Alaska's resources and implying that land preservation proposals will place them all off limits to development. One paid advertisement claims that Alaska's coal "could fuel America for 20 centuries." What the ad carefully neglects to mention is that there is in fact no conflict whatsoever between areas with coal potential and the Alaska lands bill. Under the Tsongas-Roth substitute, 100 percent of Alaska's coal potential could be available for development.

More disturbingly, the State of Alaska and private industry have attempted to portray the Alaska lands bill as a threat to oil and gas development. In view of recent events in Iran, the need for energy independence is a widespread and

serious concern. But the Alaska lands bill has virtually no effect on the development of Alaska's energy resources. The bill cannot legitimately be cast as an energy issue.

Under the Tsongas-Roth bill, nearly all of Alaska could be available for oil and gas exploration and development. This includes all of Alaska's outer continental shelf, all proven reserves and all submerged lands, as well as 95 percent of the onshore lands identified by the U.S. Geological Survey as having high or favorable oil and gas potential.

The only area with oil potential which the Tsongas-Roth bill would set aside is the coastal plain of the existing Arctic National Wildlife Range, an area which encompasses the calving grounds of the internationally significant porcupine caribou herd. The House of Representatives designated key portions of the Wildlife Range as a wilderness area to ensure the survival of the caribou and of subsistence-based communities. Wilderness designation for the Range has been endorsed by all of the region's villages and by the Carter administration.

We have witnessed the results of unchecked development in much of the country. In Alaska, we have the chance to strike a balance, to set a wiser course for development. The Tsongas-Roth substitute meets this challenge. It is the only alternative currently before the Senate that is worthy of national support.

The lands at stake belong equally to all Americans. But New Jersey Senators Bradley and Williams remain uncommitted. If the national interest is to prevail in the Alaska lands debate, your voice must be heard. Please urge your senators to support the Tsongas-Roth substitute by calling or writing their offices today.

NOV 17 1979 *ELC*

The Washington Post
WASHINGTON, D. C.
D. 559,071 SUN. 786,752

JAN 14 1980 *ELC*

GAO Says U.S. Agencies Acquire Too Much Land

By Joanne Omang

Washington Post Staff Writer

The federal government is land-happy and ought to admit it can protect the environment without taking possession of it, a General Accounting Office report said today.

The government already owns more than one-third of all U.S. land, including 86 percent of Nevada and 95 percent of Alaska, and plans to spend \$10 billion in the next 11 years to buy more, the report said.

Yet there is no overall federal policy for land acquisition, which often is handled in ways that cause maximum friction with local authorities and residents, according to the GAO.

It found that the Forest Service, the Department of Agriculture and the Interior Department "generally followed the practice of acquiring as much land as possible without regard to need and alternatives to purchase."

Reporting at the request of Rep. Phillip Burton (D-Calif.), chairman of the House national parks subcommittee, the GAO said the government tends to buy land it doesn't need, without a coherent plan for its use and without examining other ways to protect it.

This often tends to make costs three of four times higher than expected, and to antagonize residents who want the land to stay on local tax rolls for agriculture, housing or resource development, the study continued.

Between 1970 and 1977, the government spend \$606 million to buy 2.2 million acres under full or partial title, according to the GAO. Most of the 760 million acres under federal ownership have never been in private hands; only 60 million have been bought. More than 90 percent of the

federal turf is in 13 Western states, and eight states are more than 40 percent government-owned.

Resistance to federal buying in these areas is growing rapidly. The "Sagebrush Rebellion" is mounting in western states against Bureau of Land Management land use rules, and there is considerable local pressure for state control. Much of the controversy over legislation on Alaska land use involves the extent of federal control.

The GAO suggests that zoning changes and the use of easements could often provide the same control as ownership more cheaply and with much less local friction. In Idaho, the Forest Service worked with local people to set up a plan to preserve 754,000 acres in the Sawtooth National Recreation Area, using a combination of acquisition and easements, the report related.

Much of the land stayed on local tax rolls and in private use through the issuance of certificates guaranteeing cooperation in scenic and resource preservation.

The GAO report recommended that a federal land acquisition policy be drawn up exploring alternatives to purchase.

Every acquisition should be coordinated with state and local officials and carried out only after alternatives are fully examined, the GAO said. It recommended that Congress keep an eye on the process.

Most of the agencies criticized in the GAO report said they agreed with many of the points raised or were already considering alternatives to purchase. The Interior Department, however, said much of its purchasing is at congressional order and that zoning and easements often are not suitable.

AMERICAN SURVEY

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Both the president and congress would have to concur.

The house of representatives' version includes this provision, which Congressman Udall has called a formula for dismantling the existing health and safety laws. The senate bill excludes it. The administration did not ask for the board to be given so much power and says that it will ask the conferees to drop it. But it has not lobbied hard against it and Mr Carter declines to promise to veto a bill containing this provision.

Yet the president is reluctant to alienate the environmentalists as he has alienated the blacks and trade unionists. Twice in recent months he has insisted that he still stands with them. This is clearest over preservation of much of Alaska, which he calls the highest environmental priority of his administration. Last year the house approved a bill that would have set aside about 100m acres. The question of which acres are chosen is as important as how many, and the bill's choices were opposed bitterly, but unsuccessfully, by the mining, oil and timber industries. In the senate, however, a more modest bill was killed by the unpredictable Senator Mike Gravel of Alaska. Before its powers to protect the wilds expired, the interior department withdrew 110m acres from development for three years; President Carter then made about half of this set-aside permanent.

Alaskans are trying to make sure that last year's fiasco is not repeated. An advisory group appointed by the governor has concluded that a bill just approved by the senate finance committee represents about the least that the state will have to concede to get a bill through this year. It would set aside about 100m acres (compared with 128m in the new house bill) and would give timber and mining companies, and those exploring for oil and gas, access to national forests and "wilderness" areas (including those where the caribou calve).

The advisory committee has told both Alaska's senators, Mr Ted Stevens and Mr Gravel, that they must work together to see that this bill passes.

This is easier said than done, since the two have been conducting a running feud for years, and time is short before congress adjourns. An incentive for compromise has been provided, however, by Mr Andrus. If no bill is passed, he says that he will extend for 20 years the three-year withdrawals that he ordered last year. Mr Gravel's critics say that he wants to keep the lands issue alive until next year, when he has to fight a re-election campaign. But perhaps he will not want to be blamed for the freezing out of development in nearly a third of Alaska for nearly a generation.

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WASHINGTON

Alaska Lands bill gets industry endorsement

IMAGINE a Senate committee just passed a bill tripling the current Wilderness refuge systems and doubling the national park system. Imagine further that industry hailed the bill as reasonable legislation. Of course it sounds crazy—it is. But these imaginings actually transpired last month when the Senate Energy Committee reported out its Alaska Lands bill, S. 9, which would set aside more than 96 million acres for conservation uses and 38 million acres for Wilderness—and industry endorsed it.

Industry's position seems daft until you see H.R. 39, the House version passed earlier this year. By comparison, S. 9 looks like a license to rape, ruin and run. H.R. 39 would withdraw 127 million acres for parks, scenic areas and refuges, and a whopping 67 million additional acres for Wilderness, the most restrictive use.

S. 9 permits oil exploration and mining in the Misty Fjords; the House bill imposes much stricter environmental safeguards by declaring the entire area Wilderness. S. 9 would allow private firms to explore the oil and gas potential of the Arctic National Wildlife Range beloved of the caribou; the House wants it all in Wilderness, closed to development.

For the forest industry, the most important feature of S. 9 is a provision for southeastern Alaska's timber resources. The bill sets an annual allowable harvest of 520 million bd ft on the Tongass National Forest, the wood reservoir of the state. The House bill makes no similar provision and thus, according to industry sources, toys with 2,000 jobs now dependent on timber processing.

On closer inspection, industry's faith in the Senate provision may be premature. For one thing, few expect the 520 million bd ft figure to survive the bruising conference with House members who are adamant about keeping vast areas of the Tongass in Wilderness. And the Administration and the environmentalist Alaska Coalition are bent on inserting their own amendments when the bill reaches the Senate floor, assuming it does.

Even if by some miracle the timber provision passes Congress intact, the Forest Service isn't certain it can sustain the 520 million bd ft allowable harvest for very long unless Congress agrees to place some of the "special management

areas"—now off limits to logging for 10 years—back into multiple use. As it now stands, these areas can only be used to calculate the allowable harvest potential—they cannot be cut. Especially if the timber-rich Misty Fjords and Admiralty Island remain off limits, the Forest Service estimates it can annually harvest only 450 million bd ft, not 520.

In that case, the agency would be in its accustomed place, on the highwire. It must support the Administration position favoring the special areas and somehow finesse the higher cutting level if it becomes law. Agency officials suspect the Administration would then be forced to ask Congress either to reduce the cut or reduce the acreage in Wilderness. The alternative would be serious overcutting.

But the 520 million bd ft is necessary to sustain the economy, despite appeals that it is too high. Those arguing for a lower level expect native corporations in southeast Alaska to pick up the slack. But of the 150 million bd ft held by native corporations, only 36 million is expected to be processed domestically; the rest will likely go to Japan, a more lucrative log export market, and with the logs will go the jobs.

Now you can see why observers are calling the logging issue the most controversial in the bill. All other issues involve postponing future growth, but land-use questions in southeast Alaska involve current jobs. Small wonder that many expect blood on the floor when congressional conferees meet to hammer out a compromise—assuming they do, an assumption no more firm than Carter's reelection chances. Sen. Mike Gravel (D-Alaska) killed the bill last year and is threatening to filibuster it to death this year.

While Congress ponders the nation's interest in Alaska's future, it might also find interesting the views of Alaskans, whose preferences were recently solicited by the U.S. General Accounting Office.

In a survey to help federal land management agencies determine the types of recreational opportunities needed there, the GAO found that Alaskans want to be delivered from the Wilderness. From 4 to 49% wanted further development of already developed recreational areas and 74 to 91% want similar facilities installed in the lightly used national monuments the Administration created, and the same development in any national parks, forests and wildlife refuges that Congress may create.



Luke Popovich

LUKE POPOVICH
WASHINGTON CORRESPONDENT

To: Representative Barnes
From: Randall Moen, House Minority Counsel
Date: Feb. 11, 1980

Re: HB 398

HB 398/letter of land within boundaries

Two legal theories can be used in defense of HB 398: Equal Footing and Trustee Theory. The Equal Footing Doctrine is a Judicial concept requiring that states entering the Union must be allowed to do so in terms of equal political sovereignty with the original thirteen states. The Trustee Theory holds that the Federal government, as trustee of public lands within a state's borders, cannot hold those lands in perpetuity.

Should litigation follow passage of HB 398, we can use the Equal Footing Doctrine and Trustee Theory to prove that:

(A) The intent of the Constitution's framers and the language of the Constitution give the Federal government very limited control over lands within a state's boundary.

(B) The disclaimer requirement that Alaska give up any claims to public land within its borders as a condition precedent to statehood was an act beyond the power of Congress.

Evidence in support of our above allegations (A & B) would include case law (Pollard's Lessee v. Hagan, 44 U.S., 3 How. 212 1845; Oregon v. Corvallis Sand and Gravel Co., ___ U.S. ___, 97 S.Ct. 582 1977) including historical and constitutional research demonstrating the harmful effects of Federal land ownership to Alaska's political sovereignty.

As a policy suggestion, a commission could be used to study numerous ramifications of Federal ownership of land in Alaska to demonstrate how this affects Alaska's political

sovereignty. It also may be used to look into whether Alaska has sovereign governmental authority equal to the original thirteen and all other states. Such a commission would be useful since our main argument would be that Federal ownership of public land in Alaska seriously impairs the ability of the state to exercise ordinary government power. If we can meet the substantial burden of proof of this point, the court would hold the disclaimer provision in the Statehood Act unconstitutional.

A procedural problem exists with initiating a lawsuit in pursuit of HB 398. Before one can sue the Federal government, consent must be granted. A 1972 Federal Statute (28 U.S.C., sec. 2409a) gives consent for Federal actions involving quiet title problems. It is uncertain as to whether this would apply to HB 398, however, the State of Nevada's Attorney General believes it does apply. It should be noted that there exists a twelve year statute of limitations within 28 U.S.C., sec. 2409a. This means that one may be barred from initiating such actions against the Federal government after 1985!

At present the State of Nevada has enacted into law AB413 which is identical in substance to HB 398. The Attorney General for Nevada believes that their bill presents a valid legal cause of action and has made its pursuit the number one priority for 1980. They expect to file suit early summer of this year.

Whether or not Nevada's AB413 or our HB 398 meets constitutional standards remains an open question, for a case involving such factual occurrences has not yet reached the U. S. Supreme Court. From a legal perspective, a case involving

these bills would present a classic Federal / State's Rights confrontation involving two hundred years of American history. Such a case would generate widespread national attention not only from a constitutional-historical interest, but from the potential repercussions of a decision in favor of a state.

At the very least, a court case involving HB 398 would present a national forum for airing Alaska's plight of Federal control and in time make Congress more receptive to lessening its Federal hold upon Alaska.

PATRICK RODEY
ANCHORAGE

601 W. 5TH AVE. SUITE 820
ANCHORAGE, ALASKA 99501

Alaska State Senate
JUNEAU, ALASKA 99811

DURING SESSION

POUCH V
JUNEAU, ALASKA 99811

M E M O R A N D U M

TO: Senator Mike Colletta

FROM: Senator Pat Rodey *imR*

DATE: March 12, 1980

SUBJECT: "Sagebrush Rebellion"

The Legislative Council and the Subcommittee on Western Lands met in my office this morning. After some discussion, it was decided to continue our contract with Birch, Horton, et al, at an agreed upon fee of \$2,000 per month at \$80 per hour for six months. Their responsibility will be to bring Alaska up to date on matters which have transpired between the time of the last report and our meeting and to provide us with the current status of continuing developments in the Western Coalition states, including those which have recently passed "Sagebrush Rebellion" legislation.

The Committee approved the negotiations for the contract with Bitner, Horton, et al. I am including a copy of this contract for your approval. I hope you are in agreement with what you find there.

In addition, I will be circulating a letter which would set forth, in some detail, the approach and part which Alaska will take in future developments regarding this issue.

I forgot to include
these papers when I
mailed Sen. Roder's
memo on the "Sagebrush
Rebellion" to you.

I apologize.

Susan

JOHN H. BETHNER
SUSANNE C. PESTINGER
LLOYD V. ANDERSON
W. BRUCE MONROE
GREGORY C. TAYLOR
RODNEY B. CARMAN
MICHAEL R. SPAAN
JOSEPH M. CHOMSKI
GORDON F. SCHADT
CAROL A. JOHNSON
GERALD D. STOLTZ
RONALD C. NOEL
JOSEPH W. EVANS
WINSTON S. BURBANK
C. BUDD SIMPSON
J. SAMUEL OSTROVSKY
CONSTANCE L. BROOKS
DOUGLAS J. SERT
NANCY J. SHAW
JACK D. CLARK
GARY J. FINNELL
PAUL M. GRANT
PATRICK M. OWEN
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*NOT ADMITTED IN ALASKA

PROPOSAL: SAGEBRUSH REBELLION REPRESENTATION

Contract between

STATE OF ALASKA
LEGISLATIVE AFFAIRS AGENCY
Pouch Y - State Capitol
Juneau, Alaska 99811

and

BIRCH, HORTON, BITTNER, MONROE,
PESTINGER & ANDERSON
(Hereinafter the "Contractor")
1127 West Seventh Avenue
Anchorage, Alaska 99501

THE ABOVE PARTIES TO THIS CONTRACT, in consideration of the covenants hereinafter contained, hereby mutually agree to the terms and conditions hereinafter set forth:

CLAUSE I - STATEMENT OF WORK

- (A) The Contractor shall submit monthly reports to the Chairman of the Legislative Council on the following Sagebrush Rebellion matters, which shall include analysis of: (1) the disposition of Sagebrush Rebellion-type legislation in western state legislatures; (2) any actions taken by the U.S. Congress on the Hatch Bill and companion bills to convey the public domain to the states, as well as any other legislation affecting public land matters in the western states; (3) developments relating to Sagebrush-related public land litigation brought by the western states, including Nevada's lawsuit against the Department of Interior to compel conveyance of the public domain to Nevada; and (4) administrative action and policies adopted by the Departments of Interior and Agriculture including rules, regulations

and agency management policies related to Sagebrush Rebellion issues; and challenges to said actions and policies initiated in western states.

- (B) The Contractor shall also attend WAGLAC and Western Coalition Sagebrush meetings as a representative of the Alaska Legislature. Attendance at any other Sagebrush meetings or conferences shall be at the discretion of the Chairman.

CLAUSE II - PERIOD OF PERFORMANCE

- (A) This Agreement shall commence on February 1, 1980, and continue through January 31, 1981. This Agreement may be terminated by either party on written notice to the other.

CLAUSE III - COMPENSATION AND METHOD OF PAYMENT

- (A) (1) The work conducted under Clause I shall be compensated by a flat retainer of \$2,000 per month, inclusive of all costs except those delineated in paragraph (2) below.
- (2) Contractor shall be reimbursed for actual out-of-pocket expenses incurred in traveling to and attending Sagebrush meetings described in Clause I, including accommodations and board. Said expenses shall comply with standard per diem and expense limitations imposed by the Legislative Affairs Agency.
- (3) Payment for the work referenced in Clause I and described in the contract shall be due and payable to the Contractor upon tender of monthly invoices from the Contractor, approved by the Chairman of the Legislative Council.

CLAUSE IV - CONFIDENTIALITY OF COMMUNICATIONS

It is contemplated that all work done under this contract will be made public by the Legislature. However, all communications between the Legislative Council, the Legislature, or individual Legislators and the Contractor, including the final report, shall be held confidential by the Contractor until released by the legislative entity or individual Legislator to which they were addressed.

CLAUSE V - LOBBYING DISCLAIMER

The Agency and the Contractor agree that the only services to be provided under this contract are the provision of information,

analysis and advice to the Legislature; the Contractor is not authorized or permitted under this contract to represent the Legislature, its members, committees, or staff agencies before Congress or any other legislative, administrative, or judicial institution. However, nothing in this clause limits the Contractor's rights or responsibilities under any other agreement or prohibits the giving of testimony to the Alaska Legislature when that testimony is properly authorized.

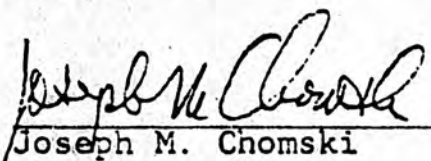
CLAUSE VI - ALL WRITINGS CONTAINED HEREIN

This agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or to bind either of the parties of this Agreement.

IN WITNESS WHEREOF, the parties to this Agreement have hereinafter set their hands and seals on the dates individually indicated.

BIRCH, HORTON, BITTNER, MONROE
PESTINGER & ANDERSON
Contractor

LEGISLATIVE AFFAIRS AGENCY
Agency

 11/31/80

Joseph M. Chomski Date

M. R. Charney Date
Executive Director

APPROVED:

APPROVED AS TO FORM:

Sen. George Hohman, Chairman
Legislative Council

Billy G. Berrier
Agency Legal Counsel

Date: _____

Date: _____



ALASKA LEGISLATIVE COUNCIL

-Minutes-

Meeting of

March 5, 1980

State Capitol - Juneau, Alaska

The meeting was convened by Chairman George Hohman in the Senate Finance Committee Room of the Capitol at 1:35 p.m., Wednesday, March 5, 1980.

Roll call was taken and all members of the Council were present. Staff members in attendance were Charney, Berg, Berrier, Ager, Andrews and Parker.

APPROVAL OF MINUTES

Mr. Charney pointed out that on page 2, line 5, the year 1981 should correctly be 1980. Senator Ray moved and asked unanimous consent that the further intent (which had been clarified earlier to both the Chairman and Executive Director) of his motion to authorize \$6,274 for equipment purchase at the request of National Alert Patrol be reflected as an amendment to the minutes -- that being the funds would be made available only to the Department of Public Safety who would buy the equipment and be accountable for it as state property. No objection was voiced and the motion passed. Senator Ray then moved and asked unanimous consent that the minutes for the Council meeting of February 20, 1980, as amended above, be approved. No objection was voiced and the minutes, as amended, were approved.

EXECUTIVE DIRECTOR'S SALARY

Mr. Charney briefly recapped the history of this matter since 1975 when the Council established the policy that the Executive Director's salary should be the same as that for a Commissioner of an executive branch department and how that policy had been deviated from during the past several years. He explained that he was now dubious to proceed on the 1975 policy unless the Council reaffirmed the policy. Senator Ray moved and asked unanimous consent that the Council reaffirm the previous policy that the Executive Director be compensated the same as a Commissioner. No objection was voiced and the motion was adopted.

ADMINISTRATIVE REGULATION REVIEW

Senator Bennett, Chairman of the Administrative Regulation Review Committee, appeared before the Council to outline the problems created by

the recent Supreme Court Decision and asked the Council for their consensus recommendation on how to proceed until a constitutional amendment can be approved by the voters. After discussion, Representative Brown moved and asked unanimous consent that the Council go on record as suggesting that the Administrative Regulation Review Committee introduce actual bills to nullify regulations as it deems necessary. No objection was voiced and the motion passed.

After further discussion, Senator Ray moved and asked unanimous consent that the Council request a clarification opinion from the Supreme Court regarding the unresolved problems created in their decision. Mr. Barrier stated that he was already preparing a resolution to that effect and Senator Ray agreed that that action would suffice the intent of his motion. No objection was voiced and the motion was adopted.

INTERIM REPORTS

Chairman Hohman brought to the attention of the Council that final reports had been received from Ms. Jennifer Wilke and Rowan and Associates on the Educational Television feasibility study and the d-2 survey results, respectively. Representative Brown noted that the final House Commerce Committee Interim report had also been delivered to the Agency.

Senator Ziegler requested the Council take action one way or another on the pending proposal from Birch, Horton, Bittner, et al, regarding follow-up activity on the Sagebrush Rebellion. After considerable discussion and various motions made and subsequently withdrawn by Representatives Brown and Gardiner, Senator Ray moved that \$12,000 of d-2 funds be allocated to the Sagebrush Committee of the Council for their use as they see fit, and report back to the Council any action taken. By mutual consent, the vote was taken by a show of hands and the motion passed 8 to 3 by those present in the room at the time, with Senator Ziegler not voting. Senator Ziegler requested the Chairman inform the law firm of the action taken and Mr. Charney was requested to draft the letter.

EXECUTIVE SESSION

Representative Gardiner moved and asked unanimous consent that the Council go into Executive Session to discuss litigation matters on the basis that specific personalities and confidential financial matters may be discussed. No objection was voiced and the meeting was recessed in order that an Executive Session could be held.

ADMINISTRATIVE REPORT

The Chairman reconvened the meeting and requested Mr. Charney to give his report.

Mr. Charney referred the Council to memoranda from him to the Chairman, dated February 25, 1980 and February 26, 1980 (attached), which responded to the matters raised at the last meeting regarding authority for specific expenditures and allocations of fiscal year 1980 funds.

Mr. Charney then brought to the attention of the Council that a report had been received from the subcommittee appointed at the February 6, 1980 meeting to resolve the interim employee pay problem. However, it was felt that the authority given at that time to implement the solution arrived at had been withdrawn at the February 20, 1980 meeting since a transfer of fund allocations would be required. Representative Gardiner moved and asked unanimous consent that the funds necessary to implement the report be taken from the Research and Analysis budget allocation. Senator Hohman objected for the purpose of pointing out that the funds being allocated are 100% Senate funds, and then removed his objection. There being no further objection the motion passed.

ADJOURNMENT

Chairman Hohman indicated that the next meeting of the Council would be on March 18, 1980 at 4:00 p.m. for the specific purpose of receiving a report from Levy and Associates by Mr. Milton Lipton.

Without objection, Chairman Hohman adjourned the meeting at 3:08 p.m.

MAY 20 1980

LAW OFFICES

BIRCH, HORTON, BITTNER AND MONROE

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MEMORANDUM

To: **SUBCOMMITTEE ON SAGEBRUSH REBELLION**
Alaska Legislative Council

Date: **May 14, 1980**

With the exception of Oregon and Montana (whose legislatures only meet in odd numbered years), Sagebrush Rebellion legislation was introduced in each western state. In the majority of states, pro-Sagebrush efforts were successful.

The legislative responses take several forms: resolutions in support of the Sagebrush Rebellion, mandates to the state attorney general to file amicus briefs in Sagebrush litigation, state constitutional amendments abolishing the disclaimer clause relinquishing all right, title and interest to federal land within its boundaries, or legislation similar to that which Nevada passed in 1979. The following summarizes, on a state by state basis, the actions taken. */

Arizona

The Arizona State Legislature passed a bill (S.B. 1012) declaring the state's strong moral, economic and legal claims to the public lands within its boundaries. The legislation adopted provides for state control of certain lands within the state boundaries and is virtually identical to the Nevada bill. Just as we had speculated in the report of January 28, Governor James Babbitt vetoed the bill on April 12. The Legislature then overrode that veto by a substantial margin.

Even more recently, the Arizona House passed a concurrent memorial (2004) in support of Senator Orrin Hatch's Sagebrush bill because Arizona has a right to be a state on equal footing with all other states and the federal government should only act as a trustee.

*/ We have copies of most of the adopted measures. These are available upon request.

California

California's Legislature was less successful in overriding its governor's veto. Governor Jerry Brown vetoed the Sagebrush Rebellion bill in 1979. Assemblyman Hayes, who was the proponent of 1979 legislation, did introduce legislation again this year (A.B. 2302), but the proposal is being substantially amended. The first proposal by Hayes would require the State Land Commission, the Attorney General, the Office of Planning and Research and the Department of Fish and Game to conduct a study encompassing the following issues: assess the state's legal basis for claiming public land ownership, the federal budget necessary to support the land, the amount of revenue derived from the public lands, the financial requirements for continued public land productivity, the economic impact of federal ownership on the state, and the cost to the state if it assumed ownership. No action has yet been taken on this legislation. Ostensibly, it would be more palatable to Governor Brown than a straight Sagebrush bill.

Colorado

Despite the fact that the governor of Colorado, who controls the agenda of the state legislature for 1980, omitted any Sagebrush-related proposals, the Sagebrush Rebellion was addressed via a resolution (H.J.R. 1006), directing a legislative appropriation for FY 1980-81, to fund a multi-state public land study. The study, similar in concept to the California proposal, would assess the effect of transferring public land management from the federal government to the respective states. The resolution was recently adopted by the 52d General Assembly of the State of Colorado.

Idaho

Several Sagebrush Rebellion-related pieces of legislation were presented to the Idaho Legislature in 1980. Among them was a regular "Sagebrush" bill, which would have placed the public lands under the jurisdiction of the State Board of Land Commissioners. The State House adopted the bill, but it was defeated in the Senate. However, the legislature did adopt a resolution (S.C.R. 129), directing the attorney general, on behalf of the State of Idaho, to enter litigation concerning Sagebrush issues as an amicus. Likewise, the Attorney General is required to report to the first regular session of the legislature on recommended legal action on public land issues.

New Mexico

The New Mexico Legislature has enacted one Sagebrush measure and may yet enact at least one other. First, it passed H.R. 79, which mandates state control of certain public lands within the state, thereby providing additional revenues for state and local purposes from the public lands.

The legislature was also advised by the Office of the Attorney General to enact a joint resolution proposing the constitutional repeal of the disclaimer clause. Such a repeal of the disclaimer clause would then be presented to Congress for its consent. If Congress fails to consent, then the question would be placed before the voters in the next general election. This proposal is still under consideration.

Utah

The Utah Legislature adopted a Sagebrush Rebellion bill, similar to that of Nevada, which directs the state to assume control of the public lands within its boundaries, with the proviso that the public land would not be transferred to private ownership without specific legislative approval. Under this statute, federal officials interfering with Utah's dominion over public lands within its borders would be guilty of a felony. Additionally, the Office of the Attorney General is directed to study the legality of this legislation and to submit a report to the legislature in its next regular session.

Washington

Interest in the Sagebrush Rebellion has grown rapidly in the State of Washington. Washington initially appeared to have only a lukewarm interest in Sagebrush, but the Legislature expressed support for the movement by enacting two measures, S.J.R. 132 and S.B. 3593.

The resolution declares that at the next general election, the voters shall have the opportunity to approve an amendment to the State Constitution which would eliminate the disclaimer clause regarding unappropriated public lands lying within the state. If this resolution is passed by the voters, then Senate bill 3593, which is similar to the Nevada bill, would go into effect.

Wyoming

The Wyoming Legislature chose to follow a route very similar to that of New Mexico, in that their legislation purports to repeal the disclaimer clause in the state constitution. This matter will be presented to the voters of Wyoming as a constitutional amendment. In addition, the State of Wyoming is also asserting control over its public lands and directs the Board of Land Commissioners to manage these public lands. Despite speculation to the contrary, Governor Hershler signed the measure.

Outlook

The positive Sagebrush Rebellion activity in the western state legislatures was far greater than expected this year. It serves as ample proof that the rebellion is no longer a political fad, and demonstrates the determination of the western states to directly confront public land issues.

This summer, the National Association of Attorneys General will be meeting at Lake Tahoe June 8-11, 1980. The Western Conference of Attorneys General will submit a package of resolutions relating to Sagebrush Rebellion issues at that time. These resolutions support conveyance of federal land to the states, amending the National Environmental Policy Act to limit venue to the site of the controversy, and support for an amendment to the Federal Quiet Title Act to clarify the statute of limitations. This meeting coincides with the Western Governors meeting.

Only a week later (June 17-18), the Western Council on State Government's Task Force on Public Lands will meet to focus on the efforts of the state legislatures and methods to cooperate in furthering the goals of the western states.

Finally, the National Association of Counties will hold its 45th annual conference in Las Vegas, Nevada, June 29 - July 3. The Western Division of NACO has strongly supported the Sagebrush Rebellion and the conference will focus on public land issues as they affect state and local governments.

Litigation

The State of Nevada plans to file a new Sagebrush lawsuit with the United States Supreme Court that will attempt to extend to the public lands the doctrine of inherent state sovereignty over navigable water bottoms that was recognized in United States v. Oregon. The State of Nevada is actively soliciting the intervention or amicus support of the other states. The complaint will only address questions of law and will leave the application of the law and suitable remedies for another day.

The single most important Sagebrush-related case pending before the Supreme Court is Utah v. Kleppe, which challenges the authority of the Department of Interior to classify land as not being available for state land selection. The case was argued before the Court on December 6, 1979. No opinion has been issued, but the Supreme Court is finishing its Spring term and the decision could come any day. The Utah case concerns a state land grant statute and a classification authority quite different from that of Alaska. Utah challenged the authority of the Secretary under Section 7 of the Taylor Grazing Act to classify land for grazing so as to preclude state land selection. The Taylor Grazing Act was adopted before Congress passed a supplemental Utah land grant act in 1964. Interior opposed Utah's selections made pursuant to the 1964 statute on the grounds that the state should not be entitled to equal acreage of land that was more valuable than the original township entitlement, and further contended that because the land was classified for grazing, it was exempt from state land selection. If the Supreme Court adopts the Department of Interior's claim to authority to limit Congressional land grants, then it might imply a similar power to preclude Alaska's land grants.

Individual states' efforts to adopt their own enforcement plans, as permitted in several of the federal environmental statutes, won a victory in the Tenth Circuit Court of Appeals last March. The trend has been for the federal agencies to override statutory provisions for state implementation of federal statutes, as in the case of the Clean Air Act Amendments of 1977.

On March 25, 1980, the state legislators of Colorado won their suit against the Environmental Protection Agency, which had threatened to impose cross-over sanctions because Colorado's program did not mirror the federal regulations. In this case, EPA would have withheld \$300 million of Department of Transportation funds until the state implementation plan met EPA standards. The Colorado Legislature was embroiled in controversies over automobile inspection and maintenance legislation, which were a necessary part of the implementation plan. The court stayed EPA's proposed enforcement an opinion until May 1.

Litigation challenging the Forest Service's RARE II process continues in the States of Wyoming and California. The Mountain States Legal Foundation is leading the challenge to the RARE II process as it affected certain high oil potential lands in Wyoming and southern Montana, in the so-called Overthrust Belt. The theory of the suit is that the RARE II program, which is entirely administrative, constituted a de facto withdrawal which had never been approved by the express provisions in the Federal Land Policy and Management Act. Certain factual stipulations have been agreed to and a motion for summary judgment has been entered.

Likewise, in late December, the District Court for California held that the Forest Service's final environmental impact statement for the RARE II program as it affected California was inadequate and therefore violated the provisions of the National Environmental Policy Act. Judge Karlton's opinion rejected the EIS on the grounds that it was conclusory and factually insufficient. Thus, 47 study units in California, which had been classified for multiple use and further planning, were to be held in a no action status until the EIS was corrected. The case is on appeal to the Ninth Circuit.

In our opinion, Judge Karlton's opinion will probably be overruled because much of his decision assumed that the 1964 Wilderness Act mandated the Forest Service to study every area of the national forest system. A close reading of the Wilderness Act reveals that the Forest Service could, but did not have to, select wilderness areas within the system for study. There is no statutory requirement to study each and every forest acre. Since the judge's ruling incorrectly assumes that the provisions of the Wilderness Act are mandatory when in fact they are discretionary, his holding that the Forest Service violated the provisions of the Wilderness Act will probably fall.

The constitutionality of the Congressional act designating wilderness in the Boundary Waters Canoe Area of Minnesota, is about to be upheld. While Minnesota is not typically considered a public land state, the northern portion of the state is primarily national forest. The 94th Congress designated much of that area wilderness and mandated an end to the use of motorized vehicles and certain commercial tourist operations located within the boundaries. The inholders and recreational users filed suit in the U.S. District Court challenging the constitutionality of the law. An opinion should be issued toward the end of this month, upholding the constitutionality of the statute. It should be noted that in these cases, courts tend to find Congress' actions constitutional, but leave open the opportunity for the litigants to seek monetary damages for their losses.

Congress and the Interior Department

Congress has not taken any action on legislation related to Sagebrush Rebellion issues. While legislation has been introduced mandating conveyance of all federal lands to the respective states, no hearings have been held. Generally, the committee chairmen to which these bills have been referred are not sympathetic to the Sagebrush Rebellion and it is not expected that such hearings will be held in this Congress.

On May 7, the Senate Judiciary Committee accepted an amendment to alter venue rules for environmental litigation, which was recommended by the Subcommittee on Judicial Machinery. The proposed language combines the bills introduced by Senator Dennis DeConcini (D-Ariz.) and Senator Paul Laxalt (R-Nev.).

The law focuses on two separate venue issues. First, it changes the factors a court is to consider when reviewing a motion for change of venue in all cases. If the cause of action is determined to primarily have local or regional impact, then the court should find it in the interest of justice to send the case back to the local district. Under present law, convenience of the parties and interests of justice govern motions to change venue.

Secondly, in cases where: 1) the United States is a defendant, 2) the cause of action embraces a given locality, 3) concerns real property, or 4) involves environmental issues, there is a statutory presumption in favor of the transfer of the case to the local district. In addition, a motion for change of venue can be brought by the court sua sponte or an intervenor, rather than merely being the option of the defendant, as under present law. Moreover, the plaintiffs in these kinds of cases must notify up to five state attorneys general of the potentially affected states. No such notice requirement exists at the present time.

The general intent of this amendment is to preserve local districts' rights in litigation which is frequently brought in Washington, D.C. The Alaska wolf hunt case is a particularly appropriate example. The preservationists sued the Department of Interior in the District of Columbia and the Alaska State Attorney General was forced to come to Washington to argue a matter more appropriately resolved in Alaska.

Substantial support for the amendment is reported to exist. However, the House Regulatory Reform Bill differs substantially. Therefore, the venue reform has a distance to go before it becomes law.

Similarly, the Bumpers amendment is also attached to S. 262, the Judicial Improvements Bill, discussed above. It changes the burden of proof for challenges to agency actions. Originally, it was a rider to a budget authorization bill that passed in the Senate during the first session of this Congress. A modified amendment was added to the Judiciary Committee's omnibus regulatory reform law. Thus, the amendment is now carried in S. 262, which must go to the Senate Floor. The House Judiciary Committee has just taken up the regulatory reform matter, so no final committee print exists. However, neither the venue issue nor the Bumpers amendment is included.

The same is true for the amendments to the Surface Mining Reclamation Act, which would have clarified the right of the states to submit complying, but varying, surface mining programs. The amendment passed overwhelmingly in the Senate, but Representative Morris Udall has vowed that the amendment will never leave the Committee on Interior and Insular Affairs.

Other interesting developments have occurred in Washington. Secretary Cecil Andrus has made public his intent to resign after 1980. More importantly, Leo Krulitz, former Solicitor of Interior, has resigned, and Clyde Martz, well-known public land lawyer from Colorado, is taking his place. Mr. Martz has tremendous credibility with industry, having been involved in public land issues on behalf of mining companies, oil companies, and other multiple use clients. While a Solicitor cannot directly change Department of Interior policy, Martz is expected to be a knowledgeable and effective voice for the western states.

Constance E. Brooks
CONSTANCE E. BROOKS

CEB:brk

For copy of report, see
Legislative Reference Library,
LLIB document no. 8000820

Sagebrush

THE SAGEBRUSH REBELLION

**A Concise Analysis of the History, the Law
and Politics of Public Land in the United States**

**Prepared for the State of Alaska
Legislative Affairs Agency**

January 28, 1980

**BIRCH, HORTON, BITTNER, MONROE,
PESTINGER & ANDERSON, P.C.**

**Joseph M. Chomski
Constance E. Brooks**

FLASH!

NEVADA LEGISLATURE CLAIMS 49 MILLION ACRES OF "FEDERAL LAND" FOR STATE *

Nevada Governor Robert List signed into law a bill declaring state sovereignty over 87 percent of the entire State previously controlled by federal agencies.

Nevada's call to other states to join in its challenge is not going unheeded. Already Alaska's Legislature has passed a resolution commending Nevada's move, and Oregon lawmakers have it under consideration.

The "public lands" issue is of such mind-boggling magnitude that it makes the fuel and energy crisis picayune by comparison.

The original Nevada bill, drafted by District Attorney T. David Horton, Counsel, Committee to Restore the Constitution, Inc., a non-profit Colorado corporation, and legislative hearings preceeding enactment of the statute, are reported in "EMERGING STRUGGLE FOR STATE SOVEREIGNTY", a new book by Archibald Roberts, Lt. Col., AUS, ret., Director, Committee to Restore the Constitution.

"Emerging Struggle for State Sovereignty", \$5.95 paperback, is available from BETSY ROSS PRESS, 480 Savings Building, Fort Collins, Colorado 80521

*** ROCKY MOUNTAIN NEWS editorial, Sunday, 10 June 1979, copy on request.**

SCOMM

#22:48

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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.

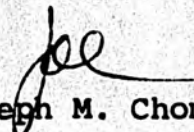
While we talked about the question of the Alaska Legislature's standing to sue, the contract inadvertently omits any mention of it. Clause I, Paragraph B, of the Contract authorizes any member of the Legislative Council to make a specific request. A written request asking the firm to include the standing 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
Page 2
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 **ent** 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 Ron 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 tents Sam Cotten, D-Eagle Riv
Colletta, who is suppo
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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.

WESTERN INTERSTATE REGIONAL COALITION

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.)

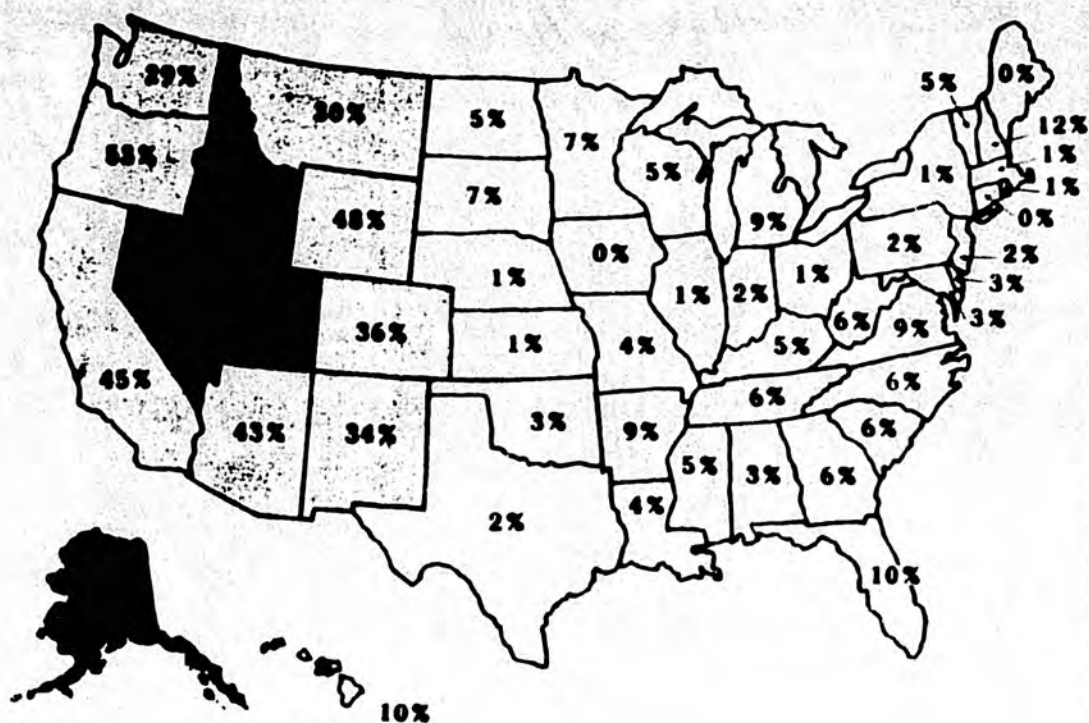
NEVADA'S LEGISLATIVE COMMITTEE FOR THE REVIEW OF FEDERAL REGULATIONS

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.

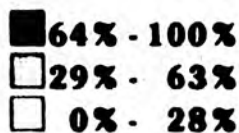
The committee is authorized to review and comment on any administrative policy, rule or regulation of the Secretary of Interior which pertains to policy concerning, or management of, public lands under the control of the federal government. Additionally, the committee is authorized to conduct investigations 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 Montez 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

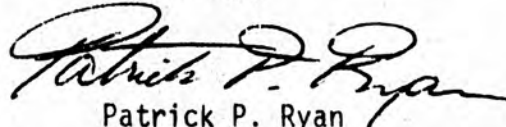
TO ALL INVITEES:

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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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 NEWARD STREET
ANCHORAGE, ALASKA 99501
(907) 276-2200
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

\$3,000.00

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

FEEES

I. Preparation for and attendance at September 4, 5, & 6, 1979
Sagebrush Rebellling 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
Sagebruch 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
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) 279-9501
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

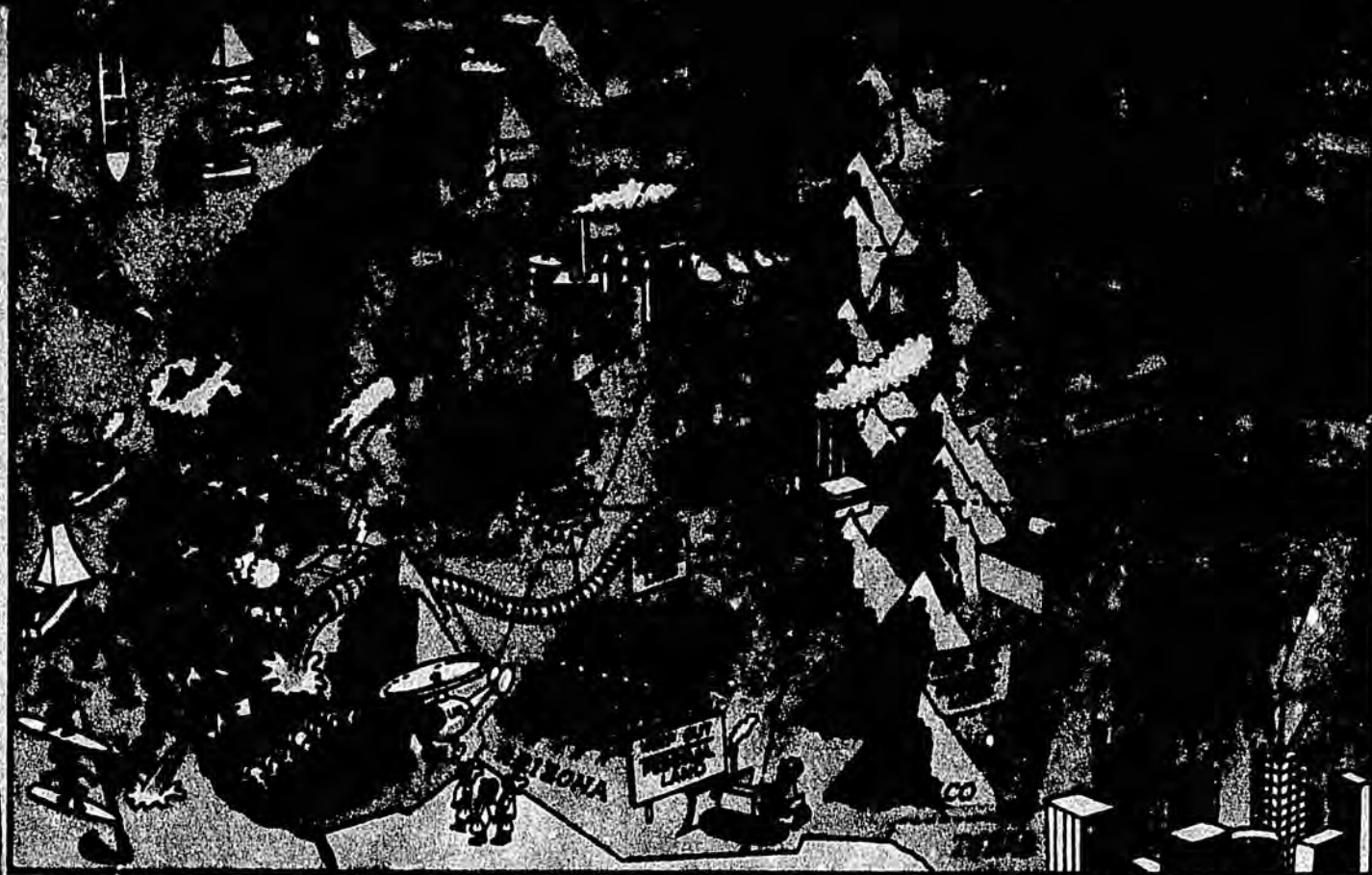
08/20	Conf. w/Senators Colletta and Rodey	
08/24	Review re: litigation information; call to Mr. Swenson at Nevada Attorney General's office	
08/27	Dictate summary of discussion w/Mr. Swenson re: basis for Nevada's al- legations against Federal government	
08/27	Research re: public lands trust doctrine	
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 Pocatello, 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 also 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 Rummel—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."

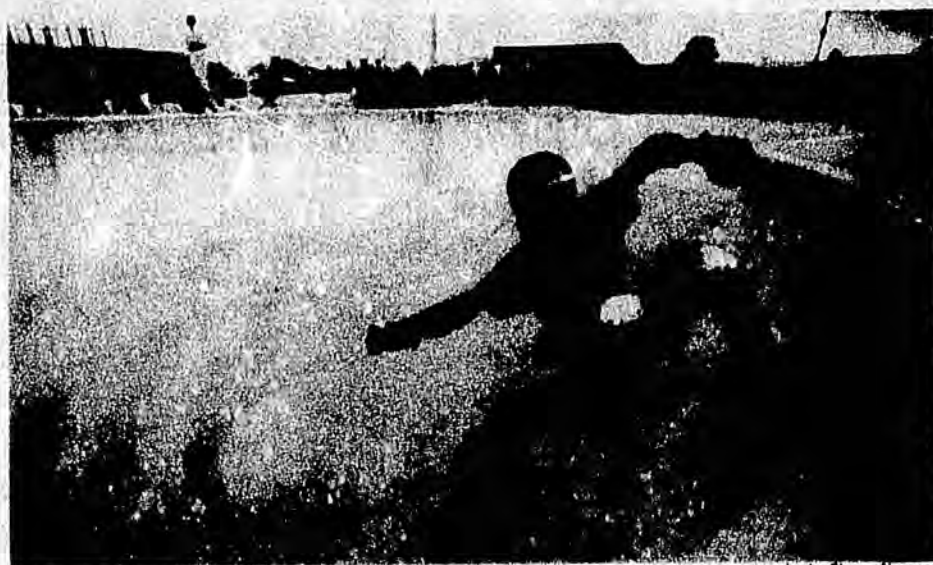
But California makes other Western states wince. Old regional stereotypes such as brawling barroom cowboys, tight-lipped Mormon polygamists and randy forty-niners have receded, only to be replaced by hot-tub hipsters, loony psychotherapists and worse. "You name it: if it bubbles and its eyeballs are 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 Carter administration. 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.

Calvin Rampton declared Matheson his personal choice to succeed him. Although barely 1.5 per cent of Utah voters had ever heard of him, an image of trusty competence—as well as a lack-luster campaign by his GOP rival—enabled Matheson to win handily. Though he is constantly bugging with his Republican legislature, Matheson remains popular, traveling around the state with a charity volleyball team, composed of his family and staff, called the Governor's Go-Fers.

SHARING: Matheson, who has close ties to business, favors the development of Utah's resources. But he insists on a say in Washington's plans for water and energy. He was stung to action in 1977 when President Carter tried to cancel a key portion of a giant central Utah water project without consulting state officials. Matheson eventually forced the Carter Administration to restore funding. Since then, he has worked to ensure that the states have a voice in such planning—even going so far as to persuade other governors to endorse the idea of sharing

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

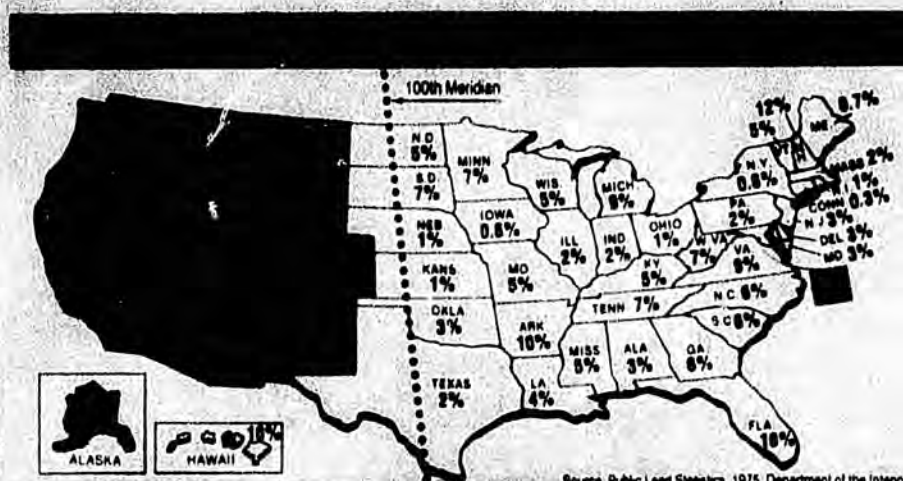
keep them out of prime areas, cost them millions of dollars and delay projects for years. "A lot of these rules are generated back East, where life is different," complains mine manager Wade Ellett. "Let me do my business in Carson City, where they know the terrain."

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

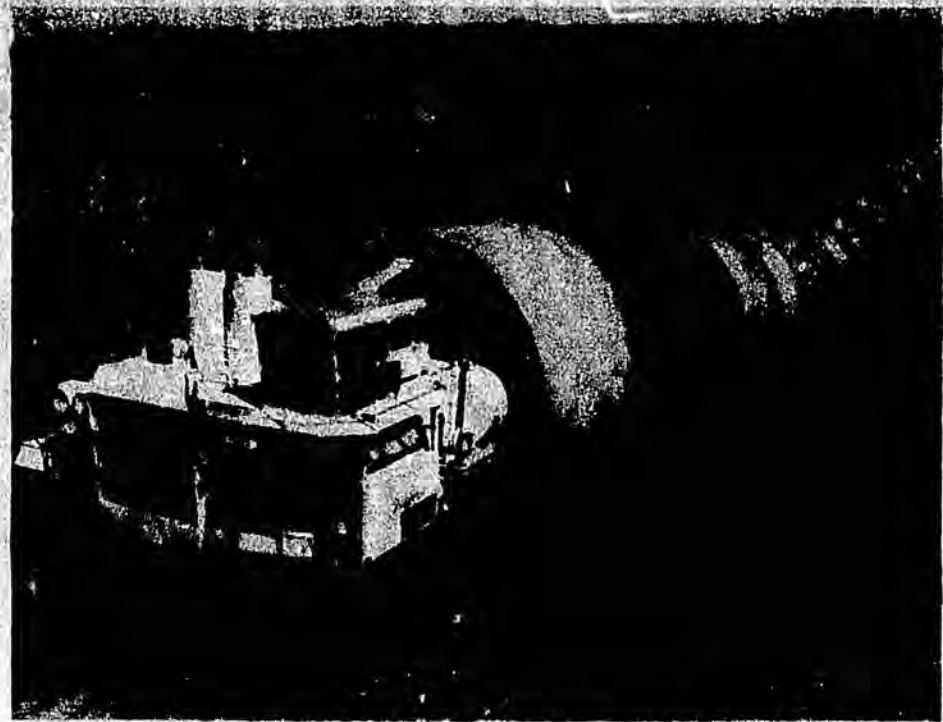


Source: Public Land Statistics, 1975, Department of the Interior

Feng & Freyer

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 harm than good to ruin agriculture and that vast oil-shale boom towns such as 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 BORGES in Washington

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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
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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



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The Council of State Governments
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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



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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
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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 & Layton
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, reading "Ray Waters". The signature is written in dark ink and is positioned above 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

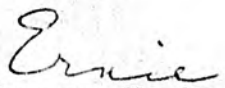
Dear Mike,

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

