

**MINUTES OF THE
SENATE COMMITTEE ON NATURAL RESOURCES**

**Seventy-sixth Session
May 4, 2011**

The Senate Committee on Natural Resources was called to order by Chair Mark A. Manendo at 4:01 p.m. on Wednesday, May 4, 2011, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Mark A. Manendo, Chair
Senator David R. Parks, Vice Chair
Senator John J. Lee
Senator Dean A. Rhoads

COMMITTEE MEMBERS ABSENT:

Senator Michael Roberson (Excused)

STAFF MEMBERS PRESENT:

Michelle Van Geel, Policy Analyst
Charity Fowler, Counsel
Donald O. Williams, Research Director, Research Division, Legislative Counsel
Bureau
Linda Fehr, Committee Secretary

OTHERS PRESENT:

Tom Fransway, Board of Commissioners, Humboldt County
Wes Henderson, Deputy Director, Nevada Association of Counties
Daryl Capurro, Board of Wildlife Commissioners, Department of Wildlife
Kyle Davis, Political Director, Nevada Conservation League
Harry Mortenson, Ex-Assemblyman
Joe Strolin, Acting Director, Agency for Nuclear Projects, Office of the Governor

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Marta Adams, Attorney, Chief Deputy Attorney General, Office of the Attorney General
Colleen Cripps, Ph.D., Administrator, Division of Environmental Protection, State Department of Conservation and Natural Resources
Richard L. Haskins II, Deputy Director, Department of Wildlife
Maureen Hullinger, Program Officer III, License Office Supervisor, Administrative Services Bureau, Department of Wildlife

CHAIR MANENDO:

We will open the hearing on Assembly Bill (A.B.) 451.

ASSEMBLY BILL 451: Repeals obsolete provisions regarding the Advisory Council on the Metric System. (BDR 51-82)

DONALD O. WILLIAMS (Research Director, Research Division, Legislative Counsel Bureau):

I am appearing on behalf of the Legislative Commission, Legislative Counsel Bureau (LCB) on A.B. 451. Brenda Erdoes, Legislative Counsel, and I are responsible for recommending the elimination of obsolete or antiquated provisions contained in the *Nevada Revised Statutes*. Last year, Ms. Erdoes and I identified the statutes governing the Advisory Council on the Metric System within the State Department of Agriculture as being obsolete. The State Department of Agriculture also found the statute to be obsolete. The Metric System Trust Fund no longer exists.

From the early 1960s through the early 1970s, the federal government actively supported the United States adopting the metric system. The metric system is used in most other countries. Metric system councils were created by many states. The vast majority of these councils have now been repealed. Only Nevada and South Carolina have statutes providing for metric system councils. The Advisory Council on the Metric System, State Department of Agriculture, created in 1981, has not been active since 1985. This information was provided at the May 7, 2010, Legislative Commission meeting (Exhibit C). The commission approved the bill draft request that has now become A.B. 451.

CHAIR MANENDO:

Seeing no questions, we will close the hearing on A.B. 451. We will now open the hearing on Senate Concurrent Resolution (S.C.R.) 1.

SENATE CONCURRENT RESOLUTION 1: Expresses support for the Pine Forest Wilderness Study Area Working Group. (BDR R-213)

SENATOR A. DEAN RHOADS (Rural Nevada Senatorial District):
I am here to present S.C.R. 1, sponsored by the Legislative Committee on Public Lands.

The federal Wilderness Act was passed in 1964. It established the National Wilderness Preservation System. Since 1964, the Secretary of the Interior, U.S. Department of the Interior, has designated millions of acres in Nevada as wilderness or wilderness study areas (WSAs). Even though WSAs are not officially wilderness, the law requires they be managed as wilderness until a final decision is made. Managing as wilderness involves severe restrictions including no development and no exploration. The process for resolving which areas will be designated as wilderness has been slow and contentious. Humboldt County is taking a proactive approach and will be making recommendations to the federal government about the WSAs in Alder Creek and Blue Lakes. Tom Fransway, Commissioner, Humboldt County Board of Commissioners, is a member of the Pine Forest working group. He is here to give more details. I urge your support of this resolution.

TOM FRANSWAY (Board of Commissioners, Humboldt County):
I am here today in support of S.C.R. 1. This bill supports the efforts of the Pine Forest WSA working group to restructure and combine two existing WSAs into one area of wilderness designation.

In early 2009, a group known as Trout Unlimited retained the services of Jim Jeffress, backcountry lands coordinator, Sportsmen's Conservation Project. The intent was to try to resolve some of the long-standing issues of boundary disputes, recreational access and other multiple use conflicts of the Blue Lakes and Alder Creek WSAs.

In August 2009, a presentation was made to the Board of Commissioners, Humboldt County. The commission encouraged the parties to proceed with the project. In January 2010, the working group was organized at a meeting held in Winnemucca.

This was a broad and diverse grassroots group of public-lands users. The group included recreationalists, ranchers, environmentalists, those representing mining

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interests and political representatives, including me as liaison to the Humboldt County Commission. The Bureau of Land Management (BLM), U.S. Department of the Interior, and the Nevada Department of Wildlife were an active part of this group. Several work sessions were held, as well as three organized WSA field trips.

The Alder Creek WSA is comprised of 5,142 acres. The Blue Lakes WSA is comprised of 20,508 acres of public land administered by the BLM. The task of the working group was to improve access and encourage all multiple uses of the lands while protecting the unique and pristine qualities of the area through responsible, reasonable and proper management.

The final step was a recommendation to the Humboldt County Commission to adopt the findings of the group and encourage federal legislation to create one wilderness area called Pine Forest. The boundaries of the two WSAs were squared up by section lines rather than relying on physical references such as trail routes and fence lines. Some private holdings were recommended for acquisition to enhance the overall quality of the area while improving ranching operations. The final draft of the project increased property tax revenue due to the land use change.

Humboldt County supports the work of the Pine Forest working group's efforts to combine the Alder Creek and Blue Lakes WSAs into one workable, organized WSA. Doing so will greatly enhance multiple uses of the public lands. We ask for your support of S.C.R. 1.

SENATOR LEE:

Are you speaking for the Humboldt County Commission today? Is the whole Commission in full support of this?

MR. FRANSWAY:

Yes, unanimously.

WES HENDERSON (Deputy Director, Nevada Association of Counties):

We are here today in support of S.C.R. 1. We would like to thank Senator Rhoads and the Humboldt County Commission for their leadership on this resolution. Since 1991, the federal land management agencies have stated that many WSAs throughout the west are not suitable for designation as wilderness. Only Congress can release these areas back into multiple use. We

applaud Humboldt County and the Pine Forest working group for beginning a process that may result in congressional action which releases those lands not suitable for wilderness for multiple use.

DARYL CAPURRO (Board of Wildlife Commissioners, Department of Wildlife):
We are in support of S.C.R. 1. I have spent considerable time in the Blue Lakes and Alder Creek areas. It is beautiful country. Parts of those areas probably should not have a wilderness designation. The work the Pine Forest working group is doing will indicate that some revisions should be made. We stand squarely behind S.C.R. 1.

SENATOR LEE:
First we had one WSA, and then another was added. Why not just expand the first WSA? Do you know?

MR. CAPURRO:
All of these WSAs started during the second half of 1970. The BLM designated 110 wilderness study areas. By 1991, the BLM found many of them not suitable for wilderness areas. The original 15 million acres of WSAs were cut down to 1.9 million acres.

KYLE DAVIS (Political Director, Nevada Conservation League):
We are in support of S.C.R. 1. The Pine Forest working group has been a great example of how people can work together to deal with public lands issues. This is definitely a model we can follow in other parts of the State.

CHAIR MANENDO:
Does anyone else want to testify regarding S.C.R. 1? Seeing none, we will close the hearing on S.C.R. 1. We will now open the hearing on S.C.R. 2.

SENATE CONCURRENT RESOLUTION 2: Directs certain state agencies to investigate whether the State could potentially receive compensation from the Federal Government for environmental contamination in Nevada as a result of certain military exercises, nuclear weapons testing and other activities conducted by the Federal Government in Nevada.
(BDR R-247)

HARRY MORTENSON, Ex-Assemblyman:

Senate Concurrent Resolution 2 was unanimously passed by the Committee on High-Level Radioactive Waste. The purpose of this resolution is to try to get compensation from the federal government for contamination to our state.

Senate Concurrent Resolution 2 has no fiscal note. It will not cost the State any money. There is a possibility of huge compensation. The federal government has conducted numerous activities and military exercises in Nevada. Many of the contaminated areas are not necessarily on the former Nevada Test Site (NTS). Many activities of the federal government have resulted in contamination of Nevada's environment with radioactive materials and other hazardous substances. The armed forces of the United States have conducted military exercises in multiple geographic regions of the State using ammunition, weaponry and other military equipment which was composed in part of depleted uranium. Depleted uranium is a high-density radioactive material which remains as radioactive debris. I have heard from some knowledgeable people that the exterior of depleted uranium is not a dangerous material and can be safely handled. However, if its dust or vapor is inhaled or ingested, it is an energetic alpha emitter. It stays indefinitely in the human body. It can cause cancer and death.

From 1951 until 1992, the federal government conducted detonations equal to 1,021 nuclear devices. Each detonation at the test site produced nuclear fallout consisting of hundreds of different radio isotopes and vast quantities of radioactive debris including uranium, thorium, iodine, cobalt, radium, plutonium, etc.

Approximately one-third of the underground nuclear tests at the NTS were conducted directly in aquifers. Other tests were conducted above the water table.

During a meeting of the Committee on High-Level Radioactive Waste, Joe Strolin testified about the vast amount of water that is contaminated at the NTS.

Senate Concurrent Resolution 2 calls for the Office of the Attorney General; the Agency for Nuclear Projects, Office of the Governor; and the State Department for Conservation and Natural Resources (DCNR) be directed to conduct a joint investigation into whether Nevada could potentially receive monetary

compensation from the federal government for contaminating the Nevada environment.

During the consulting phase of my career, I worked on a proposal that would clean up a huge amount of contamination from Air Force armaments in California. California thought it was necessary to clean up areas of military contaminants. Nevada also has several areas which are highly contaminated.

Many states are considering a class action suit for contamination. We should look at lawsuits in other parts of the country to determine the likelihood of success should we choose to sue the federal government. We might want to join a class action suit if it appears likely to be successful.

I have heard some negative comments regarding the probability of our collecting funds from the federal government on these issues. The U.S. Department of Energy (DOE) has prepared some legal documents which they think protect them. Nevada has a wonderful court system. An entity should not be able to cause harm to people or property and be held harmless.

JOE STROLIN (Acting Director, Agency for Nuclear Projects, Office of the Governor):

The Agency for Nuclear Projects supports the concept and intent of S.C.R. 2. Nevada has been discussing these issues with the federal government. We have been informally working together with the Office of the Attorney General and the Division of Environmental Protection (DEP), DCNR, and the DCNR for over a year. We have looked at the possibility of compensation for loss of resources due to nuclear testing at the NTS.

The way this resolution is written causes us concern that it will not have positive results. This would cost a considerable amount of money. Last year, we looked into the possibility of initiating a natural resources damages assessment effort with respect to the NTS. We concluded the cost of doing that assessment would be prohibitive unless the federal government were cooperating with us and willing to pay the money necessary to do the assessment. The investigation as proposed under S.C.R. 2 would be even broader because it includes contamination from military exercises, depleted uranium and the NTS items.

Assembly Joint Resolution (A.J.R) 5, which has passed the Assembly and is scheduled before this Committee next Wednesday, would be another way to get

the same results. It takes a slightly different tack on the same issue and seeks to arrive at the same goal of identifying whether compensation can be obtained for the loss of natural resources. The resolution urges the federal government to negotiate with the State and Nye County regarding mitigation of contamination from groundwater from the nuclear testing activities at the NTS. Instead of an investigation on the part of various state agencies, A.J.R. 5 gives the Attorney General and the agencies an entrée to the federal government to urge them to talk to the State about these issues and try to obtain their cooperation. This would be a more productive approach to the same goal that Mr. Mortenson is seeking to achieve with S.C.R. 2.

ASSEMBLY JOINT RESOLUTION 5: Urges the Federal Government to engage in discussions regarding the mitigation and containment of water contamination in Nevada which resulted from certain nuclear activities that were conducted in this state by the Federal Government.
(BDR R-895)

CHAIR MANENDO:

"For the record, we need to be absolutely clear that the majority of Mr. Strolin's comments were not referencing this particular resolution but instead A.J.R. 5."

MARTA ADAMS, Attorney (Chief Deputy Attorney General, Office of the Attorney General):

We commend Mr. Mortenson for bringing this matter to your attention. Senate Concurrent Resolution 2 raises some concerns as well as underscores some significant legal hurdles that the State would encounter in embarking on this investigation. Assembly Joint Resolution 5 may provide a more expedient means for addressing this serious issue.

The contaminated areas could conceivably include the Hawthorne Army Depot, the Tonopah Test Range, Nellis Air Force Base, etc. There are a wide variety of areas, some of which are subject to environmental investigations. There are two ongoing studies regarding the NTS. One is a sited environmental impact statement that the Attorney General was successful in convincing the DOE to undertake. That process is ongoing. There is also a groundwater study that Ms. Cripps will discuss. These investigations are not complete, and we do not have the results. Those results will greatly enhance our understanding of the type of contamination at which we are looking.

This will certainly have a fiscal impact. Senate Concurrent Resolution 2 would require the Attorney General to make a report at the next Session of the Legislature. It requires considerable work on the part of the Attorney General as well as the two other agencies represented here. We support the concept. Assembly Joint Resolution 5 would be more constructive because it invites the federal government to the discussions. Nuclear resources damages action would be difficult for the State to assert, particularly during these tight fiscal times. There are significant legal hurdles to overcome. A more willing federal government would be a more auspicious environment for us on which to embark for this process.

COLLEEN CRIPPS, Ph.D. (Administrator, Division of Environmental Protection, State Department of Conservation and Natural Resources):

The DEP and the DCNR are neutral on this bill. As indicated in previous testimony, the three agencies that are listed in this bill have been working for a considerable time to investigate whether the State could receive compensation from the federal government for environmental contamination of the NTS. We do not have a feasible mechanism to do that. We recently have become aware that the DOE has revised their policy on natural resource damages. We are planning to continue to work with their staff over the next few months to determine if there is a mechanism by which we can move forward on this issue.

The DEP has oversight over a very large groundwater study at the NTS. We are in the middle of that work. There are cleanup projects going on at other facilities in the state.

MR. MORTENSON:

Apparently much of the activity described in S.C.R. 2 is occurring. Senate Concurrent Resolution 2 should not cause significant expenditures of funds. My intent for the resolution was to watch lawsuits to see how they are proceeding. There should be no reason that both S.C.R. 2 and A.J.R. 5 could not pass. The most important thing for S.C.R. 2 is a report back to the Legislature regarding the situation of trying to obtain some funds from the federal government. That should not be an expensive thing to do. It takes the sum of what is being studied now and makes a report to the Legislature.

CHAIR MANENDO:

We will close the hearing on S.C.R. 2. We will now open the hearing on A.B. 19.

ASSEMBLY BILL 19: Revises provisions governing the issuance of certain fishing licenses and permits. (BDR 45-471)

RICHARD L. HASKINS II (Deputy Director, Department of Wildlife):

Assembly Bill 19 proposes two amendments to NRS 502. The bill has two distinct parts. The first part calls for the expansion of Nevada special fishing permits. The second part is creation of the interstate boundary-waters only fishing license. Our license office supervisor, Maureen Hullinger, is here today and will be introducing the first part of the bill.

MAUREEN HULLINGER (Program Officer III, License Office Supervisor, Administrative Services Bureau, Department of Wildlife)

The Nevada special permit would allow a public or private nonprofit organization to take up to 15 persons fishing under the supervision of 1 employee or leader who has a fishing license. Each nonprofit can obtain up to two permits. The fee for the permit is \$25. Current NRS 502.077 provides a list of guidelines regarding public or private nonprofits that can obtain this special fishing permit. This list includes mental health facilities, facilities for detention or correctional care of juveniles, facilities that provide care for older persons, etc. In A.B. 19, we are requesting to amend subsection 1, paragraph (f) of NRS 502.077. This would broaden the eligibility for child groups by removing the language that restricts the eligibility to disadvantaged or at-risk children and inserting new language that reads "club, foundation, program, educational institution or other special group operated for the benefit of children." This change expands the eligibility to include groups such as the Boy Scouts of America, Girl Scouts, 4-H and school or after-school programs. We have had inquiries from scouting groups. Further language amendments in section 1, subsections 2 and 4 of A.B. 19 insert the terms "student" and "pupil." Historically, 45 groups have participated by obtaining the permit. In 2010, we issued 28 permits.

CHAIR MANENDO:

Have you had a conversation with the Office of the Governor about the reduced fee?

MR. HASKINS:

This is just an expansion of the eligibility for the permit. Yes, we have the support of the Governor's office.

The second part of the bill is the interstate fishing-boundaries fishing license. Prior to March 1, 2004, we had the Colorado fishing license. The target of that license was for nonresident anglers visiting the State who wanted to only fish the Colorado River system. The Colorado River system includes Lake Mead, Lake Mojave and the lower Colorado River. During the 2003 Legislative Session, that license was eliminated. The theory was that we would pick up all those permit holders with traditional nonresident fishing licenses. We probably have not done that. Arizona has a similar license to what we previously used and what we are proposing today. Right now, nonresident anglers who are visiting the area are purchasing the Arizona license in lieu of the Nevada license. The Nevada license is currently more expensive. We would like to establish this license at a fee less than Arizona's. This could generate some revenue. The previous proposal was limited to the Colorado River. We are now proposing this for boundary water. This would provide opportunity for nonresident anglers at Lake Tahoe and Topaz Lake. There is some opportunity to pick up some of those anglers. The handout we have provided ([Exhibit D](#)) shows the license structures of the various states. This comes close to the resident fishing license for those waters only. If they chose to expand their areas to fish, they would have to purchase the regular nonresident fishing license for a short term.

SENATOR RHOADS:

Do they have to buy this license for \$25 and then purchase the regular license as well?

MR. HASKINS:

No, if they choose only to fish in those waters including the Colorado River, Topaz Lake and Lake Tahoe, this is all they would need to purchase.

SENATOR RHOADS:

For how long is the license good?

MR. HASKINS:

Our license year starts March 1 and runs through February 28.

SENATOR RHOADS:

Can people fish in Arizona and California with this license?

MR. HASKINS:

Yes, we have reciprocal agreements with those states, so we honor each other's licenses in those bodies of water that we share.

CHAIR MANENDO:

This is new revenue. This is a new part in the NRS. I am surprised the Governor is going to agree to this.

MR. HASKINS:

The concept is that this is an additional opportunity. We are providing an alternative license. It is not really a new program.

CHAIR MANENDO:

It is new revenue, and I totally agree with that. I am just surprised.

MR. CAPURRO:

I am appearing in favor of A.B. 19. I want to mention two things. The first thing we are trying to do is to expand the opportunities for fishing. We want to try to bring in more people to enjoy the sport. These two provisions were inadvertently removed during the 2003 Session, which did provide for an expanded group fishing license for youth other than the disadvantaged. I want to point out the Colorado license only applies to bona fide nonresidents. It would not be raising any fees for Nevada residents. Senator Rhoads correctly pointed out that residents could fish on either side of the boundary at either Lake Tahoe, Topaz Lake or at the tributaries at Lake Mead. It does allow us to get back into the game and maybe garner some revenue from nonresidents. The commission supported this unanimously.

MR. DAVIS:

We are in support of A.B. 19. We think it is a good bill that will expand fishing opportunities in our State.

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CHAIR MANENDO:

We will close the hearing on A.B. 19. We are adjourned at 4:55 p.m.

RESPECTFULLY SUBMITTED:

Linda Fehr,
Committee Secretary

APPROVED BY:

Senator Mark A. Manendo, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 451	C	Donald O. Williams	Metric System
A.B. 19	D	Richard L. Haskins	Fishing Licenses