

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

**Seventy-ninth Session
May 2, 2017**

The Senate Committee on Natural Resources was called to order by Chair Yvanna D. Cancela at 1:33 p.m. on Tuesday, May 2, 2017, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 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 Yvanna D. Cancela, Chair
Senator Mark A. Manendo, Vice Chair
Senator Julia Ratti
Senator James A. Settelmeyer
Senator Pete Goicoechea

GUEST LEGISLATORS PRESENT:

Assemblywoman Heidi Swank, Assembly District No. 16

STAFF MEMBERS PRESENT:

Alysa Keller, Policy Analyst
Erin Roohan, Counsel
Maria Vega, Committee Secretary

OTHERS PRESENT:

Lynn Hettrick, Administrator, Division of Plant Industry, State Department of Agriculture
Jaina Moan, Executive Director, Friends of Gold Butte
Kyle Davis, Nevada Conservation League
Meghan Wolf, Manager, Patagonia Outlet, Reno
Shevawn Von Tobel, Communications Manager, Friends of Nevada Wilderness
Jane Grossman
Checko Salgado, Co-Chair, Friends of Basin and Range National Monument

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Fawn Douglas, Las Vegas Paiute Tribe
Melissa Hatfield, Sierra Club
Mauricia Baca, Executive Director, Outside Las Vegas Foundation
Erika Castro, Progressive Leadership Alliance of Nevada
Jessica Acuña
Jocelyn Torres, Program Director, Conservation Lands Foundation
Doug Busselman, Executive Vice President, Nevada Farm Bureau
Varlin Higbee, Commissioner, Board of Commissioners, Lincoln County
Wade Poulsen, General Manager, Lincoln County Water District
Jeff Fontaine, Executive Director, Nevada Association of Counties

CHAIR CANCELA:

We will open the hearing on Assembly Bill (A.B.) 32.

ASSEMBLY BILL 32 (1st Reprint): Revises provisions governing pest control.
(BDR 49-176)

LYNN HETTRICK (Administrator, Division of Plant Industry, State Department of Agriculture):

I am here to present A.B. 32. I will read from my written testimony ([Exhibit C](#)).

SENATOR GOICOECHEA:

Would the conservation districts also fall under governmental agencies?

MR. HETTRICK:

Yes, they would.

SENATOR GOICOECHEA:

It seems a little harsh that if an individual has had a felony conviction within the preceding ten years, the Director of the State Department of Agriculture may refuse to issue a license to that individual. What is the rationale for that?

MR. HETTRICK:

That same issue was brought up in the Assembly. The issue was in the old terminology "moral turpitude" in section 31, subsection 1, paragraph (b). The Legislative Counsel Bureau replaced that language with the class felony categories. The change reflects how the felony is identified by spelling out the categories of the felonies. This is an issue because a licensed pest control operator has ready access to a person's home. The example in the Assembly is

of the UPS driver who comes to a person's house without having a background check or requiring he or she be free of those kinds of felonies. Why does the pesticide applicator have to? The pest control operators have access to a person's house and every room, including doors and windows. The Legislature established years ago a requirement for background checks, and moral turpitude was one of the requirements for licensing.

SENATOR GOICOECHEA:

I understand your explanation, but it still seems too harsh for the job the person is doing. There are unlicensed people doing the job now. It should be easier for government agencies if there is a licensed supervisor, and it should be fine for them to supervise the pest control applicators.

SENATOR SETTELMAYER:

I know you have addressed the concerns of the local weed districts and conservation districts. Do the supervisors have to go to the site and have an understanding of the job before they send out the individuals to do the work?

MR. HETTRICK:

The supervisor does not have to go to the site, but he or she has to be able to be within supervision. The federal law allows supervision to be reasonably available. For instance, in Douglas County, the weed control personnel meet in a central location before the workday begins. They go through what product is going to be applied, they check their applicators and check their ingredients for what they are going to spray or apply. Then the applicators go into the field and do the work. They do not have to have immediate supervision on-site or even have the supervisor go to the site unless there is an issue. Then the supervisor has to be readily available to address any issues.

SENATOR GOICOECHEA:

With malathion or some of the higher-grade pest control products, does the supervisor have to be readily available?

MR. HETTRICK:

Yes, the supervisor has to be readily available by phone. Section 10, subsection 2, paragraph (b) explains that if the federal EPA label requires immediate supervision, the supervisor would have to be on-site. When there is an issue or concern with some of the more potent pesticides, the federal label will indicate if a supervisor is required to be present. If a general-use pesticide is

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being applied, normally for roadside use, the supervisor does not have to be immediately present.

SENATOR GOICOECHEA:
So, is it whatever the label requires?

MR. HETTRICK:
Yes.

CHAIR CANCELA:
I will entertain a motion on A.B. 32.

SENATOR SETTELMAYER MOVED TO DO PASS A.B. 32.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CANCELA:
I will open the hearing on Assembly Joint Resolution (A.J.R.) 13.

ASSEMBLY JOINT RESOLUTION 13: Expresses the support of the Nevada Legislature for the enactment and use of the Antiquities Act and the designation of the Basin and Range National Monument and the Gold Butte Monument in this State. (BDR R-1061)

ASSEMBLYWOMAN HEIDI SWANK (Assembly District No. 16):
I am presenting A.J.R. 13. This resolution asks the federal government to protect our two national monuments, Gold Butte National Monument and Basin and Range National Monument. I served on the Board of the Friends of Gold Butte for a couple of years. I enjoyed my times at Gold Butte, and I was with a group who toured Basin and Range National Monument including Michael Heizer's *City*, which is an amazing place. I also spent some time at the Shooting Gallery Rock Art Site within Basin and Range, near Alamo.

JAINA MOAN (Executive Director, Friends of Gold Butte):

I will read from my written testimony ([Exhibit D](#)). I submitted written testimony prior to this hearing about the efforts the Friends of Gold Butte have made to achieve a permanent protection for Gold Butte ([Exhibit E](#)). The Friends of Gold Butte is a grassroots organization based out of Mesquite.

KYLE DAVIS (Nevada Conservation League):

The Nevada Conservation League supports A.J.R. 13. It is important to understand the use of the American Antiquities Act of 1906 has been an important tool in protecting some of the greatest places across this Country. Gold Butte and Basin and Range National Monuments fall into that category. Having recently visited them, I encourage everyone to do the same and enjoy the beautiful sites Nevada has to offer.

SENATOR GOICOECHEA:

There is a significant difference between Gold Butte National Monument and Basin and Range National Monument. The Antiquities Act is meant to protect small areas no larger than is required for protection. I think 704,000 acres for what is in place in Basin and Range is a little overreach. This is the reason I am opposed to some of the language in this Resolution. On the northwest side, what are we protecting, the *City*? Let us put a national monument on the Las Vegas Strip that is built by man and paid for; this is what we have at the *City*. The Shooting Gallery is a different piece. If 30,000 acres of that piece is protected by the Antiquities Act, I am okay with that.

The other concern I have is in the Resolution, page 3, line 13, "Whereas, The management of national monuments is guided by plans developed with input from state, local and tribal governments ..." There was no input from local government in the Basin and Range designation prior to it being declared a national monument. If we are going to put some language in here, let us use good language. Allow the local government, the tribes and stakeholders to engage prior to the designation. Gold Butte is on the edge of my Senate District. The Monuments are two different worlds.

MR. DAVIS:

It would make more sense if Assemblywoman Swank responded to Senator Goicoechea's comment.

SENATOR GOICOECHEA:

They are two different worlds. One is a National Monument and the other is a man-made creation, especially the *City*.

ASSEMBLYWOMAN SWANK:

We may have to respectfully disagree. The reason we included the Shooting Gallery is for the petroglyphs, which are man-made. They were just made a long time ago. The same is true with Gold Butte. The *City* is newer, but both are man-made. That is my reasoning concerning the size. There are some arguments on both sides. Even though *City* is, at best, only 40 years old, I would say 50 years is the marker of a historic structure in Nevada statute and accepted nationally. This is very close to that. Speaking as a historic preservationist, Ground Zero, where the New York Twin Towers were named to the National Register of Historic Places, was within 2 years of September 11. It does not always have to be about the age; it is often about the significance. The *City* seems amazingly significant as a piece of art and installation. There may be something to discuss about the size of a designation, but we as a State cannot do much about the Basin and Range National Monument.

SENATOR GOICOECHEA:

I was at the *City* before there was a city there. I have not actually been on the grounds since Michael Heizer built it. There is a lot of ground between the Shooting Gallery and those petroglyphs and what is available at the *City*. We may as well designate the Bellagio as a national monument. So we will agree to disagree.

ASSEMBLYWOMAN SWANK:

When you go to the *City*, I would love to go with you. It was a fabulous adventure the day I visited, including lots of flat tires, flooding and lightning bolts; it was an amazing end. Yes, some day we may actually be able to designate the Bellagio.

MEGHAN WOLF (Manager, Patagonia Outlet, Reno):

Patagonia is an outdoor clothing retailer with over \$800 million in annual sales. It has a global distribution center in western Reno with over 500 employees. According to the Outdoor Industry Association, outdoor recreation in Nevada generates \$14.9 billion in consumer spending, 148,000 direct jobs, \$4.8 billion in wages and salaries, and \$1 billion in local and State taxes. Patagonia supports A.J.R. 13 because its business relies on public lands. Nevada is a

beautiful State with lots of federal public lands we would like to keep and have access to for recreation.

SHEVAWN VON TOBEL (Communications Manager, Friends of Nevada Wilderness):
I will read the highlights of the written testimony of Shaaron Netherton, Executive Director of the Friends of Nevada Wilderness ([Exhibit F](#)).

JANE GROSSMAN:

Fourteen years ago, my husband said he wanted to move to Reno from the Bay Area. We have learned to love Nevada for its beautiful areas for recreating outdoors. In the 2017 Nevada Senate Republican Caucus report called "A Pathway Forward for all Nevadans," I will quote from the Natural Resources section "Nevada is known worldwide for being one of the most beautiful places on Earth - from Red Rock to Lake Tahoe and everything else in between." I believe that is why so many of us have moved here. Many companies, like Tesla and Google, want to have a presence here because Nevada is a gorgeous State with amazing resources.

From an economic standpoint, are you aware of the Outdoor Retailer show in Salt Lake City? It is where Patagonia and other outdoor-related companies participate. It has been held in Utah for many years. Some of the larger retailers are pulling out of the Outdoor Retailer tradeshow because Utah is against the Antiquities Act. Reno is making a play for the Outdoor Retailer show. The show has netted about \$45 million a year for Utah. We have a chance to get the show to come to Reno. However, if we turn down the Antiquities Act, we will not have that opportunity. There are environmental and economic benefits. Outdoor recreation opportunities are attractive to tourists. Let us protect the treasures Nevada offers.

CHECKO SALGADO (Co-Chair, Friends of Basin and Range National Monument):
I have written testimony ([Exhibit G](#)). I am proud to be battle born, and keeping Nevada preserved for future generations has been my ambition. Last year, I was able to present the show "Home Means Nevada" on the floor of the U.S. Senate to honor these beautiful areas we have in our State. Basin and Range National Monument as a key area to continue the preservation of our State's history and wildlife, is public land that can be utilized and appreciated by all. Whether you are a hunter, hiker or stargazer, or just looking to escape the city, Basin and Range offers these opportunities. I just want to give a quote from *The Hill* from July 2015, "... with a monument designation, our public lands are permanently

protected from development. They will remain public, unspoiled and open forever.” The presidential proclamation even highlights that the area provides important habitat for game species including Desert bighorn sheep, mule deer, rocky mountain elk and pronghorn.

This is an area that crosses party lines but aligns us as Nevadans. I respect the way of life of the families linking White Pine and Nye Counties who properly utilize lands to graze and farm. A prime example is Gracian N. Uhalde. The sheepherders use the Basin and Range to continue their family traditions. Once Michael Heizer’s *City* opens, both regional and international tourism will start to develop. I encourage my fellow brothers and sisters in linking White Pine and Nye Counties to take advantage of the situation.

I would like to use another southwest city as an example. Originally in Moab, Utah, the economy was based on agriculture and then eventually moved into mining uranium during the Cold War. After the Cold War, the population quickly declined. The town then turned to tourism considering its proximity to Arches National Park and Canyonlands National Park. Moab’s new boom was not mining but outdoor recreation and tourism, and the local population is benefiting. I want to see our local counties flourish. I believe in keeping Basin and Range intact so hard-working families will eventually benefit. This opportunity is waiting for all of us.

FAWN DOUGLAS (Las Vegas Paiute Tribe):

I am happy to speak today to lend the indigenous voice to these issues. I am in support of Basin and Range National Monument and Gold Butte National Monument. Basin and Range Monument can be a piece of art. Michael Heizer’s art is very special to Nevada.

Randy Kennedy wrote an article in *The New York Times*, March 13, about the Utah Senate and House of Representatives naming Robert Smithson’s *Spiral Jetty* as an official state work of art. This work of art draws visitors from all over the world, just as the *City* by Michael Heizer will draw people from all around the world. This art is very special and because of the designation, it also protects all the mountainsides that are around *City*. Around those areas are petroglyph sites and artifacts. The designation also preserves the flora and fauna in that area.

I have supported Gold Butte and worked with the Gold Butte effort for over two years. When Gold Butte was designated as a national monument, it meant people were listening to the voice of the indigenous people. They were caring about what we have to say about protecting these lands not just for the Paiute people but for all people and future generations. The Las Vegas Paiute and the Moapa Paiute tribal councils drafted resolutions in support of that monument. We hope you continue to support monuments in Nevada.

MELISSA HATFIELD (Sierra Club):

I will read a letter from Christian Gerlach for the Sierra Club of Nevada ([Exhibit H](#)). The exhibit is representative of 348 additional duplicate letters from members supporting A.J.R. 13.

MAURICIA BACA (Executive Director, Outside Las Vegas Foundation):

The Outdoor Retailer show is a \$46 million opportunity that Utah is losing because it has not demonstrated its steadfast support of public lands. We in Nevada have an opportunity to demonstrate through this legislation that we support public lands. In addition, it is a \$15 billion industry. Not only does this make sense for us in terms of our natural and cultural legacy, but it makes sense for Nevada in terms of our economic future. In addition, Gold Butte, as a national monument, has demonstrated that the national monument designation will result in increased jobs and economic growth for the areas next to Gold Butte.

A topic that has not been raised yet is the importance of these natural areas as educational opportunities for our youth. The Foundation works closely with a number of youth organizations, including After-School All-Stars, Las Vegas who visited both Basin and Range and Gold Butte. They were the ones who found the dinosaur tracks. That is an invaluable educational opportunity which those kids will never ever forget. These are places that represent locations where we can bring our youth to see our culture, science, the technology of the native peoples, engineering and mathematics and to see art come to life. These are experiences that do not have a price tag. This combined with the economic benefits, the natural and cultural benefits and long-term legacies is a win-win situation for everyone.

ERIKA CASTRO (Progressive Leadership Alliance of Nevada):

The Progressive Leadership Alliance of Nevada supports A.J.R. 13 and the supporting testimony.

JESSICA ACUÑA:

I am a former student at Rancho High School. Last year, I had the privilege of visiting the Gold Butte National Monument. It was amazing to see all the petroglyphs and the natural resources. I support A.J.R. 13.

JOCELYN TORRES (Program Director, Conservation Lands Foundation):

I have a letter of support on behalf of the Conservation Lands Foundation ([Exhibit I](#)). The Antiquities Act has been a critical tool in our work to protect and tell diverse and inclusive stories. Through congressional legislation and other methods, we have not been as successful in telling these diverse and inclusive histories. I think that is what makes the Antiquities Act different from other methods that we have of protecting public lands. With Basin and Range and Gold Butte National Monuments, not only are we telling these diverse stories but we have been able to engage people of all ethnicities and cultures with different histories. Intercity youth and underprivileged youth have the opportunity to see these places because the places are protected and on the map. It allows us the resources to take the kids there.

The question about why Basin and Range is 700,000 acres, and *City* in particular, the proclamation does not just refer to *City* but is about all of the different pieces, including the habitat and the wildlife. The unique thing about the Basin and Range proclamation is it is protecting the basins, not just the ranges. Very rarely do we protect the basins that make Nevada unique, special and different.

CHAIR CANCELA:

I have letters of support from Patrick Naranjo with The Intersection Academic Multicultural Resource Center ([Exhibit J](#)), Michael Govan with the Los Angeles County Museum of Art ([Exhibit K](#)), Next 100 Coalition ([Exhibit L](#)), Elaine P. Wynn and Family Foundation ([Exhibit M](#)) and written testimony from Chris Enlow of KEEN ([Exhibit N](#)).

DOUG BUSSELMAN (Executive Vice President, Nevada Farm Bureau):

Nevada Farm Bureau opposes A.J.R. 13 on the basis of how these monument designations were done. We will continue to pursue the openings for reconsideration of the designations and appropriate reform of the Antiquities Act process going forward. Provisions of the Antiquities Act specifically note and I quote "... parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with proper care and management of the objects to

be protected.” We disagree that the scope of the designations of A.J.R. 13 fit within that provision.

VARLIN HIGBEE (Commissioner, Board of Commissioners, Lincoln County):

I will read highlights from my written testimony ([Exhibit O](#)). Lincoln County would have liked to have some input on the designation of the monuments to express our concerns of the impact it will have on the County. Our tax base is limited and we must provide services. The local custom and culture has protected these areas for generations. I am fifth generation. My family came to Lincoln County in 1864. The natural resources, the culture and the rock art have been protected because they mean something to this community.

The way the designation was done was not what we wanted. We want Basin and Range removed from the resolution until our voices can be heard in Lincoln County. Over the years, we have had approximately 700,000 acres of wilderness designated in Lincoln County by Congress. During the process, we had input. Some of the meetings on various land acts went to the early hours of the morning with the different environmental groups about the wilderness areas. We came up with acceptable compromises. That process should have been used for the designation of Basin and Range National Monument.

I would like to stress the importance of our natural resources in Basin and Range National Monument. Many of the mining industries are looking for rare earth minerals. A monument could block access for this.

WADE POULSEN (General Manager, Lincoln County Water District):

I will read highlights of my written testimony ([Exhibit P](#)) in opposition to A.J.R. 13.

CHAIR CANCELA:

I have opposing written testimony from Kenny Bent ([Exhibit Q](#)) and letters in opposition from Ryan Hoerth of Vidler Water Company ([Exhibit R](#)), Robert Adams of the Motorcycle Racing Association of Nevada ([Exhibit S](#)) and Gracian Uhalde of the N-4 State Grazing Board ([Exhibit T](#)).

JEFF FONTAINE (Executive Director, Nevada Association of Counties):

The Nevada Association of Counties is neutral on A.J.R. 13. I wanted to bring attention to this Committee the paper that was prepared by the Nevada Association of Counties following the designation of Basin and Range National

Monument ([Exhibit U](#)). It outlines a number of concerns the Association has regarding the Antiquities Act and how it was used specifically for the designation of Basin and Range National Monument. It is important to our members that local stakeholders' involvement be included in the designation of national monuments, including the selection of the acreage as well as the designation of the boundaries. You heard the testimony from Lincoln County. It has been our experience in the State that the most successful public lands are those initiated by local stakeholders with local stakeholder involvement in every step of the process. We believe that this should also be the case for national monuments. Local knowledge is critical to getting the designation correct.

I was not planning on addressing this, but I feel like I need to, given the testimony regarding the impact on outdoor recreation in our State. We appreciate that industry's contribution to our State, but that does not always translate to the local level. In the case of Lincoln County, it has not seen that kind of economic development in the County. Its job growth is flat, tax revenues are flat, and it is one of the poorest, if not the poorest, counties in our State with the lowest median household income. We want to make sure with these particular designations that there are some economic opportunities for the local governments that host these national monuments and other public lands.

ASSEMBLYWOMAN SWANK:

The Basin and Range National Monument is a newly designated national monument. Things may be moving slowly, but *City* is on its way to being open to the public, and it will be something like going down the Colorado River, where entry passes will need to be purchased far in advance. There is going to be worldwide demand to see *City*, but it will be a very controlled flow. The local communities should soon see some economic development when it opens to the public. I understand the concerns of the County.

I met with Commissioner Higbee from Lincoln County in advance of this hearing, and we had a very good discussion. I grew up in a small town in a rural community in Wisconsin. I understand the issues that come up in small towns, and I communicated to Commissioner Higbee that I am committed to ensuring the concerns of rural Nevada are communicated to all Legislators. As Chair of the Assembly Committee on Natural Resources, Agriculture and Mining and as someone who spends a significant amount of time personally and professionally in rural Nevada, I am committed to making sure those concerns are heard. While I am fully in support of the designations of both Basin and Range and Gold Butte

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National Monuments, I understand those with concerns and will continue to speak with them.

SENATOR GOICOECHEA:

Then would Michael Heizer be considered a concessionaire? It sounds like he is going to charge a fee to access *City*.

ASSEMBLYWOMAN SWANK:

I am unsure of that, but I can find out for you.

CHAIR CANCELA:

I will close the hearing on A.J.R. 13.

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CHAIR CANCELA:

Seeing no further business, the meeting is adjourned at 2:43 p.m.

RESPECTFULLY SUBMITTED:

Maria Vega,
Committee Secretary

APPROVED BY:

Senator Yvanna D. Cancela, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	9		Attendance Roster
A.B. 32	C	3	Lynn Hettrick / State Department of Agriculture	Written Testimony
A.J.R. 13	D	7	Jaina Moan / Friends of Gold Butte	Written Testimony
A.J.R. 13	E	6	Jaina Moan / Friends of Gold Butte	Written Testimony 2
A.J.R. 13	F	2	Shevawn Von Tobel / Friends of Nevada Wilderness	Written Testimony of Shaaron Netherton
A.J.R. 13	G	3	Checko Salgado and Jim Boone/ Friends of Basin and Range National Monument	Written Testimony
A.J.R. 13	H	1	Christian Gerlach / Sierra Club of Nevada	Letter representing 348 other member letters
A.J.R. 13	I	1	Jocelyn Torres / Conservation Lands Foundation	Letter
A.J.R. 13	J	1	Patrick Naranjo / The Intersection Academic Multicultural Resource Center	Letter
A.J.R. 13	K	2	Michael Govan / The Los Angeles County Museum of Art	Letter
A.J.R. 13	L	2	Next 100 Coalition	Letter
A.J.R. 13	M	2	Elaine Wynn / Elaine P. Wynn & Family Foundation	Letter
A.J.R. 13	N	2	Chris Enlow / KEEN	Written Testimony

A.J.R. 13	O	3	Varlin Higbee / Board of Commissioners, Lincoln County	Written Testimony
A.J.R. 13	P	3	Wade Poulsen / Lincoln County Water District	Written Testimony
A.J.R. 13	Q	1	Kenny Bent	Written Testimony
A.J.R. 13	R	3	Ryan Hoerth / Vidler Water Company	Letter
A.J.R. 13	S	2	Robert Adams / Motorcycle Racing Association of Nevada	Letter
A.J.R. 13	T	3	Gracian Uhalde / N-4 State Grazing Board	Letter
A.J.R. 13	U	9	Jeff Fontaine / Nevada Association of Counties	Policy Paper