

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON NATURAL RESOURCES, AGRICULTURE, AND
MINING**

**Seventy-Fifth Session
April 22, 2009**

The Committee on Natural Resources, Agriculture, and Mining was called to order by Chair Jerry D. Claborn at 1:28 p.m. on Wednesday, April 22, 2009, in Room 3161 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/75th2009/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Jerry D. Claborn, Chair
Assemblyman Joseph M. Hogan, Vice Chair
Assemblyman Paul Aizley
Assemblyman David P. Bobzien
Assemblyman John C. Carpenter
Assemblyman Pete Goicoechea
Assemblyman Tom Grady
Assemblyman Don Gustavson
Assemblyman Tick Segerblom

COMMITTEE MEMBERS ABSENT:

Assemblyman Harvey J. Munford (excused)
Assemblyman James Ohrenschall (excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

J. Randall Stephenson, Committee Counsel
Jennifer Ruedy, Committee Policy Analyst
Judith Coolbaugh, Committee Secretary
Cheryl McClellan, Committee Assistant

OTHERS PRESENT:

Doug Busselman, Executive Vice President, Nevada Farm Bureau, Sparks, Nevada
Wes Henderson, Government Affairs Coordinator, Nevada Association of Counties, Carson City, Nevada
David R. Laxalt, representing the Nevada Cattlemen's Association, Elko, Nevada
Tom Fransway, Chair, Board of Commissioners, Humboldt County, Winnemucca, Nevada
Janine Hansen, representing the Nevada Committee for Full Statehood, Carson City, Nevada
John L. McLain, Principal, Resource Concepts, Inc., Carson City, Nevada; representing the Wildfire Support Group, Humboldt County, Winnemucca, Nevada

Chair Claborn:

[Roll was called.] I am opening the hearing on Senate Concurrent Resolution 3 (1st Reprint). Senator Rhoads had a scheduling conflict, and cannot be here to present this resolution. Mr. Carpenter will introduce the resolution in his stead.

Senate Concurrent Resolution 3 (1st Reprint): Expresses disapproval of certain civil actions brought and maintained against the livestock industry and the Bureau of Land Management in Nevada. (BDR R-496)

Assemblyman John C. Carpenter, Assembly District No. 33:

[Read Senator Rhoad's prepared testimony submitted in writing ([Exhibit C](#)).] I would like to add a few comments of my own to Senator Rhoad's testimony. The Bureau of Land Management (BLM) and the permittees are cooperating in developing new plans for the permittees grazing allotments. After much discussion with the BLM, sometimes lasting for years, the BLM finalized the agreed-upon-plans. The plans were immediately appealed by various anti-livestock organizations. The plans are developed to help preserve the range, and to stabilize the numbers of livestock the ranchers are allowed to run on their grazing allotments. These plans are beneficial to all public land users. Then, before the plans can be executed, they are appealed.

Consequently, nothing is done, and the existing arrangements remain the status quo. Many times these plans call for water development projects and better range management practices that aid both livestock and wildlife. The appeals can go on for years, and the BLM employees are tied up preparing answers to the appeals. It is a serious situation. We hope this resolution will bring some attention to what is going on. Also, we hope it will encourage the Attorney General to become involved by using all available legal remedy to advance these civil cases, and protect the interests of the state.

These groups recently filed civil appeals against 18 different allotment management plans. This court process of appeal submission, which the groups are using, is a huge detriment to the livestock industry, and to wildlife in this state. In reality, the ultimate goal of these groups is to eliminate all grazing on public lands.

Chair Claborn:

Is the Western Watersheds Project still involved with filing these appeals against allotment management plans?

Assemblyman Carpenter:

They are the leader of the groups that file these appeals. Their stated goal is to end all cattle grazing on public lands.

Chair Claborn:

It is a real problem, and could eventually affect the amount of beef available for public consumption.

Assemblyman Carpenter:

It is a bad situation. The ranchers have been grazing livestock on the range for over a hundred years, and they try to care for the range. The ranchers, themselves, spend their own funds to improve the range lands in an effort to do what is right. It is a bad situation. The appeals being filed by these groups keeps all parties at step one.

Assemblyman Aizley:

The Western Watersheds Project is one of the groups protesting through the legal system. Who are the other groups involved in these appeals?

Assemblyman Carpenter:

The Western Watersheds Project is the most prominent of these groups. They are headquartered in Idaho. There is a group in Arizona, but I do not recall the name.

Assemblyman Segerblom:

Are they filing these cases in federal District Courts, and the appeals process is tying up the BLM personnel?

Assemblyman Carpenter:

These suits are being filed in District Court. The Western Watersheds Project files their cases in Idaho, but there is a judge there who has historically been ruling in favor of their appeals and against the BLM and the ranchers. We have tried for a number of years to have one of these suits tried in Nevada's District Court. However, so far, we have not been successful. We would like to get them heard in our Reno court.

Assemblyman Segerblom:

Are you saying the status quo is being maintained while these court actions are ongoing?

Assemblyman Carpenter:

When these groups file their appeals, everything comes to a standstill. If the BLM and the ranchers had agreed upon a water development project in the allotment plan, it cannot be moved forward. There is no way to improve the range. The purpose of these plans is to stabilize the livestock industry and improve the range.

Chair Claborn:

Are there any questions?

Assemblyman Goicoechea:

Can I speak to the bill, and join Mr. Carpenter at the witness table?

Chair Claborn:

Absolutely.

Assemblyman Peter (Pete) J. Goicoechea, Assembly District No. 35:

I am here to testify on S.C.R. 3 (R1). Every ten years, a grazing allotment permittee has to go through a permit renewal process. When the permit renewals are filed, any interested member of the public can come forward and comment. Two groups, the Western Watersheds Project and the Center for Biological Diversity, wait until the permit renewals come up, then file an appeal through the Interior Board of Land Appeals (IBLA), which ends up as a case in a federal District Court. While the case is pending, they obtain injunctions that prevent the rancher from grazing his livestock. This is what recently happened to Mr. Fred Fulstone whose ranch is located in the Sweetwater Mountains. They obtained a 60-day injunction against him that will prevent him from

grazing his livestock. In order to file an injunction, they used the premise that California Big Horn sheep, an endangered species, were threatened by domestic sheep grazing. It was a little different issue than the normal grazing of livestock.

If there were some issues that the BLM and the permittee wanted to address, they could not because nothing can be changed. Committee members who are not in the livestock industry need to understand that the water rights and water maintenance projects benefit wildlife and the public at large. Those water sources tend to degrade when no one is there to maintain them. There is no point in a rancher going out to range land and pumping up water from a well if he has no economic reason to do so. We also continue to see a reduction in the number of grazing permits being issued. In a good year, we either graze the range, or burn it. We all know the costs associated with fire suppression. The next resolution we are scheduled to hear originated in Humboldt County to prevent their tax base from burning up.

Chair Claborn:

Are there any questions?

Assemblyman Carpenter:

I wanted to make another statement. While the appeals process is ongoing, anyone can comment on these plans. The Western Watersheds Project and the other groups will not comment. They are sent special notices of meetings at a certain time and place on the range, and invited to come so their concerns can be heard. They refuse to attend, or to offer any input. Perhaps, they feel stating their concerns may give more credence to the livestock industry's position. They will not enter into any dialogue at all. Instead, they wait until the decision on the permit has been entered, and then they appeal it.

Chair Claborn:

If there is no dialogue, there is no compromise. Mr. Carpenter, are you finished with your testimony? [Mr. Carpenter nodded in assent.]

Doug Busselman, Executive Vice President, Nevada Farm Bureau, Sparks, Nevada:

We are here to urge this Committee to pass this resolution. We are in support. A lot of the details and concerns have been covered by the Assemblymen who spoke to the resolution. We would like to emphasize that not only are livestock operations affected, but also sound natural resource management is thwarted. As these groups bring forward their contentions, it becomes clear that most of their appeals are not based on resources science. Their cases are filed on technical details—were all the "i's" dotted and the "t's" crossed—as the case

goes through the National Environmental Policy Act (NEPA) process. It is very frustrating for the ranchers and others who are involved in on-the-ground resource management, which involves give-and-take. Finally, you arrive at an agreement with the BLM and go forward with the implementation only to find someone who was not involved in the process appealed the agreement in the courts. It demeans the whole effort of on-the-ground resource management and collaborative activities. We are in support for passage of this resolution.

Chair Claborn:

Are there any questions?

Assemblyman Hogan:

As someone who is not involved in ranching activities, my inclination is to be reluctant to make any attempt to interfere with anyone's access to our judicial process. However, in listening to the witnesses, it sounds like the process is being abused in some of these cases, rather than used appropriately. You have respect for the availability of judicial relief, but it should be used properly and efficiently. Misusing the system by creating excessive time delays and filing non-meritorious cases is not acceptable. Has the BLM or anyone else in the federal government made any effort to be more selective in what cases can be accepted? Could time limitations be established to dispose of cases that have no merit? Has anyone tried to make the process work more expeditiously?

Doug Busselman:

I do not know how to succinctly summarize an answer to your questions. As Mr. Goicoechea indicated, each time any type of permit or federal management decision is being considered, the process requires a public evaluation. We are not opposed to that public input. We are interested in having that process used appropriately, especially when differences of opinion are being brought forward. Our biggest contention is the arguments being brought forward are not based on the scientific merits of the issue. They are brought forward on the basis of whether or not the BLM covered all the technicalities in the administrative procedure they were required to do in order to arrive at their decision. It is difficult to determine how to resolve this problem if you keep the process open (as it should be) to the public. Anyone must be allowed to participate in the process.

Most of the cases there were eventually adjudicated were not overturned on the basis of the science applied in developing the agreement. This is why we believe it would be helpful to request the involvement of Nevada's Attorney General to emphasize the judicial process needs to be used to address legitimate concerns, and not for frivolous technicalities. Furthermore, there are a number of instances where the attorneys involved in filing the suits are also being paid

by the federal government under the Equal Access Act. These groups are not only promoting a gridlock agenda, but also their attorneys are getting paid to make it happen.

Chair Claborn:

Are there any questions? [There were none.]

Wes Henderson, Government Affairs Coordinator, Nevada Association of Counties, Carson City, Nevada:

We are here in support of this resolution. The Nevada Association of Counties (NACO) issued NACO Resolution No. 08-04 last year, and I will email the Committee copies of it. It was in support of the National Cattlemen's Beef Association position on the renewal of grazing permits on public lands. Even when the BLM has gone through all the proper procedures, we have groups coming forward who seek to overturn those decisions. Another tactic they use is to request enforcement of the NEPA compliance process on grazing permit renewals when there are no changes made in the permit. We urge your support.

Chair Claborn:

Are there any questions? [There were none.]

David R. Laxalt, representing the Nevada Cattlemen's Association, Elko, Nevada:

The Nevada Cattlemen's Association (NCA) supports this resolution [Read from prepared testimony submitted in writing ([Exhibit D](#)).]

Chair Claborn:

Are there any questions? [There were none.]

Tom Fransway, Chair, Board of Commissioners, Humboldt County, Winnemucca, Nevada:

Over the last two bienniums, I have served as the local government representative on the Interim Legislative Committee on Public Lands, and we have heard a lot about this issue. [Read from prepared testimony submitted in writing ([Exhibit E](#)).] I plan on presenting this issue to the State Land Use Planning Advisory Council at their next meeting, and I will request a concurrence from them on this resolution. If it is passed through both Houses, I plan on taking it to the National Association of Counties for their consideration. In my county, the actions of these environmental groups have created a roadblock in some very cooperative efforts between the BLM, permittees, and the United States Forest Service (USFS). In particular, the eight permittees on the Martin Basin Rangeland Project Environmental Impact

Statement (EIS) have genuinely cooperated with the grazing permit renewal process through the USFS, and their efforts have been stymied by these groups. I am very much in support of this resolution, and I urge the Committee to pass it.

Chair Claborn:

The resolution before us today originated from the Legislative Committee on Public Lands. The Committee visited all of the rural communities and spoke to the local ranchers. Are there any questions? [There were none.]

Janine Hansen, representing the Nevada Committee for Full Statehood, Carson City, Nevada:

The Nevada Committee for Full Statehood (NCFS) was born out of the issue of defending ranchers and the ranching industry. The state's ranching industry is under attack. Almost 50 percent of the ranches in Nevada are now gone, and there is only one rancher left in Clark County. We support this resolution, and some of the others that have come out of the Legislative Committee on Public Lands. The reason the NCFS exists is approximately 91 percent of the land in this state is controlled by the federal government. This situation does not put us on an equal footing with the other states. The NCFS is seeking full statehood, and elimination of our current territorial status. Our new bumper sticker is going to say: "graze it or blaze it."

Chair Claborn:

Are there any questions? [There were none.] Are there any witnesses wishing to testify who oppose the resolution? [There were none.] Does anyone want to testify from a neutral position? [There were none.] I am closing the hearing on S.C.R. 3 (R1). I will entertain a motion of adoption.

ASSEMBLYMAN GUSTAVSON MOVED TO ADOPT
SENATE CONCURRENT RESOLUTION 3 (1ST REPRINT).

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

Is there any discussion?

Assemblyman Bobzien:

I am very sympathetic to the situation. I have known about the Western Watersheds Project group for a long time. They use a serial approach to protesting every grazing plan and permit renewal in an attempt to shut down the beef industry in this state. At the same time, I am concerned that litigation over public lands is a tool in the tool box, and it does have to be done. Therefore, I will be voting against the resolution.

Chair Claborn:

Are there any more questions? [There were none.] We do not have a quorum present to vote on the motion. Mr. Gustavson has withdrawn his motion, so we will reschedule the resolution for a vote at a later date. I am closing the hearing on S.C.R. 3 (R1). I am opening the hearing, and we will begin taking testimony on Senate Concurrent Resolution 5 (1st Reprint).

Senate Concurrent Resolution 5 (1st Reprint): Commends the Wildfire Support Group. (BDR R-605)

John L. McLain, Principal, Resource Concepts, Inc., Carson City, Nevada; representing the Wildfire Support Group, Humboldt County, Winnemucca, Nevada:

Resource Concepts is an engineering resource and environmental consulting firm in Carson City. We have been working on natural resources within the state for 31 years. Also, I am here to represent Mr. Jan Schade, who is the coordinator of the Wildfire Support Group (WSG) in Humboldt County. I will combine my comments with the ones Mr. Schade has asked me to make.

The WSG is a nonprofit organization primarily made up of ranchers in Humboldt County. The WSG was formed in 1999 after a catastrophic wildfire. Ensuing wildfires in that region have devastated a large portion of the northern Nevada landscape. More recently extensive areas in the southern part of the state have been consumed by wildfires. The WSG recognizes the negative financial impact to the ranchers who are running livestock on the public lands, which are being destroyed by wildfires. The wildfires eliminate the forage, wipe out wildlife habitats, and destroy existing watersheds in the region.

Our resources in these areas are impacted for a long period of time. Water quality and delivery systems also suffer. Our rural communities are impacted by the loss of wildlife habitats that are no longer available to sportsmen, and this source of tourist dollars is removed from the local economies. The ranchers are impacted the most because the wildfires remove their source of livelihood. When agencies do rehabilitation work after the wildfires, it usually takes two to three years for the land to be restored before grazing can resume. It can virtually put a rancher out of business. As mentioned earlier, this is a public lands state and almost all available grazing allotments are allocated. To find alternative feed areas, ranchers almost have to leave the state, or they cut back their cattle numbers to the point where their financial survival becomes jeopardized.

The WSG provides firefighting services at the point of origin of the dry lightning strikes that create these wildfires. Hundreds of lightning strikes are recorded. The WSG is out there, and with some training, the force is able to combat the fires. They are a real asset. To start the program, the WSG met with the Bureau of Land Management (BLM), which was cautiously receptive to the WSG's proposal to have their members trained by the BLM to help fight the wildfires. The decision to go ahead was made for the BLM by Mr. Bob Abbey, the State Director at that time. Mr. Abbey was known for risk-taking, and his ability to make things happen in a positive way. He supported the Winnemucca Field Office of the BLM in the training of 45 ranchers and other interested individuals. The group completed their training and received BLM Red Cards. The WSG has been very effective in providing immediate fire suppression. They are "first responders." Furthermore, they know their allotments and access roads well. They communicate with their assigned BLM radios, and coordinate activities with the other firefighters who are coming to the scene. Often, the wildfires are out by the time the BLM firefighters arrive. The WSG provides a huge cost savings to the taxpayer.

I have worked with the BLM on fire suppression. My current role is to coordinate a program with the BLM and members of the WSG. The idea is to use the WSG ranchers' livestock to reduce range fuels, and to work on fuel management reduction to minimize the effects of the wildfires. The BLM provided funds for the WSG to do some fire reduction planning on allotments in the Winnemucca area. Eleven of these allotment plans were successfully carried out in Humboldt County. Following that, using grants obtained by United States Senator Harry Reid, they were able to expand and extend their efforts by using Resource Concepts as a technical consultant. We provide assistance to private landowners and ranchers whose lands are threatened by wildfires because of existing fuel sources. We develop plans for fuel breaks and fuel reduction treatments. The WSG has now joined with the BLM, the USFS, the Nevada Division on Forestry, the State Department of Natural Resources and Conservation, and the Nevada Association of Counties (NACO) to expand this model to other parts of the state, especially in the rural areas. Mr. Schade and I wholeheartedly support this resolution and request an affirmative vote on it.

Chair Claborn:

Are there any questions? [There were none.]

Tom Fransway, Chair, Board of Commissioners, Humboldt County, Winnemucca, Nevada:

I support this resolution, and I am particularly proud that the WSG was spawned in my county. I know the members personally, and it is an example of the

cooperation, commitment, and dedication that we need between the federal government and our public land users. Not only are they involved in efforts to suppress wildfires, but also they are involved in wildfire prevention. There is an effort right now to provide fuel reduction management in the Montana Mountains, which have one of the largest sage grouse habitats in the western United States. The WSG is a serious and dedicated organization that wants to do what is right for wildfire suppression on public lands. Humboldt County supports this resolution.

Chair Claborn:

Are there any questions?

Assemblyman Hogan:

The WSG was established in Humboldt County. It is a terrific idea, and it fits the needs and capabilities of ranchers on public lands. Is the program becoming known and replicated in other counties? Could it be as helpful in other counties? Aside from the BLM training for the WSG, have other resources been needed to establish the program?

Tom Fransway:

My hope and the hope of many others is the program will evolve statewide. People are noticing this group throughout the state, and other ranchers in other BLM districts are watching it closely to observe the beneficial effects of it. It has the potential to be started in other areas of the state. As Mr. John McLain mentioned, the ranchers in the WSG have been trained and certified by the BLM as Red Card personnel available to be first responder firefighters. I am a retired Winnemucca firefighter, and I know there are several requirements, including Cardiopulmonary Resuscitation (CPR) training, necessary to obtain the Red Card certification. The training is intense. They also receive radio operation training to communicate between the different entities that respond to wildfires.

Chair Claborn:

Are there any more questions? [There were none.]

Wes Henderson, Government Affairs Coordinator, Nevada Association of Counties, Carson City, Nevada:

We are in support of this resolution. We, too, are proud of the leadership of Humboldt County in developing this concept, and we commend the WSG for their efforts and for the results of their ongoing wildfire suppression efforts. We also commend their fire prevention efforts, which include fuel reduction management and the establishment of fire breaks.

Chair Claborn:

Are there any questions? [There were none.]

Doug Busselman, Executive Vice President, Nevada Farm Bureau, Sparks, Nevada:

We are here in support of this resolution. On page 2, line 19 of the resolution it states: "...the Wildlife (sic) Support Group serves as an exemplary model of local residents cooperating with governmental entities in working to improve their community...." That statement is all the reason necessary to support this type of cooperative activity. We frequently find ways to criticize people who are unable to work together. This is an example of what we need to emulate, and we are in support of this resolution.

Chair Claborn:

Is there any more testimony?

Tom Fransway:

We wanted to draw your attention to the typographical error on page 2, line 19 of the resolution. The word "Wildlife" is used instead of "Wildfire."

Chair Claborn:

We will take care of that. I am closing the hearing on S.C.R. 5 (R1). Are there any more questions? [There were none.]

The meeting is adjourned [at 2:22 p.m.].

RESPECTFULLY SUBMITTED:

Judith Coolbaugh
Committee Secretary

APPROVED BY:

Assemblyman Jerry D. Claborn, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Natural Resources, Agriculture,
and Mining

Date: April 22, 2009

Time of Meeting: 1:28 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.C. R. 3 (R1)	C	Assemblyman John C. Carpenter	Testimony of Senator Dean Rhoads
S.C. R. 3 (R1)	D	David R. Laxalt	Testimony
S.C. R. 3 (R1)	E	Tom Fransway	Testimony