

LANDER COUNTY COMMISSION MEETING

August 23, 2012

AGENDA ITEM NO. 1

THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:

Discussion for possible action regarding budget review, contracts, financial update and other matters properly relating thereto.

Public comment.

Background:

Lander County Finance Director Rogene Hill will give an update to the Commission on the close-out of the Fiscal Year 2011-2012 Budget and current year contracts, general financial operations of the County and other fiscal issues.

Recommended Action:

No specific action is necessary on this agenda item.

LANDER COUNTY COMMISSION MEETING
August 23, 2012

AGENDA ITEM NO. 2

THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:

Public Hearing to discuss lease of storage/maintenance shop facility "Old Battle Mountain Water and Sewer Yard" located at 145 West Third Street in Battle Mountain, Nevada.

Public comment.

Background:

OPEN PUBLIC HEARING – 9:30 a.m.

This is the date and 9:30 a.m. is the time set for a public hearing on the lease of the Lander County-owned premises located at 145 West Third Street, Battle Mountain, Nevada, a storage/maintenance shop facility known as the "Old Battle Mountain Water and Sewer Yard."

Recommended Action:

It is recommended that the Commission accept public comment on the lease of the storage/maintenance shop facility known as the "Old Battle Mountain Water and Sewer Yard," located at 145 West Third Street, Battle Mountain, Nevada.

CLOSE PUBLIC HEARING

RE-OPEN REGULAR COMMISSION MEETING

PUBLIC HEARING NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be conducted by the Lander County Board of Commissioners regarding the lease of the old Battle Mountain Water and Sewer Yard and maintenance shop located at 145 West Third Street in Battle Mountain.

DATE & TIME: **Thursday, August 23, 2012 at 9:30 A.M.**

PLACE: **Commissioners Chambers
Lander County Courthouse
315 South Humboldt St.
Battle Mountain, NV 89820**

The Lander County Board of County Commissioners will take final action immediately following the public hearing. Please call the Lander County Executive Director's Office for further information, 635-2885.

/s/Donna J. Bohall, Executive Secretary

Please publish in a two column box on August 8, 2012

NRS 244.2833 Lease of building space or other real property that is less than 25,000 square feet.

1. The board of county commissioners may offer any county-owned building or any portion thereof or any other real property for lease without complying with the provisions of NRS 244.2795, 244.281 and 244.283 if:

(a) The area of the building space or other real property is less than 25,000 square feet; and

(b) The board of county commissioners adopts a resolution stating that it is in the best interest of the county to lease the property:

(1) Without offering the property to the public; and

(2) For less than the fair market value of the building space or other real property, if applicable.

2. The board of county commissioners shall:

(a) Cause to be published at least once, in a newspaper qualified under chapter 238 of NRS that is published in the county in which the county-owned building or portion thereof or the other real property is located, a notice setting forth a description of the county-owned building or portion thereof or the other real property proposed to be leased in such a manner as to identify it; and

(b) Hold a public hearing on the matter not less than 10 or more than 20 days after the date of publication of the notice.

3. A lease of a county-owned building or any portion thereof or any other real property pursuant to this section may be made on such terms and conditions as the board of county commissioners deems proper. The duration of such a lease must not exceed 3 years and may include an extension for not more than an additional 2 years.

(Added to NRS by 2011, 483)

LANDER COUNTY COMMISSION MEETING
August 23, 2012

AGENDA ITEM NO. 3

THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:

Discussion for possible action regarding adoption of Resolution No. 2012-17, pursuant to Nevada Revised Statutes (NRS) 244.2833(1)(b), a resolution to establish the lease of the "Old Battle Mountain Water and Sewer Yard" being in the best interest of the County and other matters properly related thereto.

Public comment.

Background:

Resolution No. 2012-17, a Resolution to establish the lease of the "Old Battle Mountain Water and Sewer Yard" being in the best interest of the County, pursuant to Nevada Revised Statutes (NRS) 244.2833(1)(b), is presented for Commission consideration.

Recommended Action:

It is recommended that the Commission approve and adopt Resolution No. 2012-17, a Resolution to establish the lease of the "Old Battle Mountain Water and Sewer Yard" being in the best interest of the County, pursuant to the provisions of Nevada Revised Statutes (NRS) 244.2833(1)(b).

DOC # 0264810

08/28/2012

09:22 AM

Official Record

Recording requested By

LANDER COUNTY CLERK

Lander County, - NV

Idonna Trevino - Recorder

Fee: Page 1 of 3

RPTT: Recorded By: TO

Book- 636 Page- 0381



0264810

RECORDING REQUEST BY:

Lander County Clerk

315 South Humboldt Street

Battle Mountain, Nevada 89820

**RESOLUTION NO. 2012-17 TO ESTABLISH THE LEASE OF SPECIFIC
COUNTY-OWNED FACILITIES BEING IN THE BEST INTEREST OF LANDER COUNTY**

TITLE OF DOCUMENT

This page added to provide additional information required by NRS 111.312 Section 1-2.

This cover page must be typed or printed.

RESOLUTION No. 2012-17

A RESOLUTION OF THE LANDER COUNTY BOARD OF COMMISSIONERS TO ESTABLISH THE LEASE OF SPECIFIC COUNTY-OWNED FACILITIES BEING IN THE BEST INTEREST OF LANDER COUNTY

WHEREAS, the County of Lander is a political subdivision of the State of Nevada; and

WHEREAS, the provisions of Nevada Revised Statutes (NRS) 244.2833 apply to the lease of County-owned property less than 25,000 square feet in area; and

WHEREAS, proper publication of notice was published in the "Battle Mountain Bugle" not less than 10 nor more than 20 days prior to the public hearing held on this matter, meeting the requirements of Nevada Revised Statutes (NRS) 244.2833; and

WHEREAS, the Lander County Board of Commissioners intends to lease the County-owned storage/maintenance shop facility, known as the "Old Battle Mountain Water and Sewer Yard," a facility of less than 25,000 square feet, located at 145 West Third Street, Battle Mountain, Nevada, to a regular provider of services to the County; and

WHEREAS, the County-owned storage/maintenance shop facility, known as the "Old Battle Mountain Water and Sewer Yard," is not in current use by Lander County; and

WHEREAS, it is the intent of Lander County to offer the storage/maintenance shop facility, known as the "Old Battle Mountain Water and Sewer Yard," to a regular provider of services to the County at a lease rate that may or may not be less than the average market lease rate for similar facilities in the area; and

NOW THEREFORE BE IT RESOLVED:

The Lander County Board of Commissioners finds it in the best interest of Lander County to lease the County-owned storage/maintenance shop facility, known as the "Old Battle Mountain Water and Sewer Yard," a facility of less than 25,000 square feet, located at 145 West Third Street, Battle Mountain, Nevada, to a regular provider of services to the County; and

BE IT FURTHER RESOLVED:

The Lander County Board of Commissioners finds it in the best interest of Lander County to support local business enterprises that provide regular services to the County through the lease of the storage/maintenance shop facility, known as the "Old Battle Mountain Water and Sewer Yard," at a monthly rental rate that may or may not be less than the average market lease rate for similar facilities in the area.

Adopted this 23rd day of August, 2012.



THOSE VOTING AYE:

Commissioner Bullock
Commissioner Garner
Commissioner Mason
Commissioner Williams

THOSE VOTING NAY:

ABSENT: Commissioner Stienmetz

Attest:

Dean Bullock

Mr. Dean Bullock, Chairman
Lander County Board of Commissioners

Sadie Sullivan

Sadie Sullivan, Clerk
Lander County

LANDER COUNTY COMMISSION MEETING
August 23, 2012

AGENDA ITEM NO. 4

THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:

Discussion for possible action regarding lease of the storage/maintenance shop facility "Old Battle Mountain Water and Sewer Yard" located at 145 West Third Street in Battle Mountain, Nevada and other matters properly related thereto.

Public comment.

Background:

The proposal(s) received in response to the request for proposals issued for the lease of the Lander County-owned storage/maintenance shop facility, known as the "Old Battle Mountain Water and Sewer Yard" located at 145 West Third Street in Battle Mountain, Nevada, is presented for Commission consideration.

The single proposal received in response to the Request for Proposals (RFP) for the lease of this County-owned facility is from Scott D. Bullock, d/b/a Bullock Mechanical. The proposal has been reviewed, meets all criteria set forth in the Request for Proposals (RFP), is complete, responsive and responsible. Mr. Scott Bullock is a regular service provider to Lander County.

The proposal reflects a monthly rental amount of \$200.00 to be paid to Lander County for occupancy of the facility with the initial term of the lease agreement being one year and an automatic renewal for a one-year period. Bullock Mechanical will maintain all bonding, industrial, personal property, liability and vehicle liability insurance and provide evidence of insurance to Lander County prior to occupancy.

Recommended Action:

It is recommended that the Commission accept the proposal received from Mr. Scott D. Bullock, d/b/a Bullock Mechanical for lease of the Lander County-owned storage/maintenance shop facility, known as the "Old Battle Mountain Water and Sewer Yard" located at 145 West Third Street in Battle Mountain, Nevada, at a monthly rental amount of \$200.00, for an initial one-year period and an automatic renewal for a subsequent one-year period.

PUBLIC NOTICE

FACILITY AVAILABLE FOR LEASE

Storage/Maintenance Shop Facility
145 West 3rd Street
Battle Mountain, Nevada 89820

Title: FACILITY LEASE

The County of Lander, Nevada is seeking Proposals from interested individuals/companies to enter into a Lease Agreement for the storage yard and maintenance shop facility located at 145 West 3rd Street in Battle Mountain, Nevada, commonly referred-to as the "Old Water and Sewer Yard." The period of Lease is for one year with automatic renewal for a subsequent one-year period. The prospective Lessee must be a local business entity **providing regular services to Lander County**.

To request a detailed RFP, contact the Lander County Administrative Offices, 825 North Second Street, Battle Mountain, Nevada 89820. For inquires call Gene Etcheverry, Executive Director, (775) 635-2885. Deadline for proposals is 4:00 p.m., Monday, August 20, 2012.

4

LANDER COUNTY
FACILITY AVAILABLE FOR LEASE
Storage/Maintenance Shop Facility
Issue Date: Wednesday, August 8, 2012
Title: Facility Lease
Storage/Maintenance Shop Facility
145 West 3rd Street
Battle Mountain, Nevada 89820
County of Lander
Office of Executive Director
Battle Mountain, Nevada 89820

Location of Subject Facility: 145 West 3rd Street, Battle Mountain, Nevada 89820

Period of Lease: One Year with automatic renewal for a subsequent one-year period

Request for Proposals to lease this facility from Lander County, described herein, will be received on an ongoing basis throughout the submittal period. All inquiries for information should be directed to:

Gene Etcheverry, Executive Director
County of Lander
315 South Humboldt Street
Battle Mountain, NV 89820
Phone: (775) 635-2885

Written Proposals shall be mailed via U.S. Postal Service or hand-delivered directly to: Lander County Clerk's Office, RFP – FACILITY LEASE, 315 South Humboldt Street, Battle Mountain, NV 89820.

Deadline for Submittal: 4:00 p.m., Monday, August 20, 2012.

I. PURPOSE:

The County of Lander is seeking interested parties to enter into a Lease Agreement for the storage yard and maintenance shop facility located at 145 West 3rd Street in Battle Mountain, Nevada, commonly referred-to as the "Old Water and Sewer Yard."

II. BACKGROUND:

The County of Lander has no current use in normal and regular operations for this particular County-owned facility. The Board of County Commissioners has determined the best use for the facility is occupancy under lease by a local business entity **providing regular services to Lander County**. The chosen party shall enter into a written lease agreement with Lander County. Some of the terms of that lease agreement may include, but are not limited to, the following:

III. TERM OF LEASE AGREEMENT

The term of the Lease Agreement shall be for a period of one year, commencing the date of approval by the Lander County Board of Commissioners, with automatic renewal for a subsequent one-year period.

IV. INSURANCE:

- a. **PROPERTY INSURANCE** – *Personal Property Insurance* – Lessee shall maintain *personal property insurance on its own property to be stored, maintained or used on the*

subject premises and provide evidence of insurance to Lander County Administration prior to occupancy of the premises.

- b. **LIABILITY INSURANCE** – *Lessee shall maintain personal business liability insurance, as appropriate, and maintain vehicle liability insurance on any vehicles to be stored, maintained or used on the subject premises and provide evidence of insurance to Lander County Administration prior to occupancy of the premises.*
- c. **INDUSTRIAL INSURANCE** – *Lessee shall maintain Industrial Insurance, as appropriate and required by law.*

V. MINIMUM MONTHLY RENTAL AMOUNT AND MAINTENANCE REQUIREMENTS

Minimum monthly rental amount for these premises has been established at \$200.00 per month. Continuing relationship of Lessee as a service provider to Lander County is required. The following site requirements apply to this facility lease:

- ↓ Rental Payment shall be made on or before the 1st day of the month;
- ↓ County shall be responsible for maintenance of the exterior of the shop building, other structures on the site, landscape, grounds and parking area;
- ↓ County shall be responsible for repair and maintenance to plumbing, heating and electrical systems inside the shop building;
- ↓ Lessee shall be responsible to keep the interior of the shop building in good order and for general maintenance and cleaning of the interior of the shop building;
- ↓ Lessee shall be responsible to maintain the entire site in an orderly and uncluttered condition;
- ↓ Lessee is responsible to pay for the gas, electric and water service and use fees;

The County of Lander reserves the right to reject all proposals and negotiate final selection with the candidate(s) of its choosing. The final selection of tenant will be made by the Lander County Commissioners. Moreover, the above terms are subject to change in the final lease agreement.

**LANDER COUNTY
REQUEST FOR PROPOSALS
STORAGE/MAINTENANCE SHOP FACILITY
TO BE RECEIVED BY 4:00 P.M., MONDAY AUGUST 20, 2012**

NO	DATE	NAME/PROPSAL	AMOUNT	BID BOND YES/NO
1	8-20-12	Scott D. Bullock		

OPEND BY: _____

SCOTT D. BULLOCK, D.B.A. BULLOCK MECHANICAL, PROPOSAL FOR FACILITY LEASE

FILED
2012 AUG 20 PM 2:03

SADIE BULLOCK
DIST. COURT CLERK

Company Background

Scott D. Bullock, d.b.a. Bullock Mechanical, is pleased to submit this proposal in response to the RFP issued by Lander County regarding the lease of the "Old Water & Sewer Yard" facility located at 145 West 3rd Street, Battle Mountain, NV 89820. As required in the RFP, Bullock Mechanical has a history of routinely conducting business with and regularly providing services to Lander County.

Bullock Mechanical, established in 2011, conveniently offers around the clock HVAC, plumbing, and appliance service and repair. In an effort to better serve the community, business owner, Scott Bullock, is currently in the process of receiving his C21 certification and general contractor's license. The company employs five people. If awarded the lease on this property, Bullock Mechanical would be able have a store front presence and business office that is more easily accessible to the public. Due to the additional shop and storage space, this facility will enable Bullock Mechanical to greatly increase its services. Beyond offering quality repair work and excellent customer service, Bullock Mechanical also has a strong commitment to community involvement, supporting local non-profit organizations and sponsoring community events.

Benefits to Lander County

Lander County would benefit from the leasing of the facility in the following ways:

- Revenue generated by monthly rental fees
- Continuous occupancy, maintenance, and repair
- Continued benefit from services provided to the county

Benefits to Bullock Mechanical

Bullock Mechanical would benefit from the leasing of the facility in the following ways:

- A store front presence, accessible to customers
- Expanded business office space
- Shop facility for repairs and expanded storage space for service truck, supplies, tools, etc.
- Continued ability to provide a greater range of services to the county

Deliverables

Bullock Mechanical is able and willing to enter into an agreement to provide the following deliverables to Lander County upon approval of proposal:

- Enter into a one year lease commencing on the date approved by the Lander County Board of Commissioners, with automatic renewal for one year ;
- Obtain and maintain adequate personal property insurance and to provide Lander County with evidence of insurance prior to occupancy;

- Amend currently held personal liability insurance as appropriate and maintain vehicle liability insurance on the service truck that will be stored, maintained, and used on the premises. Proof of insurance will be provided to the county prior to occupancy.
- Obtain and maintain all industrial insurance and bonding as appropriate and required by law and to present Lander County with evidence of said insurance upon request.
- Remit a rental payment of \$200 per month, on or before the 1st of every month;
- Continue status as a service provider to Lander County;
- Keep the interior of the shop in good order and provide for general maintenance and cleaning of the interior shop building;
- Maintain the entire facility site in an orderly and uncluttered condition;
- Pay the monthly gas, electric, water service, and use fees;

Receivables

Lander County will be responsible for the:

- Maintenance of the exterior of the shop building, other structures on the site, landscape, grounds, and parking area;
- Repair and maintenance to plumbing, heating, and electrical systems in the shop building;

Timeline

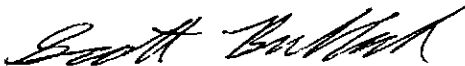
Bullock Mechanical, upon approval from the Lander County Board of Commissioners and after furnishing evidence of all required licenses and forms of insurance, is ready for immediate occupancy.

CONCLUSION

We look forward to continuing our relationship with Lander County and look forward to this opportunity to expand our services. We are confident that we can meet the requirements of the facility lease.

If you have questions on this proposal, feel free to contact Scott Bullock by email at sbullock42@yahoo.com or by phone at (775)741-0542. We appreciate your consideration and hope to receive a favorable response.

Thank you for your consideration,



Scott Bullock
Owner

LANDER COUNTY COMMISSION MEETING
August 23, 2012

AGENDA ITEM NO. 5

THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:

Discussion and update on Road and Bridge South projects and other matters properly related thereto.

Public comment.

Background:

Mr. Bartolo Ramos, Lander County Road and Bridge Foreman (South), will present an update to the Commission on Road and Bridge South projects.

Recommended Action:

No specific action is necessary or allowed on this agenda item.

LANDER COUNTY COMMISSION MEETING
August 23, 2012

AGENDA ITEM NO. 6

THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:

Discussion and update on Road and Bridge North projects and other matters properly related thereto.

Public comment.

Background:

Mr. Donald Negro, Lander County Road and Bridge Foreman (North), will present an update to the Commission on Road and Bridge North projects.

Recommended Action:

No specific action is necessary or allowed on this agenda item.

LANDER COUNTY COMMISSION MEETING
August 23, 2012

AGENDA ITEM NO. 7

THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:

Discussion for possible action regarding ratification of contract between Lander County and Hunewill Construction Co., in the amount of \$2,209,926.48, for the 2012 Road Paving Projects, PWP-LA-2012-251, and other matters properly related thereto.

Public comment.

Background:

The contract between Lander County and Hunewill Construction Co., in the amount of \$2,209,926.48, for the 2012 Road Paving Projects, PWP-LA-2012-251, is presented for Commission ratification.

This contract was approved by the Commission during the August 9, 2012 regular meeting, subject to review by the Lander County District Attorney's Office and ratification by the Commissioners at a later meeting.

Recommended Action:

It is recommended that the Commission ratify the Contract between Lander County and Hunewill Construction Co., in the amount of \$2,209,926.48, for the 2012 Road Paving Projects, PWP-LA-2012-251.

AGENDA REQUEST FORM
MEETING DATE: August 23, 2012

NAME: Donald Negro REPRESENTING: Road & Bridge

ADDRESS: 550 West Second St, Battle Mountain, NV 89820

PHONE (H): _____ (W): 775-635-2728 FAX: 775-635-2801

WHICH NUMBER SHOULD WE CALL DURING NORMAL BUSINESS HOURS: 775-635-2728

WHO WILL BE ATTENDING THE MEETING: Donald Negro
JOB TITLE: Road & Bridge Foreman

SPECIFIC REQUEST TO BE PLACED ON THE AGENDA: Discussion and possible action to Approve the Contract with Hunewell Construction on the 2012 Road Paving Projects PWP-LA-2012-251

WHAT ACTION WOULD YOU LIKE THE BOARD TO TAKE TO RESOLVE THIS ISSUE?
Ratify Award of the bid to Hunewill Construction

ARE THERE ANY COSTS ASSOCIATED WITH YOUR REQUEST?
AMOUNT \$2,209,926.48 X YES NO

HAS THIS ISSUE BEEN DISCUSSED AT A PRIOR COMMISSION MEETING?
WHEN? 9-Aug-12 X YES NO

WILL YOU BE PRESENTING WRITTEN INFORMATION AT THE MEETING? X YES NO

HAVE YOU DISCUSSED THIS ISSUE WITH THE AFFECTED DEPT HEAD? X YES NO

FOR REVIEW BY:

CLERK _____	SHERIFF _____	J.P. _____
ASSESSOR _____	WELFARE _____	D.A. _____
BUILDING _____	PLANNING _____	TREASURER _____
AIRPORT _____	REC/AUDITOR _____	SWIM POOL _____
R&B _____	W&S _____	HOSPITAL _____
PARKS _____	GOLF _____	CIVIC CENTER _____
FAIR/REC _____	EX DIRECTOR _____	OTHER _____

THE EXECUTIVE DIRECTOR RESERVES THE RIGHT TO REJECT OR RECOMMEND TABLING ALL AGENDA REQUESTS FOR INSUFFICIENT INFORMATION.

ALL INFORMATION STATED IS CORRECT AND TRUE TO MY KNOWLEDGE
Donald Negro DN

MEETING DATE: August 23, 2012

7



Agreement

THIS AGREEMENT is by and between Lander County
(hereinafter called OWNER) and H.E. Hunewill, Inc.
(hereinafter called CONTRACTOR).

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 - Work

1.01 CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents.

ARTICLE 2 - The Project

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

Battle Mountain 2012 Road Paving Projects

ARTICLE 3 - Engineer

3.01 The Project has been designed by **Shaw Engineering, Ltd.**, 20 Vine Street, Reno, Nevada, 89503, who is hereinafter called ENGINEER and who is to act as OWNER's representative, assume all duties and responsibilities, and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with the Work in accordance with the Contract Documents.

ARTICLE 4 - Contract Times

4.01 Time of the Essence

1. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 Days to Achieve Substantial Completion and Final Payment

1. The Work will be substantially completed within 37 days after the date when the Contract Times commence to run as provided in paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with paragraph 14.07 of the General Conditions within 47 days after the date when the Contract Times commence to run.

4.03 Liquidated Damages

1. CONTRACTOR and OWNER recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such

proof, **OWNER** and **CONTRACTOR** agree that as liquidated damages for delay (but not as a penalty), **CONTRACTOR** shall pay **OWNER** \$200.00 for each day that expires after the time specified in paragraph 4.02 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if **CONTRACTOR** shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by **OWNER**, **CONTRACTOR** shall pay **OWNER** \$500.00 for each day that expires after the times specified in paragraph 4.02 for completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 5 – Contract Price

5.01 **OWNER** shall pay **CONTRACTOR** for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the amounts determined pursuant to the paragraph below:

A. For all Work, at the prices stated in **CONTRACTOR**'s Bid, attached hereto as an exhibit.

As provided in paragraph 11.03 of the General Conditions, estimated quantities for unit price items are not guaranteed, and determinations of actual quantities and classifications are to be made by **ENGINEER** as provided in paragraph 9.08 of the General Conditions. Unit prices have been computed as provided in paragraph 11.03 of the General Conditions.

ARTICLE 6 – Payment Procedures

6.01 Submittal and Processing of Payments

A. **CONTRACTOR** shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by **ENGINEER** as provided in the General Conditions.

6.02 Progress Payments; Retainage

A. **OWNER** shall make progress payments on account of the Contract Price on the basis of **CONTRACTOR**'s Applications for Payment each month during performance of the Work as provided in paragraphs 6.02.A.1 and 6.02.A.2 below. All such payments will be measured by the schedule of values established in paragraph 2.07.A of the General Conditions (and, in the case of Unit Price Work, based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements:

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as **ENGINEER** may determine or **OWNER** may withhold, in accordance with paragraph 14.02 of the General Conditions:

a. 90% of Work completed (with the balance being retainage). If the Work has been 50% completed as determined by **ENGINEER**, and if the character and progress of the Work have been satisfactory to **OWNER** and **ENGINEER**, **OWNER**, on recommendation of **ENGINEER**, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no retainage on account of Work

subsequently completed, in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to 100% of the Work completed less the aggregate of payments previously made; and

- b. 100% of cost of materials and equipment not incorporated in the Work.
2. Upon Substantial Completion, **OWNER** shall pay an amount sufficient to increase total payments to **CONTRACTOR** to 95% of the Work completed, less such amounts as **ENGINEER** shall determine in accordance with paragraph 14.02.B.5 of the General Conditions and less 100% of **ENGINEER**'s estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

6.03 Final Payment

- A. Upon final completion and acceptance of the Work in accordance with paragraph 14.07 of the General Conditions, **OWNER** shall pay the remainder of the Contract Price as recommended by **ENGINEER** as provided in said paragraph 14.07.

ARTICLE 7 - Interest

7.01 The **CONTRACTOR** acknowledges that he is aware of the provisions of Nevada Revised Statute 338.160, which provides for investment of contract retainages, and the payment of interest thereon to the **CONTRACTOR** after completion of the Project. The **CONTRACTOR** agrees to waive all his rights to investment of and payment of interest on retainage, upon the understanding that the regulations of the lending agency prohibit such investment and that, without this waiver, loan and/or grant funds for this Project will not be available.

ARTICLE 8 - Contractor's Representations

- 8.01** In order to induce **OWNER** to enter into this Agreement, **CONTRACTOR** makes the following representations:
- A. **CONTRACTOR** has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
 - B. **CONTRACTOR** has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. **CONTRACTOR** is familiar with and is satisfied as to all federal, State, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. **CONTRACTOR** has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in paragraph 4.02 of the General Conditions.
 - E. **CONTRACTOR** has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or



which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by **CONTRACTOR**, including applying the specific means, methods, techniques, sequence, and procedures of construction, if any, expressly required by the *Contract Documents to be employed by CONTRACTOR*, and safety precautions and programs incident thereto.

- F. **CONTRACTOR** does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- G. **CONTRACTOR** is aware of the general nature of work to be performed by **OWNER** and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. **CONTRACTOR** has correlated the information known to **CONTRACTOR**, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- I. **CONTRACTOR** has given **ENGINEER** written notice of all conflicts, errors, ambiguities, or discrepancies that **CONTRACTOR** has discovered in the Contract Documents, and the written resolution thereof by **ENGINEER** is acceptable to **CONTRACTOR**.
- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 9 – Contract Documents

9.01 Contents

- A. The Contract Documents consist of the following:
 - 1. This Agreement (Number 00520);
 - 2. Performance Bond (Number 00610);
 - 3. Payment Bond (Number 00615);
 - 4. General Conditions (Number 00700);
 - 5. Supplementary Conditions (Number 00800);
 - 6. Project drawing (Section 00300)
 - 7. Addenda (Section 00900).
 - 8. Exhibits to this Agreement (enumerated as follows):
 - A. Notice to Proceed (number 00550);
 - B. **CONTRACTOR**'s Bid;
 - C. Documentation submitted by **CONTRACTOR** prior to Notice of Award (pages NA to NA, inclusive);



- 9. State Prevailing Wage Rates including Addenda;
- 10. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - 1. Written Amendments;
 - 2. Work Change Directives;
 - 3. Change Order(s).
- B. The documents listed in paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in paragraph 3.05 of the General Conditions.

ARTICLE 10 - Miscellaneous

10.01 Terms

- A. Terms used in this Agreement will have the meanings indicated in the General Conditions.

10.02 Assignment of Contract

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 Successors and Assigns

- A. **OWNER** and **CONTRACTOR** each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 Severability

- A. Any provisions or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, all remaining provisions shall continue to be valid and binding upon **OWNER** and **CONTRACTOR**, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

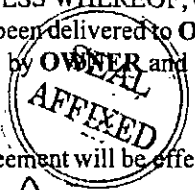
10.05 Other Provisions



A. **CONTRACTORS** are required by law to be licensed and regulated by the Nevada's State Contractors Board. Any questions concerning a **CONTRACTOR** may be referred to the State Contractors Board, 70 Linden Street, Reno, Nevada 89502.



IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in duplicate. One counterpart each has been delivered to OWNER and CONTRACTOR. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or on their behalf.



This Agreement will be effective on August 9 2012 (which is the Effective Date of the Agreement).

OWNER
By: Dean Bullock

CONTRACTOR:
By: [Signature]

Attest Sadie Sullivan
[Corporate Seal]

Attest [Signature]
[Corporate Seal]

Address for giving notices:
315 South Humboldt
Battle Mountain, NV 89820

Addresses for giving notices:
1410 W. Railroad
Winnemucca, Nevada 89445

(If OWNER is a corporation, attach evidence of authority to sign. If OWNER is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of OWNER-CONTRACTOR Agreement.)

License No.: 9078A
(Where applicable)

Agent for service of process:
Loren Hunewill

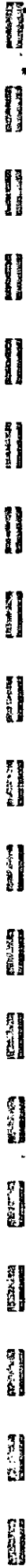
(If CONTRACTOR is a corporation or a partnership, attach evidence of authority to sign.)

Designated Representative:
Name: Dean Bullock
Title: Commissioner Chairman
Address: 315 South Humboldt
Battle Mountain, NV 89820
Phone: (775) 635-2885
Facsimile: (775) 635-5332

Designated Representative:
Name: Loren Hunewill
Title: President
Address: 1410 W. Railroad Winn. NV. 89445
Phone: 775-623-2888
Facsimile: 775-623-2992



This page left intentionally blank.



DOC # 0264734

08/16/2012

09:48 AM

Official Record

Recording requested By

LANDER COUNTY CLERK

Lander County - NV

Idonna Trevino - Recorder

Fee:

Page 1 of 9

RPTT:

Recorded By: BB

Book- 636 Page- 0121



0264734

RECORDING REQUEST BY:

Lander County Clerk

315 South Humboldt Street

Battle Mountain, Nevada 89820

**AGREEMENT BETWEEN LANDER COUNTY AND H.E. HUNEWILL CONSTRUCTION
FOR BATTLE MOUNTAIN 2012 ROAD PAVING PROJECT**

TITLE OF DOCUMENT

This page added to provide additional information required by NRS 111.312 Section 1-2.

This cover page must be typed or printed.

LANDER COUNTY COMMISSION MEETING

August 23, 2012

AGENDA ITEM NO. 8

THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:

Discussion for possible action regarding approval/disapproval of Change Order No. 1 for the Lander County Paving Project – Overlay Projects 2012, in the amount of \$477,340.00, and other matters properly related thereto.

Public comment.

Background:

Change Order No. 1 for the Lander County Paving Project – Overlay Projects 2012, in the amount of \$477,340.00, is presented for Commission consideration.

Recommended Action:

Lander County Road and Bridge Foreman (North), Mr. Donald Negro, will make a recommendation for Commission action on this item.

Change Order

No. 1

Date of Issuance 8-23-12 Effective Date 8-23-12

OWNER Lander County

CONTRACTOR Hunewill Construction

Contract Lander County Paving Project – Overlay Projects 2012

ENGINEER Shaw Engineering

You are directed to make the following changes in the Contract Documents:

- Additional Paving and road maintenance work including paving Fairway Road; additional paving for Hilltop Road; asphalt sealing and other miscellaneous road maintenance work as directed by Donald Negro.

Change in Contract Price:
Original Contract Price \$ <u>2,209,926.48</u>
Net increase (decrease) from previous Change Orders No. <u>n/a</u> to <u>1</u> \$ <u>-0-</u>
Contract Price prior to this Change Order \$ <u>0</u>
Net increase (decrease) of this Change Order \$ <u>477,340.00</u>
Contract Price with all approved Change Orders \$ <u>2,687,266.48</u>

Change in Contract Times:
Original Contract Times Substantial Completion <u>37</u> Ready for Final Payment <u>47</u> <i>(days or dates)</i>
Net change from previous Change Orders No. <u>n/a</u> to <u>1</u> Original Contract Times Substantial Completion <u>-0-</u> Ready for Final Payment <u>-0-</u> <i>(days or dates)</i>
Contract Times prior to this Change Order Substantial Completion <u>37</u> Ready for Final Payment <u>47</u> <i>(days or dates)</i>
Net increase (decrease) this Change Order Substantial Completion <u>-0-</u> Ready for Final Payment <u>-0-</u> <i>(days or dates)</i>
Contract Times with all approved Change Orders Substantial Completion <u>37</u> Ready for Final Payment <u>47</u> <i>(days or dates)</i>

Recommended:

By: [Signature]
ENGINEER (authorized signature)
Date 8/13/12

Approved:

By: [Signature]
OWNER (authorized signature)
Date 8/23/12

Accepted:

By: _____
CONTRACTOR (authorized signature)
Date _____

DOC # 0264854

09/05/2012

01:23 PM

Official Record

Recording requested By
LANDER COUNTY CLERK

Lander County - NV

Idonna Trevino - Recorder

Fee: Page 1 of 2

RPTT: Recorded By: TO

Book- 636 Page-0462



0264854

RECORDING REQUEST BY:

Lander County Clerk

315 South Humboldt Street

Battle Mountain, Nevada 89820

AGREEMENT CHANGE ORDER #1 FOR HUNEWILL CONSTRUCTION

LANDER COUNTY PAVING PROJECT - OVERLAY PROJECTS 2012

TITLE OF DOCUMENT

This page added to provide additional information required by NRS 111.312 Section 1-2.

This cover page must be typed or printed.

Change Order

No. 1

Date of Issuance 8-23-12 Effective Date 8-23-12

OWNER Lander County

CONTRACTOR Hunewill Construction

Contract Lander County Paving Project - Overlay Projects 2012

ENGINEER Shaw Engineering

You are directed to make the following changes in the Contract Documents:

- Additional Paving and road maintenance work including paving Fairway Road; additional paving for Hilltop Road; asphalt sealing and other miscellaneous road maintenance work as directed by Donald Negro.

Change in Contract Price:	
Original Contract Price	\$ <u>2,209,926.48</u>
Net increase (decrease) from previous Change Orders No. <u>n/a</u> to <u>1</u>	\$ <u>-0-</u>
Contract Price prior to this Change Order	\$ <u>0</u>
Net increase (decrease) of this Change Order	\$ <u>477,340.00</u>
Contract Price with all approved Change Orders	\$ <u>2,687,266.48</u>

Change in Contract Times:	
Original Contract Times	Substantial Completion <u>37</u> Ready for Final Payment <u>47</u> <i>(days or dates)</i>
Net change from previous Change Orders No. <u>n/a</u> to <u>1</u>	Original Contract Times Substantial Completion <u>-0-</u> Ready for Final Payment <u>-0-</u> <i>(days or dates)</i>
Contract Times prior to this Change Order	Substantial Completion <u>37</u> Ready for Final Payment <u>47</u> <i>(days or dates)</i>
Net increase (decrease) this Change Order	Substantial Completion <u>-0-</u> Ready for Final Payment <u>-0-</u> <i>(days or dates)</i>
Contract Times with all approved Change Orders	Substantial Completion <u>37</u> Ready for Final Payment <u>47</u> <i>(days or dates)</i>

Recommended:

By: [Signature]
 ENGINEER (authorized signature)
 Date 8/13/12

Approved:

By: [Signature]
 OWNER (authorized signature)
 Date 8/23/12

Accepted:

By: [Signature]
 CONTRACTOR (authorized signature)
 Date 8-31-12

LANDER COUNTY COMMISSION MEETING
August 23, 2012

AGENDA ITEM NO. 9

THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:
Discussion and update on Public Works projects and other matters properly related thereto.

Public comment

Background:

Mr. Jacob Edgar, Lander County Public Works Foreman, will present an update to the Commission on Public Works projects.

Recommended Action:

No specific action is necessary or allowed on this agenda item.

Amendment No. 2 to
Highway Agreement No. PR070-09-063

This Amendment is made and entered into this _____ day of _____, _____ between the State of Nevada, Department of Transportation, hereinafter referred to as the DEPARTMENT, and Lander County, acting by and through its Department of Public Works, 550 West Second Street, Battle Mountain, NV 89820, hereinafter referred to as the COUNTY.

WITNESSETH:

WHEREAS, on March 30, 2009, the parties entered into Agreement No. PR070-09-063 to allow the COUNTY to design, advertise, award and manage construction of the Loneliest Highway Visitors Center Project; and

WHEREAS, the COUNTY requested and was approved for additional funds; and

WHEREAS, this Amendment increases the available funding of the agreement by One Hundred Five Thousand Two Hundred Sixty-Three and No/100 Dollars (\$105,263.00); and

WHEREAS, the Parties hereto desire to make certain amendments to Agreement No. PR070-09-063.

NOW, THEREFORE, the Parties agree as follows:

- A. Article I, Paragraph 4, is amended by deleting it in its entirety and inserting in its place: "To obligate Federal Enhancement funding for a maximum amount of Seven Hundred Sixteen Thousand Four Hundred Twenty-Two and No/100 Dollars (\$716,422.00)."
- B. Article II, Paragraph 19, is amended by deleting it in its entirety and inserting in its place: "To be responsible for the five percent (5%) match of Federal funds in an amount not to exceed Thirty-Seven Thousand Seven Hundred and Six Dollars and No/100 Dollars (\$37,706.00) and for one hundred percent (100%) of all costs exceeding the obligated Federal funds. The COUNTY agrees the DEPARTMENT and the State of Nevada are not responsible for any costs exceeding the obligated Federal funds."
- C. Article III, Paragraph 6, is amended by deleting in its entirety and inserting in its place: "The TOTAL ESTIMATED PROJECT COSTS are Seven Hundred Fifty-Four Thousand One Hundred Twenty-Eight and No/100 Dollars (\$754,128.00), which includes: Seven Hundred Sixteen Thousand Four Hundred Twenty-Two and No/100 Dollars (\$716,422.00), comprising Federal funding of ninety-five percent (95%) of the TOTAL ESTIMATED PROJECT COSTS; and a match of TOTAL ESTIMATED PROJECT COSTS. The parties acknowledge and agree that the TOTAL ESTIMATED PROJECT COSTS set forth herein are only estimates and that in no event shall the DEPARTMENT or federal portion exceed the total obligated amount, as established in Article I, Paragraph 4."

D. Article III, Paragraph 7, is amended by deleting it in its entirety and inserting in its place:

7. The following is a summary of estimated costs and available funds:

TOTAL ESTIMATED PROJECT COSTS:

DEPARTMENT Preliminary Engineering Costs:	\$ 5,000.00
COUNTY Preliminary Engineering Costs:	\$ 20,000.00
DEPARTMENT Right-of-Way Engineering Costs:	\$ 25,000.00
DEPARTMENT Right-of-Way Acquisition Costs:	\$ 100,000.00
DEPARTMENT Construction Engineering Costs:	\$ 5,000.00
COUNTY Construction Engineering Costs:	\$ 30,568.00
Construction Costs:	<u>\$ 568,560.00</u>

TOTAL ESTIMATED PROJECT COSTS: \$ 754,128.00

AVAILABLE FUNDING SOURCES:

Federal Enhancements Funds:	\$ 716,422.00
COUNTY Funds:	<u>\$ 37,706.00</u>

TOTAL PROJECT FUNDING: \$ 754,128.00

E. Article III, Paragraph 15, is amended by deleting it in its entirety and inserting in its place: "All notices or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephone facsimile or electronic mail with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address set forth below:

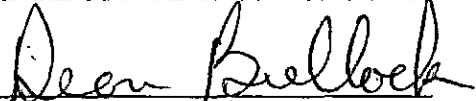
FOR DEPARTMENT: Susan Martinovich, P.E., Director
Attn: Dean Morton, P.E.
Local Public Agency Coordinator
Nevada Department of Transportation
Roadway Design
1263 South Stewart Street
Carson City, Nevada 89712
Phone: (775) 888-7595
Fax: (775) 888-7401
E-mail address: dmorton@dot.state.nv.us

FOR COUNTY: Gene P. Etcheverry, Executive Director
Lander County
315 South Humboldt Street
Battle Mountain, Nevada 89820
Phone: (775) 635-2885
Fax: (775) 635-5332
E-mail: getcheverry@landercounty.org

F. All of the other provisions of Agreement No. PR070-09-063, dated March 30, 2009, and Amendment No. 1 dated February 7, 2011, shall remain in full force and effect as if set forth herein.

IN WITNESS WHEREOF, the above named parties have hereunto set their hands and executed this Amendment the date first written above.

LANDER COUNTY, acting by and through
its DEPARTMENT OF PUBLIC WORKS

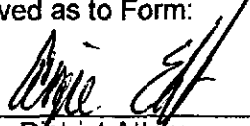


Dean Bullock, Chair
Lander County Board of Commissioners

STATE OF NEVADA, acting by and through
its DEPARTMENT OF TRANSPORTATION

Director

Approved as to Form:



Deputy District Attorney

Approved as to Legality & Form:

Deputy Attorney General

LANDER COUNTY COMMISSION MEETING
August 23, 2012

AGENDA ITEM NO. 10

THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:

Discussion for possible action regarding Amendment No. 2 to the Agreement between the Nevada Department of Transportation (NDOT) and Lander County for the Austin Loneliest Highway Visitors Center project and other matters properly related thereto.

Public comment.

Background:

Amendment No. 2 to the Agreement between the Nevada Department of Transportation (NDOT) and Lander County for the Austin Loneliest Highway Visitors Center project is presented for Commission consideration.

Amendment No.2 to the Austin Loneliest Highway Visitor Center Project Agreement, Local Public Agency (LPA) Project Number 73504, Agreement Number PR070-09-063, reflects the increase of funding to complete the Project. The total increase of funding is \$105,263.00, with \$100,000.00 being funded through Federal Enhancement funding and \$5,263.00 being funded by Lander County.

A formal request for additional funding for completion of the project was sent to the Nevada Department of Transportation on April 30, 2012 with a favorable response and increased funding granted by NDOT Director Susan Martinovich on May 11, 2012. This brings total project funding to \$754, 128.00 with Federal Highway Enhancement funding in the amount of \$716,422.00 (95%) and matching Lander County funding in the amount of \$37,706.00 (95%).

Recommended Action:

It is recommended that the Commission accept and approve Amendment No. 2 to the Austin Loneliest Highway Visitor Center Project Agreement, Local Public Agency (LPA) Project Number 73504, Agreement Number PR070-09-063, reflecting the increase of funding to complete the Project in the amount of \$105,263.00, with \$100,000.00 being funded through Federal Enhancement funding and \$5,263.00 being funded by Lander County. Authorize the Chairman to sign the Amendment.



BRIAN SANDOVAL
Governor

STATE OF NEVADA
DEPARTMENT OF TRANSPORTATION
1263 S. Stewart Street
Carson City, Nevada 89712

July 30, 2012

SUSAN MARTINOVICH, P.E., *Director*

In Reply Refer to:

Gene Etcheverry
Executive Director
Lander County
550 West Second Street
Battle Mountain, NV 89820

Re: Austin Visitor Center Project
73504
STP-050-4(005)

Dear Mr. Etcheverry:

The Amendment No. 2 to Agreement No. PR070-09-063, between the Department and Lander County for the Austin Visitor Center project has been finalized. Attached are two copies for signature. Please secure the necessary signatures for the County and return both copies of the signed documents to me.

Please do not fill in the Highway Agreement Number or the date the agreement is "entered into." NDOT's Agreement Services Section will provide that information. A copy will be returned to you after all signatures have been obtained.

If you should have any questions or require more information, please feel free to contact me at (775) 888-7595.

Sincerely,

Dean C. Morton, P.E., C.P.M.
LPA Coordinator

DM:sv

Enclosures (2)

RECEIVED

AUG - 6 2012

COUNTY COMMISSION

10

Amendment No. 2 to
Highway Agreement No. PR070-09-063

This Amendment is made and entered into this _____ day of _____, _____, between the State of Nevada, Department of Transportation, hereinafter referred to as the DEPARTMENT, and Lander County, acting by and through its Department of Public Works, 550 West Second Street, Battle Mountain, NV 89820, hereinafter referred to as the COUNTY.

WITNESSETH:

WHEREAS, on March 30, 2009, the parties entered into Agreement No. PR070-09-063 to allow the COUNTY to design, advertise, award and manage construction of the Loneliest Highway Visitors Center Project; and

WHEREAS, the COUNTY requested and was approved for additional funds; and

WHEREAS, this Amendment increases the available funding of the agreement by One Hundred Five Thousand Two Hundred Sixty-Three and No/100 Dollars (\$105,263.00); and

WHEREAS, the Parties hereto desire to make certain amendments to Agreement No. PR070-09-063.

NOW, THEREFORE, the Parties agree as follows:

- A. Article I, Paragraph 4, is amended by deleting it in its entirety and inserting in its place: "To obligate Federal Enhancement funding for a maximum amount of Seven Hundred Sixteen Thousand Four Hundred Twenty-Two and No/100 Dollars (\$716,422.00)."
- B. Article II, Paragraph 19, is amended by deleting it in its entirety and inserting in its place: "To be responsible for the five percent (5%) match of Federal funds in an amount not to exceed Thirty-Seven Thousand Seven Hundred and Six Dollars and No/100 Dollars (\$37,706.00) and for one hundred percent (100%) of all costs exceeding the obligated Federal funds. The COUNTY agrees the DEPARTMENT and the State of Nevada are not responsible for any costs exceeding the obligated Federal funds."
- C. Article III, Paragraph 6, is amended by deleting in its entirety and inserting in its place: "The TOTAL ESTIMATED PROJECT COSTS are Seven Hundred Fifty-Four Thousand One Hundred Twenty-Eight and No/100 Dollars (\$754,128.00), which includes: Seven Hundred Sixteen Thousand Four Hundred Twenty-Two and No/100 Dollars (\$716,422.00), comprising Federal funding of ninety-five percent (95%) of the TOTAL ESTIMATED PROJECT COSTS; and a match of TOTAL ESTIMATED PROJECT COSTS. The parties acknowledge and agree that the TOTAL ESTIMATED PROJECT COSTS set forth herein are only estimates and that in no event shall the DEPARTMENT or federal portion exceed the total obligated amount, as established in Article I, Paragraph 4."

D. Article III, Paragraph 7, is amended by deleting it in its entirety and inserting in its place:

7. The following is a summary of estimated costs and available funds:

TOTAL ESTIMATED PROJECT COSTS:

DEPARTMENT Preliminary Engineering Costs:	\$ 5,000.00
COUNTY Preliminary Engineering Costs:	\$ 20,000.00
DEPARTMENT Right-of-Way Engineering Costs:	\$ 25,000.00
DEPARTMENT Right-of-Way Acquisition Costs:	\$ 100,000.00
DEPARTMENT Construction Engineering Costs:	\$ 5,000.00
COUNTY Construction Engineering Costs:	\$ 30,568.00
Construction Costs:	<u>\$ 568,560.00</u>

TOTAL ESTIMATED PROJECT COSTS: \$ 754,128.00

AVAILABLE FUNDING SOURCES:

Federal Enhancements Funds:	\$ 716,422.00
COUNTY Funds:	<u>\$ 37,706.00</u>

TOTAL PROJECT FUNDING: \$ 754,128.00

E. Article III, Paragraph 15, is amended by deleting it in its entirety and inserting in its place: "All notices or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephone facsimile or electronic mail with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address set forth below:

FOR DEPARTMENT: Susan Martinovich, P.E., Director
Attn: Dean Morton, P.E.
Local Public Agency Coordinator
Nevada Department of Transportation
Roadway Design
1263 South Stewart Street
Carson City, Nevada 89712
Phone: (775) 888-7595
Fax: (775) 888-7401
E-mail address: dmorton@dot.state.nv.us

FOR COUNTY: Gene P. Etcheverry, Executive Director
Lander County
315 South Humboldt Street
Battle Mountain, Nevada 89820
Phone: (775) 635-2885
Fax: (775) 635-5332
E-mail: getcheverry@landercounty.org

F. All of the other provisions of Agreement No. PR070-09-063, dated March 30, 2009, and Amendment No. 1 dated February 7, 2011, shall remain in full force and effect as if set forth herein.

IN WITNESS WHEREOF, the above named parties have hereunto set their hands and executed this Amendment the date first written above.

LANDER COUNTY, acting by and through
its DEPARTMENT OF PUBLIC WORKS

STATE OF NEVADA, acting by and through
its DEPARTMENT OF TRANSPORTATION

Dean Bullock, Chair
Lander County Board of Commissioners

Director

Approved as to Form:

Approved as to Legality & Form:

Deputy District Attorney

Deputy Attorney General

LANDER COUNTY COMMISSION MEETING
August 23, 2012

AGENDA ITEM NO. 11

THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:

Discussion for possible action regarding approval/disapproval of Supplemental Engineering Agreement No. 1 to the existing Agreement for Professional Services between Lander County and J-U-B Engineers, Inc. dated July 26, 2011, in an amount not to exceed \$1,145.00, for additional engineering services rendered during the Battle Mountain Airport Apron Reconstruction project, AIP 3-32-0001-21 and other matters properly related thereto.

Public comment.

Background:

Supplemental Engineering Agreement No. 1 to the existing Agreement for Professional Services between Lander County and J-U-B Engineers, Inc. dated July 26, 2011, in an amount not to exceed \$1,145.00, for additional engineering services rendered during the Battle Mountain Airport Apron Reconstruction project, AIP 3-32-0001-21, is presented for Commission consideration.

Services provided under the Supplemental Engineering Agreement include additional time and services rendered to complete the contract assignment from Aggregate Industries to Road and Highway Builders and two additional days of construction oversight during project construction. Total cost for the additional time and services rendered is \$1,145.00 and is more than offset by the charge of liquidated damages to the Contractor for two days over-run at a total of \$1,500.00 per day, or \$3,000.00 total.

Either Lew Lott, P.E. or J.D. Heithoff, P.E., of J-U-B Engineers, will be in attendance to provide further details to the Commission on this item. The Supplemental Engineering Agreement has been reviewed and approved for payment by Mr. Abel Tapia, Federal Aviation Administration (FAA), San Francisco (SFO) Airports District Office (ADO).

Recommended Action:

It is recommended that the Commission accept and approve Supplemental Engineering Agreement No. 1 to the existing Agreement for Professional Services between Lander County and J-U-B Engineers, Inc. dated July 26, 2011, in an amount not to exceed \$1,145.00, for additional engineering services rendered during the Battle Mountain Airport Apron Reconstruction project, AIP 3-32-0001-21.



AGENDA REQUEST FORM

COMMISSIONER MEETING DATE: Aug 23, 2012

NAME: J.D. Heithoff REPRESENTING: J-U-B Engineers

ADDRESS: 2875 South Decker Lake Drive, Salt Lake City Utah 84119

PHONE (H): (208) 473-8377 (W): (208) 376-7330 (FAX): _____
cell

WHICH NUMBER SHOULD WE CALL DURING NORMAL BUSINESS HOURS: work or cell

WHO WILL BE ATTENDING THE MEETING: J.D. Heithoff

JOB TITLE: Senior Airport Engineer

SPECIFIC REQUEST TO BE PLACED ON THE AGENDA: Supplemental Engineering Agreement for additional engineering services that were required during the Battle Mountain Airport Apron Reconstruction project.

WHAT ACTION WOULD YOU LIKE THE BOARD TO TAKE TO RESOLVE THIS ISSUE? Approve the Supplemental Engineering Agreement

ARE THERE ANY COSTS ASSOCIATED WITH YOUR REQUEST: YES NO
AMOUNT: \$ 12,545

HAS THIS ISSUE BEEN DISCUSSED AT A PRIOR COMMISSION MEETING? YES NO
WHEN? _____

WILL YOU BE PRESENTING WRITTEN INFORMATION AT THE MEETING? YES NO

HAVE YOU DISCUSSED THIS ISSUE WITH THE AFFECTED DEPT HEAD?: YES NO

FOR REVIEW BY:

- | | | |
|---|--------------------|-------------------|
| AIRPORT <input checked="" type="checkbox"/> | DIST. ATTY. _____ | SENIOR CTR. _____ |
| AMBULANCE _____ | EXE. DIR. _____ | SHERIFF _____ |
| ARGENTA J.P. _____ | FIRE _____ | SOCIAL SVC. _____ |
| ASSESSOR _____ | GOLF _____ | TREASURER _____ |
| AUSTIN J.P. _____ | PARKS & REC. _____ | W & S _____ |
| CLERK _____ | PUBLIC WORKS _____ | OTHER _____ |
| COMM. DEVT. _____ | RECORDER _____ | |

THE EXECUTIVE DIRECTOR RESERVES THE RIGHT TO REJECT OR RECOMMEND TABLING ALL AGENDA REQUESTS FOR INSUFFICIENT INFORMATION.

ALL INFORMATION STATED IS CORRECT AND TRUE TO MY KNOWLEDGE.....

J.D. Heithoff

DATE: Aug 15, 2012

BOARD MEETS THE 2ND AND 4TH THURSDAY OF EACH MONTH
COMMISSION FAX (775) 635-5332

11



Gene Etcheverry <getcheverry@landercountynv.org>

JUB Supplement Agreement - Agenda Request item

1 message

J.D. Heithoff <jheithoff@jub.com>

Wed, Aug 15, 2012 at 10:09 AM

To: Gene Etcheverry <getcheverry@landercountynv.org>

Cc: "dbohall@landercountynv.org" <dbohall@landercountynv.org>, "srobinson@landercountynv.org" <srobinson@landercountynv.org>, Lew Lott <llott@jub.com>

Gene,

As we were discussing yesterday, would you be so kind as to include an agenda item for the August 23rd Commission Meeting please? It involves a request by J-U-B for a Supplemental Agreement to the engineering fees on the Battle Mountain Airport Apron Reconstruction project.

The justification for the additional fees is due to:

1. Additional Inspection Days. The Contractor overran the contract time by four (4) calendar days. Two (2) of those days were charged as liquidated damages (at \$1,500 per day) as the Contractor was working on task items. Two (2) days were not charged as no work was taking place on the project, therefore, working days were not charged. The inspector was required, however, to stay in Battle Mountain rather than de-mobilizing back to Boise and then return back to Battle Mountain to observe the final days of work.
2. Additional Time for Execution of Contract Documents. The original low bidder was Aggregate Industries. After the bid was originally awarded to Aggregate Industries (and prior to the first day of work), they sold a portion of their company to Road and Highway Builders. Along with the material assets sold, they assigned several contracts. One of these contracts was the Battle Mountain Apron Reconstruction (Phase 1) project. A significant amount of time was utilized by J-U-B Engineers to assist Lander County and the FAA with the "Assignment of Contract", the coordination of the associated documents, review by the Lander County District Attorney, and coordination for the approval by the Lander County Commissioners and FAA.

Please see the attached Agenda Request Form and the Supplemental Engineering Agreement.

If you have any questions regarding this item, please do not hesitate to contact myself or Lew!

Thank you,

J. D. Heithoff, P.E., C.M.

Senior Airport Engineer

J-U-B ENGINEERS, Inc.

250 S Beechwood Ave, Suite 201, Boise, ID 83709

Office 208-376-7330 | JDH@jub.com
Cell 208-473-8397

THE J-U-B FAMILY OF COMPANIES

www.jub.com | www.gatewaymapping.com | www.langdongroupinc.com

This e-mail and any attachments transmitted with it are created by and are the property of J-U-B ENGINEERS, Inc. and may contain information that is confidential or otherwise protected from disclosure. The information it contains is intended solely for the use of the one to whom it is addressed, and any other recipient is directed to immediately destroy all copies. If this electronic transmittal contains Professional Design Information, Recommendations, Maps, or GIS Database, those are "draft" documents unless explicitly stated otherwise in the email text.

2 attachments

 **Agenda Request Form for Supp Agreement.pdf**
84K

 **Amendment to Contract, Supplemental Agreement, 8-15-12.pdf**
107K



Gene Etcheverry <getcheverry@landercountynv.org>

Re: Request for Supplemental Agreement - Battle Mountain

2 messages

Abel.Tapia@faa.gov <Abel.Tapia@faa.gov>

Wed, Aug 15, 2012 at 10:18 AM

To: "J.D. Heithoff" <jheithoff@jub.com>

Cc: "getcheverry@landercountynv.org" <getcheverry@landercountynv.org>

J.D.,

I don't see a problem with concurring with the approval of the Supplemental Agreement for additional required construction management services. The official request must be submitted by the owner, Lander County, on their letter head. Please coordinate with Gene for this request.

Thanks,

Abel J. Tapia
Engineer/Program Manager
DOT FAA San Francisco Airports District Office
1000 Marina Boulevard, Suite 220
Brisbane, CA 94005-1835
T 650.827.7621 / F 650.872.1430

From: "J.D. Heithoff" <jheithoff@jub.com>

AWP-SFO-ADO, San Francisco, CA

To: Abel Tapia/AWP/FAA@FAA,

Date: 08/15/2012 09:51 AM

Subject: Request for Supplemental Agreement - Battle Mountain

Good Morning Abel.

I have a request that we would like to get your blessing on regarding the Battle Mountain Apron Reconstruction (Phase 1) project.

As you are aware, the project had a final inspection and was granted Substantial Completion on June 29, 2012. The punch list items of work have all been completed, and the Final Report & As-Built Plans are nearly complete. The final quantities have been determined, and the **construction costs of the project will underrun a total of \$49,391.75.**

If you have not already received Reimbursement Request #3 from the County, you should be receiving that in the next few days.

J-U-B attempted to complete the project within our engineering budget, but was unsuccessful for two reasons:

1. **Additional Inspection Days.** The Contractor overran the contract time by four (4) calendar days. Two (2) of those days were charged as liquidated damages (at \$1,500 per day) as the Contractor was working on task items. Two (2) days were not charged as no work was taking place on the project, therefore, working days were not charged per the direction of Gene Etcheverry, the Executive Director of Lander County Nevada. The inspector was required, however, to stay in Battle Mountain rather than de-mobilizing back to Boise and then return back to Battle

Mountain to observe the final days of work.

2. Additional Time for Execution of Contract Documents. The original low bidder was Aggregate Industries. After the bid was originally awarded to Aggregate Industries (and prior to the first day of work), they sold a portion of their company to Road and Highway Builders. Along with the material assets sold, they assigned several contracts. One of these contracts was the Battle Mountain Apron Reconstruction (Phase 1) project. A significant amount of time was utilized by J-U-B Engineers to assist Lander County and the FAA with the "Assignment of Contract", the coordination of the associated documents, review by the Lander County District Attorney, and coordination for the approval by the Lander County Commissioners and the FAA.

With that in mind, we are respectfully requesting a Supplemental Agreement for the additional work for a total amount of \$12,595.

We would like to present this to the Lander County Commissioners for approval at their next Commission Meeting on August 23, 2012..... but we would like to get your concurrence with this first.

The total FAA costs for the project, including the appropriate percentages of construction, engineering, and administrative costs **will remain well below the total FAA AIP Grant amount of \$1,529,795.00 if this request is approved.**

Please let me know your position at your earliest convenience, so that we may relay that to Lander County. Feel free to call or email if you should have any questions regarding this request! Thank you for your consideration with this Abel.

J. D. Heithoff, P.E., C.M.
Senior Airport Engineer

J-U-B ENGINEERS, Inc.

250 S Beechwood Ave, Suite 201, Boise, ID 83709

Office 208-376-7330 | JDH@jub.com

Cell 208-473-8397

THE J-U-B FAMILY OF COMPANIES

www.jub.com | www.gatewaymapping.com | www.langdongroupinc.com

This e-mail and any attachments transmitted with it are created by and are the property of J-U-B ENGINEERS, Inc. and may contain information that is confidential or otherwise protected from disclosure. The information it contains is intended solely for the use of the one to whom it is addressed, and any other recipient is directed to immediately destroy all copies. If this electronic transmittal contains Professional Design Information, Recommendations, Maps, or GIS Database, those are "draft" documents unless explicitly stated otherwise in the email text.

J.D. Heithoff <jheithoff@jub.com>

Wed, Aug 15, 2012 at 10:28 AM

To: "Abel.Tapia@faa.gov" <Abel.Tapia@faa.gov>

Cc: Lew Lott <llott@jub.com>, Gene Etcheverry <getcheverry@landercountynv.org>

Will do.

Just wanted to get your preliminary blessing. ☺

J. D. Heithoff, P.E.

J-U-B ENGINEERS, Inc.

208-376-7330

From: Abel.Tapia@faa.gov [mailto:Abel.Tapia@faa.gov]
Sent: Wednesday, August 15, 2012 11:18 AM
To: J.D. Heithoff
Cc: getcheverry@landercountynv.org
Subject: Re: Request for Supplemental Agreement - Battle Mountain

[Quoted text hidden]

[Quoted text hidden]

DOC # 0264821

08/30/2012 08:36 AM

Official Record

Recording requested By
LANDER COUNTY CLERK

Lander County - NV

Idonna Trevino - Recorder

Fee: Page 1 of 3

RPTT: Recorded By: IT

Book- **636** Page- **0398**



0264821

RECORDING REQUEST BY:

Lander County Clerk

315 South Humboldt Street

Battle Mountain, Nevada 89820

**SUPPLEMENTAL ENGINEERING AGREEMENT NO.1, J-U-B PROJECT NO. 83-10-042
FY 2012 AIRPORT IMPROVEMENTS, A.I.P. 3-32-0001-21 BATTLE MOUNTAIN**

TITLE OF DOCUMENT

*This page added to provide additional information required by NRS 111.312 Section 1-2.
This cover page must be typed or printed.*



**SUPPLEMENTAL ENGINEERING AGREEMENT NO. 1
J-U-B Project No. 83-10-042
FY 2011 AIRPORT IMPROVEMENTS, A.I.P. 3-32-0001-21
BATTLE MOUNTAIN AIRPORT
LANDER COUNTY, NEVADA**

THIS SUPPLEMENTAL ENGINEERING AGREEMENT is made as of the 23rd day of Aug, 2012, by and between Lander County, 315 South Humboldt Street, Battle Mountain, NV 89820, hereinafter referred to as the CLIENT, and J-U-B ENGINEERS, Inc., 2875 S. Decker Lake Dr., Suite 575, Salt Lake City, Utah, 84119, hereinafter referred to as J-U-B. These additional services are a supplement to the scope of services contained in J-U-B's existing Agreement for Professional Services for this project made on the 26th day of July, 2011, by and between the CLIENT and J-U-B.

WHEREAS, the CLIENT and J-U-B desire to supplement the Agreement for work on the Apron Reconstruction (Phase 1) project to include additional construction phase services tasks, as follows:

Additional Inspection Days. The Contractor overran the contract time by four (4) calendar days. Two (2) of those days were charged as liquidated damages (at \$1,500 per day) as the Contractor was working on task items. Two (2) days were not charged as no work was taking place on the project, therefore, working days were not charged. The inspector was required, however, to stay in Battle Mountain rather than de-mobilizing back to Boise and then return back to Battle Mountain to observe the final days of work.

Additional Time for Execution of Contract Documents. The original low bidder was Aggregate Industries. After the bid was originally awarded to Aggregate Industries (and prior to the first day of work), they sold a portion of their company to Road and Highway Builders. Along with the material assets sold, they assigned several contracts. One of these contracts was the Battle Mountain Apron Reconstruction (Phase 1) project. A significant amount of time was utilized by J-U-B Engineers to assist Lander County and the FAA with the "Assignment of Contract", the coordination of the associated documents, review by the Lander County District Attorney, and coordination for the approval by the Lander County Commissioners.

All provisions of the original Agreement for Engineering Services remain in effect except as expressly modified by this Supplement. The Scope of Work has been modified as noted below by the bold type:

Modify Article 1.01 BASIC SERVICES as follows:

B. Bidding and Construction Phase services for the Base Bid award of the Battle Mountain Apron Reconstruction (Phase 1) Project:

- 8. Assist CLIENT with the Notification of Award and the execution of the contract documents, **including the Assignment of Contract from the original low bidder to the assigned contractor, "Road and Highway Builders."**
- 13. Provide a full-time Resident Field Representative (RFR). Contract has been allotted **30 32** working days for the award of the Base Bid, **plus 2 additional days of standby time.**

Modify the following to Section 3.01 BASIC SERVICES COMPENSATION – as follows:

3.01 A.1.e. Fixed Fee: The Fixed Fee for performance completed under this task shall be **increased by One Thousand One Hundred Forty-Five Dollars (\$1,145).** The Total Fixed Fee for **Bidding and Construction Phase Services is therefore increased to \$12,588.57.**



A.2. Total estimate for Bidding and Construction Phase services, including fixed fee, for the work under this AGREEMENT, is increased by **Twelve Thousand Five Hundred and Ninety-Five Dollars (\$12,595)** and shall not exceed **One Hundred Sixty-Five Thousand Five Hundred Ninety-Nine and 80/100 Dollars (\$165,599.80)**.

B. Total Project Fees. Total fees as outlined in Section 3.01.A, including the modifications as noted above, are **One Hundred Sixty-Five Thousand Five Hundred Ninety-Nine and 80/100 Dollars (\$165,599.80)**.

IN WITNESS WHEREOF, the CLIENT and the J-U-B hereto have made and executed this Agreement as of the day and year first above written.

CLIENT: LANDER COUNTY, NEVADA

Dean Bullock

Name: Dean Bullock

Title: Chairman

J-U-B: J-U-B ENGINEERS, Inc.

Chuck A. Larson

Name: Chuck A. Larson, P.E

Title: Vice President

LANDER COUNTY COMMISSION MEETING

August 23, 2012

AGENDA ITEM NO. 12

THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:

Discussion for possible action regarding approval/disapproval of Resolution No. 2012-18, a resolution in support of post secondary educational services provided by Great Basin College to Nevada citizens in rural Nevada and other matters properly related thereto.

Public comment.

Background:

Resolution No. 2012-18, a resolution in support of post secondary educational services provided by Great Basin College to Nevada citizens in rural Nevada, is presented for Commission consideration.

Recommended Action:

It is recommended that the Commission adopt and pass Resolution No. 2012-18, a Resolution in support of post secondary educational services provided by Great Basin College to Nevada citizens in rural Nevada.



Gene Etcheverry <getcheverry@landercountynv.org>

Great Basin College, resolution to support

1 message

Pam Borda <pam@eceda.com>

Tue, Aug 14, 2012 at 3:23 PM

To: Andrea Rossman <arossman@eureka.nv.org>, Bill E Sims <bills@unr.edu>, Don Vetter <donvetter@sbcglobal.net>, Eric Grimes <egsbdc@ceda-nv.org>, Gene Etcheverry <getcheverry@landercountynv.org>, Gina Little <glittle@landercountynv.org>, Heidi Lusby <pceda.hlusby@gmail.com>, Jim Garza <wpcedc@mwpower.net>, Jon Sherve <jon_sherve@nv.blm.gov>, Mike Baughman <mikebaughman@charter.net>, Pam Webster <pwebster@co.nye.nv.us>, Shelley Hartmann <shelley@mineralcountynevada.com>

Cc: Doug van Aman <dvanaman@diversifynevada.com>, Steve Hill <steve.hill@diversifynevada.com>

Greetings!

NNRDA (formerly ECEDA) in conjunction with former Assemblyman John Carpenter formed a committee called TEAM GBC. The purpose of the committee is to lobby for changes to the Chancellor's proposed funding formula and prevent Great Basin College (GBC) from taking another huge budget reduction (estimated at 32% with the proposed formula). It is also to explore other potential sources of funding to supplement state funds if needed.

On August 3, 2012 the committee organized a meeting in Winnemucca and invited all of the other counties in the GBC service area (You may recall that I sent you an email regarding this meeting and requesting attendance). The meeting was a great success with most rural counties attending including at least 2 that would like to become part of GBC's service area. The committee now includes County Commission representatives from all of GBC's service area and at the meeting in Winnemucca we decided to draft a resolution that could be adopted by all of the Counties and Cities in GBC's service area. The signed resolutions will be provided to the Legislative sub-committee studying the proposed funding formula as well as the Chancellor and Board of Regents.

The committee will be very active over the next several months to lobby for changes to the formula or for some means of making GBC whole. Also during the meeting a report generated by Elko County showed that GBC's service area counties are contributing their fair share "per capita" to state revenues and that in several counties that per capita amount is much greater than Clark Counties per capita. We hope this information will help to facilitate changes to provide more equity.

The resolution has already been sent to your respective County Commissions for approval. NNRDA will be adopting the resolution at our next Board meeting as well. The resolution is attached in an editable format in hopes that your organization will adopt a resolution as well. We are presenting these resolutions to the Board of Regents the first week in September so if you choose to adopt it, please send a signed copy to us by the end of August in order to include it with all others.

I am happy to provide additional detail on the committee and our plans, please feel free to call me!!!

Warm regards,

12

Pam

Pam Borda

Executive Director

Elko County Economic Diversification Authority

723 Railroad St., Elko NV 89801

775-738-2100

fax 775-738-7978

cell 775-397-1003



RESOLUTION 2012.docx
632K



Northeastern Nevada Regional Development Authority
723 Railroad St. * Elko, NV 89801 *775-738-2100
www.eceda.com

RESOLUTION 2012-001

**A JOINT RESOLUTION BY
NORTHEASTERN NEVADA REGIONAL DEVELOPMENT AUTHORITY
WITH CITIES, COUNTIES AND LOCAL GOVERNMENT ENTITIES
ACROSS NEVADA IN SUPPORT OF POST SECONDARY EDUCATIONAL SERVICES
PROVIDED BY GREAT BASIN COLLEGE TO NEVADA CITIZENS IN RURAL NEVADA**

WHEREAS, Great Basin College serves rural Nevada citizens with a variety of Bachelor and Associate Degrees and Certificate Programs with classroom facilities including interactive video classes and internet classes in Elko, Eureka, Lander, Humboldt, White Pine and Nye Counties; and

WHEREAS, Great Basin College provides, over vast geographical distances, higher educational opportunities in rural Nevada that enriches students with knowledge and skills for employment and life enhancement that helps them become productive and engaged citizens; and

WHEREAS, Northeastern Nevada Regional Development Authority supports post secondary education opportunities for the benefit of our citizens as well as economic development, businesses and industry; and

WHEREAS, many citizens, due to distance and financial constraints, would be unable to attain higher education opportunities without the continuation of innovative programs for learning provided by Great Basin College; and

WHEREAS, Great Basin College through inventive use of technology and administrative direction was able to expand higher education services to Nye County as part of its mission to provide quality post secondary education services in the rural areas of Nevada and could potentially expand to other rural areas of the State if reasonable funding is available; and

WHEREAS, Northeastern Nevada Regional Development Authority acknowledges the great economic contributions of metropolitan areas in our State while stating that the preliminary results of an internal study indicates that rural Nevada contributions to the State General Fund are comparable to metropolitan areas on a "per capita" basis; and

WHEREAS, previous funding reductions have hampered the mission of Great Basin College to provide quality post secondary education services to rural areas of our State and in rural areas outside of the service area of Great Basin College, systematic cutbacks to the Fallon Campus of the Western Nevada College in Churchill County over the last decade have seriously impacted class offerings, enrollment and staffing, and Lincoln, Pershing, Mineral and Esmeralda Counties have seen reductions almost to no higher education services being available; and

WHEREAS, severe funding reduction proposals such as the additional 34% revenue reduction presented by the Chancellor will cause dramatic loss and life changing educational services provided by Great Basin College to our citizens across the rural areas our Great State.

NOW THEREFORE BE IT RESOLVED, that Northeastern Nevada Regional Development Authority joins with Cities, Counties and Local Government Entities across our Great State in support of efforts to assist Great Basin College in its mission to provide quality post secondary education services to Rural Nevada; and

BE IT FURTHER RESOLVED, that the Northeastern Nevada Regional Development Authority does not support severe funding reductions to the Great Basin College budget and encourages the Governor, Nevada Legislature and the Nevada Board of Regents to consider the importance of Great Basin College services to students that may not be able to seek other higher education options due to financial and long geographical distance considerations.

PASSED and ADOPTED this 22nd day of August 2012.

David Zornes,
Chairman, Northeastern Nevada Regional Development Authority
FY2012-2013

DOC # 0264822

08/30/2012

08:38 AM

Official Record

Recording requested By

LANDER COUNTY CLERK

Lander County - NV

Idonna Trevino - Recorder

Fee: Page 1 of 3

RPTT: Recorded By: IT

Book- 636 Page- 0401



0264822

RECORDING REQUEST BY:

Lander County Clerk

315 South Humboldt Street

Battle Mountain, Nevada 89820

RESOLUTION NO. 2012-18 IN SUPPORT OF
POST SECONDARY EDUCATIONAL SERVICES PROVIDED BY
GREAT BASIN COLLEGE TO NEVADA CITIZENS IN RURAL NEVADA

TITLE OF DOCUMENT

This page added to provide additional information required by NRS 111.312 Section 1-2.

This cover page must be typed or printed.



RESOLUTION No. 2012-18

A RESOLUTION OF THE LANDER COUNTY BOARD OF COMMISSIONERS IN CONJUNCTION WITH CITIES, COUNTIES AND LOCAL GOVERNMENT ENTITIES ACROSS NEVADA IN SUPPORT OF POST SECONDARY EDUCATIONAL SERVICES PROVIDED BY GREAT BASIN COLLEGE TO NEVADA CITIZENS IN RURAL NEVADA

WHEREAS, Great Basin College serves rural Nevada citizens with a variety of Bachelor and Associate Degrees and Certificate Programs with classroom facilities including interactive video classes and internet classes in Elko, Eureka, Lander, Humboldt, White Pine and Nye Counties; and

WHEREAS, Great Basin College provides, over vast geographical distances, higher educational opportunities in rural Nevada that enrich students with knowledge and skills for employment and life enhancement, helping them become productive and engaged citizens; and

WHEREAS, the Lander County Board of Commissioners supports post secondary education opportunities for the benefit of our citizens as well as economic development, businesses and industry; and

WHEREAS, many citizens, due to distance and financial constraints, would be unable to attain higher education opportunities without the continuation of innovative programs for learning provided by Great Basin College; and

WHEREAS, Great Basin College through inventive use of technology and administrative direction was able to expand higher education services to Nye County as part of its mission to provide quality post secondary education services in the rural areas of Nevada and could potentially expand to other rural areas of the State if reasonable funding is available; and

WHEREAS, the Lander County Board of Commissioners acknowledges the great economic contributions of metropolitan areas in our State while stating that the preliminary results of an internal study indicates that rural Nevada contributions to the State General Fund are comparable to metropolitan areas on a "per capita" basis; and

WHEREAS, previous funding reductions have hampered the mission of Great Basin College to provide quality post secondary education services to rural areas of our State and in rural areas outside of the service area of Great Basin College;

WHEREAS, systematic cutbacks to the Fallon Campus of the Western Nevada College in Churchill County over the last decade have seriously impacted class offerings, enrollment and staffing, and Lincoln, Pershing, Mineral and Esmeralda Counties have seen reductions to the extent that almost no higher education services are available to the citizens; and

WHEREAS, severe funding reduction proposals, such as the additional 34% revenue reduction presented by the Chancellor, will cause dramatic loss of program offerings and life changing educational services provided by Great Basin College to our citizens across the rural areas our Great State.

NOW THEREFORE BE IT RESOLVED, that the Lander County Board of Commissioners joins with Cities, Counties and Local Government Entities across our Great State in support of efforts to assist Great Basin College in its mission to provide quality post secondary education services to Rural Nevada; and



BE IT FURTHER RESOLVED, that the Lander County Board of Commissioners does not support severe funding reductions to the Great Basin College budget and encourages the Governor, Nevada State Legislature and the Nevada Board of Regents to consider the importance of Great Basin College services to students, citizens and communities that may not be able to seek other higher education options due to financial and long geographical distance considerations.

PASSED and ADOPTED this 23rd day of August 2012.

THOSE VOTING AYE: Commissioner Bullock
Commissioner Garner
Commissioner Maso
Commissioner Williams

THOSE VOTING NAY: _____

THOSE ABSENT: Commissioner Stienmetz

Dean Bullock
Dean Bullock, Chairman
Lander County Board of Commissioners

ATTEST:
By: Sadie Sullivan
Sadie Sullivan
Lander County Clerk

LANDER COUNTY COMMISSION MEETING

August 23, 2012

AGENDA ITEM NO. 13

THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:

Discussion for possible action regarding development and submission of a Bill Draft Request (BDR) for action by the 2013 Nevada State Legislature to relax and/or eliminate State's statutory provisions to allow for the adjustment of property boundary lines, easements and realignments within the Town of Austin and other matters properly related thereto.

Public comment.

Background:

The proposal to develop and submit a Bill Draft Request (BDR) for action by the 2013 Nevada State Legislature to relax and/or eliminate State's statutory provisions to allow for the adjustment of property boundary lines, easements and realignments within the Town of Austin is presented for Commission approval.

Recommended Action:

It is recommended that the Commission approve the proposal to develop and submit a Bill Draft Request (BDR) for action by the 2013 Nevada State Legislature to relax and/or eliminate State's statutory provisions to allow for the adjustment of property boundary lines, easements and realignments within the Town of Austin.

LANDER COUNTY COMMISSION MEETING
August 23, 2012

AGENDA ITEM NO. 14

THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:

Closed labor session with management representatives to discuss upcoming labor negotiations.

Background:

Open Closed Labor Session

Recommended Action:

No action can be taken in closed session.

Close Closed Session

Re-Open Regular Commission Meeting

LANDER COUNTY COMMISSION MEETING
August 23, 2012

AGENDA ITEM NO. 15

THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:

Discussion for possible action regarding review of Lander County Local 3 General Employees' Bargaining Unit representation and paid membership report; direction to staff on whether or not to proceed in filing a petition to decertify the bargaining unit; and other matters properly related thereto.

Public comment.

Background:

Review by the Commission of Lander County Local 3 General Employees' Bargaining Unit representation and paid membership report with direction to staff on whether or not to proceed in filing a petition to decertify the bargaining unit is presented.

Recommended Action:

Based upon discussion by the Commission and advisement given in the Closed Labor Session, the Commission will give direction to staff on whether or not to proceed with filing a petition to decertify the Lander County Local 3 General Employees' Bargaining Unit.

DIRECT STAFF TO REQUEST
CHARLIE COCKRILL TO DRAFT
A PETITION WITH EMRB TO
DECERTIFY LAUDER COUNTY
LOCAL 3 GENERAL EMPLOYEES BARGAINING
UNIT DUE TO LACK OF MAJORITY
MEMBERSHIP STATUS.

LANDER COUNTY COMMISSION MEETING
August 23, 2012

AGENDA ITEM NO. 16

THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:

Discussion for possible action regarding update by Phil Hanna, Battle Mountain General Hospital CEO, on the emergency medical services in Lander County, under administration by the Lander County Hospital District (LCHD), and other matters properly related thereto.

Public comment.

Background:

Phil Hanna, Battle Mountain General Hospital CEO, will give a report to the Commission on the emergency medical services in Lander County, under administration by the Lander County Hospital District (LCHD).

Recommended Action:

No recommendation given for Commission action on this item.

Phil Hanna

From: Phil Hanna <phanna@bmgh.org>
Sent: Wednesday, July 25, 2012 8:20 AM
To: 'Karlene Andriola'; kathy ancho; Linda Lauritzen (linda.lauritzen@goldcorp.com); Nancy Lockridge (nlockridge@hotmail.com); Nester, Jeff (jt@nesterakranch.com); Pat Brickley (pbrickley@hotmail.com); Steven Stienmetz (steven.stienmetz@am.dynonobel.com)
Cc: Andre, Lisa (lisaa@bmgh.org); Cindy Fagg (cindyf@bmgh.org); dns@bmgh.org; Jessica Moyrong (jmoyrong@bmgh.org); Lori Sherbondy (loris@bmgh.org)
Subject: EMS Service
Attachments: 8-1 Fly Car.jpg; EMS Implementing Service To Reduce Emergency Response Time 0712.docx; Hospital Receives EMS Training Grant 0512.docx

The EMS Service is off to a start that is surpassing expectations. The following are some examples of feedback that BMGH is receiving:

- Sheriff Ron Unger has reported that in some cases the EMS personnel have arrived at the scene of an emergency first.
- The Road Deputies have passed along to BMGH employees that they are so pleased to have a "guaranteed" response to provide medical care when they request it.
- I was stopped twice while I was downtown last weekend and told that these individuals appreciated what the Hospital has done for EMS.
- There was a response last week in which the paramedic administered medication in the "field." It is unlikely the patient would have survived to be treated in the ED without the paramedics treatment. The patient is recovering!
- On multiple occasions since July 1st hospital staff have been able to call the EMS squad to assist with patient care situations and patient transfers.

Attached are two press releases that we submitted to the Battle Mountain Bugle. They describe the steps that are being taken to assure improved response times and the fact that BMGH received an EMS training grant for Lander County.

I certainly want to take advantage of promoting the fact that BMGH is playing a central role in providing paramedic services to Lander County. What is being accomplished in Northern Lander County is also creating an excellent "spring board" to get EMS Services revitalized in the Austin/Kingston area. The level of interest continues to be outstanding and individuals in Southern Lander County are anxious to get EMS training classes started.

The EMS collaboration between the BMGH Board of Trustees and the County Commissioners has made Paramedics possible for Lander County without exposing the Hospital to financial risk. I have already received information from the state organizations that the paramedic program may be a part of the solution to some other community healthcare issues. I will keep you informed regarding those meetings.

Philip Hanna

Chief Executive Officer
Battle Mountain General Hospital
775-635-6060
phanna@bmgh.org

Hospital Receives EMS Training Grant

Battle Mountain General Hospital (BMGH) was notified that they have been selected to receive a \$20,000 EMS training grant from the Nevada Department of Health and Human Services. The Hospital was contacted by the Nevada Emergency Medical Services Commissioner about the competitive grant award.

The grant provides funds for new video conferencing equipment for the Austin/Kingston area, heart and lung simulation equipment and EMS training manuals. "I am pleased that Lander County EMS is already being identified by the State as a health organization worthy of receiving grant funds to assist in the effort of providing worthwhile EMS training. This grant also enables us to install equipment for Southern Lander County to make EMS training more readily available." Phil Hanna, BMGH Administrator reports.

LANDER COUNTY COMMISSION MEETING
August 23, 2012

AGENDA ITEM NO. 17

THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:
Correspondence/reports/potential upcoming agenda items.

Public comment.

Background:

Recommended Action:

LANDER COUNTY COMMISSION MEETING
August 23, 2012

AGENDA ITEM NO. 18

THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:

Discussion for possible action regarding presentation by Turner Construction Company for Construction Manager at Risk (CMAR) Services for the Lander County Courthouse/Administration Building project and other matters properly related thereto.

Public comment.

Background:

Proposal (hardcopy) by Turner Construction Company for Construction Manager at Risk (CMAR) Services for the Lander County Courthouse/Administration Building Project distributed to Commission.

Recommended Action:

It is recommended that the Commission defer action on this item until live presentation is presented.

LANDER COUNTY COMMISSION MEETING
August 23, 2012

AGENDA ITEM NO. 19

THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:

Discussion for possible action regarding presentation by Q&D Construction, Inc. for Construction Manager at Risk (CMAR) Services for the Lander County Courthouse/Administration Building project and other matters properly related thereto.

Public comment.

Background:

Proposal (hardcopy) by Q&D Construction, Inc., for Construction Manager at Risk (CMAR) Services for the Lander County Courthouse/Administration Building Project distributed to Commission.

Recommended Action:

It is recommended that the Commission defer action on this item until live presentation is presented.

LANDER COUNTY COMMISSION MEETING
August 23, 2012

AGENDA ITEM NO. 20

THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:

Discussion for possible action regarding presentation by CORE Construction for Construction Manager at Risk (CMAR) Services for the Lander County Courthouse/Administration Building project and other matters properly related thereto.

Public comment.

Background:

Proposal (hardcopy) by CORE Construction for Construction Manager at Risk (CMAR) Services for the Lander County Courthouse/Administration Building Project distributed to Commission.

Recommended Action:

It is recommended that the Commission defer action on this item until live presentation is presented.

LANDER COUNTY COMMISSION MEETING
August 23, 2012

AGENDA ITEM NO. 21

THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:

Discussion for possible action regarding selection of a firm to perform Construction Manager at Risk Services for the Lander County Courthouse/Administration Building project and other matters properly related thereto.

Public comment.

Background:

Selection of a firm to perform Construction Manager at Risk Services for the Lander County Courthouse/Administration Building project will take place after the three finalists have delivered their respective live presentations.

The selection criteria, Pre-Construction Services Agreement, Construction Services Agreement and proposed General Conditions have been distributed and the make-up of the membership on the selection team should be considered.

Recommended Action:

It is recommended that the Commission review, discuss and provide direction to staff as to the preferred process to facilitate selection of the firm to provide Construction Manager at Risk (CMAR) services for the Lander County Courthouse/Administration Building project.

CORRESPONDENCE

August 23, 2012

1. Tracy Larkin-Thomason, P.E., Nevada Department of Transportation, to Chairman Dean Bullock, Lander County Commission, letter of appreciation for opportunity to present NDOT's Annual Work Program at recent Commission meeting.
2. US Fish and Wildlife Service, Nevada Fish and Wildlife Office, to Lander County Board of Commissioners, postcard announcing two Spring Mts. Butterflies to be reviewed for possible protection under the Endangered Species Act.
3. Christopher J. Cook, Bureau of Land Management, to Interested Public, letter regarding Preliminary Environmental Assessment (PEA) for the Ruby Hill Project (NVN-067782).
4. Terry Tiernay, Reno, Nevada, to Lander County Board of Commissioners, letter regarding legislation passed and signed by the Governor during the 2011 Legislative Session.
5. Kenneth R. Brown, Western Counties Alliance, to Lander County Board of Commissioners, e-mail regarding Secure Rural Schools and Payment-In-Lieu-Of-Taxes (PILT) funding.
6. Douglas W. Furtado, District Manager, Bureau of Land Management, to Permittees, letter regarding drought conditions and drought related resource impacts throughout the Battle Mountain District.
7. Kevin E. Sullivan, Nevada Division of Environmental Protection, to Amanda Appelt, Western Energetix, letter regarding Groundwater Monitoring Report - 2nd Quarter 2012, Western Energetix Bulk Plant, 125 N. Mountain Street, Battle Mountain, NV, NDEP ID #5-000289, Petroleum Fund #2009000020.
8. June Manhire, Chairman, Kingston Town Board, to Lander County Commissioners, letter expressing appreciation for the Board's recent decision to give two parcels of property held by the Lander County Treasurer to the Town of Kingston.
9. June Manhire, Chairman, Kingston Town Board, to Lander County Commissioners, letter expressing appreciation to the Lander County Commissioners and Lander County Road and Bridge South Department for the road paving project recently completed in the Town of Kingston.

10. Kenneth R. Brown, Western Counties Alliance, to Lander County Commissioners, e-mail regarding offset of geothermal revenue to Payment In Lieu of Tax (PILT) concerns.
11. Kenneth R. Brown, Western Counties Alliance, to Lander County Commissioners, e-mail regarding HB 148, the Public Land Transfer bill passed by the Utah Legislature during the 2012 session.
12. Kevin E. Sullivan, Nevada Division of Environmental Protection, to the Estate of Martin T. Wessel, c/o Misty Wesse-Darr/Debra Jill Phillips, letters regarding 2nd Quarter 2012 Monitoring Report, Former Ted's Chevron Facility, 474 West Front Street, Battle Mountain, NV, Facility ID #5-000104, Petroleum Fund ID - 1999000052.
13. Penny Woods, Project Manager, Bureau of Land Management, to Reader, letter regarding errata sheet for Clark, Lincoln, White Pine Counties Groundwater Development Project Final Environmental Impact Statement (Final EIS) issued on August 3, 2012.



BRIAN SANDOVAL
Governor

STATE OF NEVADA
DEPARTMENT OF TRANSPORTATION
1263 S. Stewart Street
Carson City, Nevada 89712

Correspondence #1
8/23/2012

SUSAN MARTINOVICH, P.E., Director

In Reply Refer to:

July 30, 2012

The Honorable Dean Bullock
Chairman, Lander County Commission
315 South Humboldt Street
Battle Mountain, NV 89820

Dear Chairman Bullock:

The Nevada Department of Transportation (NDOT) would like to thank you for the opportunity for allowing Planning Chief Jason Van Havel present our Annual Work Program to the Lander County Commission last week.

We would also like to express our appreciation for the working relationship that exists between Lander County and NDOT. Although this annual meeting provides an opportunity to not only discuss the annual work program and issues you might be facing, it is the year round cooperation between our agencies that has allowed us to establish and maintain the working relationship we enjoy. We would like to thank you for bringing several issues to our attention and want you to know we will be investigating your concerns and reporting our findings back to you shortly. Please let me know if you have any questions and concerns.

Sincerely,

Tracy Larkin-Thomason, P.E.
Assistant Director, Planning

TLT:TC

Cc: Susan Martinovich, P.E., Director
Rudy Malfabon, P.E., Deputy Director
Bill Hoffman, P.E., Assistant Director-Engineering
Dennis Taylor, Chief-Transportation Multimodal Planning
Kevin Lee, P.E., District Engineer

RECEIVED

AUG - 9 2012

COUNTY COMMISSION

August 7, 2012

Two Spring Mts. butterflies to be reviewed for possible protection under the Endangered Species Act

The U.S. Fish and Wildlife Service (Service) will conduct in-depth status reviews of two Spring Mountains dark blue butterflies (*Euphilotes ancilla purpura* and *Euphilotes ancilla cryptica*) to determine whether the two species warrant protection under the Endangered Species Act of 1973, as amended (ESA). The Service will not conduct an in-depth status review of the Morand's checkerspot butterfly (*Euphydryas anicia morandi*). The decision, known as a 90-day finding, was published in the *Federal Register* on August 7, 2012. Publication of the finding opens a 60-day public comment period and signals the beginning of 12-month status reviews of the two Spring Mountains dark blue butterflies. This finding is available on the internet at www.regulations.gov — Docket Number FWS-R8-ES-2012-0041.

This finding was prepared in response to two petitions. The Service received a petition on October 6, 2011, from Wild Earth Guardians, asking the agency to list the two Spring Mountains dark blue butterflies as endangered or threatened species. The Service determined that this petition did present substantial information to indicate that listing the butterflies may be warranted. The second petition was received by the Service on November 1, 2011, from Bruce M. Boyd asking the agency to list the Morand's checkerspot butterfly as endangered or threatened. The Service determined this petition did not present substantial information to indicate that listing the butterfly may be warranted.

Please submit information regarding the Spring Mountains dark blue butterflies by one of these methods:

- Federal eRulemaking Portal at www.regulations.gov (Follow the instructions for submitting comments)
- U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS-R8-ES-2012-0041; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

Emails and faxes will not be accepted, and all information received on www.regulations.gov will be posted. This generally means the Service will post any personal information provided. Comments must be received by October 5, 2012.

RECEIVED

AUG - 9 2012

COUNTY COMMISSION



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Mount Lewis Field Office

50 Bastian Road

Battle Mountain, Nevada 89820

Phone: 775-635-4000

Fax: 775-635-4034

http://www.blm.gov/nv/st/en/fo/battle_mountain_field.html

Correspondence #3

8/23/2012



In Reply Refer To:
3809 (NVB0100)
NVN-067782

RECEIVED

AUG 10 2012

ENTERED AUG 08 2012

COUNTY COMMISSION

Dear Interested Public:

The Bureau of Land Management (BLM) Mount Lewis Field Office (MLFO) has prepared a Preliminary Environmental Assessment (PEA) for the Ruby Hill Project (NVN-067782). The Ruby Hill Project is an existing mining operation located approximately 0.7 mile northwest of the town of Eureka, Nevada. The Project is located on both public land administered by the MLFO BLM and private land. Homestake Mining Company of California (Homestake) submitted to the BLM an amended Plan of Operations to expand an existing open pit gold and silver mining and processing operation.

Pursuant to the National Environmental Policy Act (NEPA) and Council on Environmental Quality regulations for implementing NEPA, the PEA identifies, describes and evaluates the potential impacts from the expansion activities and takes into consideration the specific resource protection measures identified for the Ruby Hill Project.

The proposed expansion would utilize the existing primary and secondary crushers, solution processing plant, and ancillary support facilities. The Plan of Operations includes the following activities: expansion of the existing open pit and pit activity area; lowering of the final pit bottom by 240 feet; inclusion of a conceptual process pond for future fluid management of heap drain down flows during closure; realignment of portions of the existing perimeter fence associated with the open pit expansion; increasing the authorized acreage of surface exploration related disturbance; expansion of the Class III landfill; and the establishment of a flexible mining and ore hauling timeline based on mining rates and economic conditions. Expansion activities would disturb approximately 34.3 acres of additional BLM-administered public land and approximately 72.3 acres of additional private land for a proposed surface disturbance total of 106.6 acres. The total of the existing and proposed surface disturbance for the Project would be 1,742.4 acres within the existing Project area.

The BLM is seeking public input on the PEA for the Ruby Hill Project. The PEA will be available for a 30-day public comment period beginning August 10, 2012, and closing September 10, 2012. Written comments on this PEA will be accepted at the above address or via email at BLM_NV_BMDO_RubyHillMineExpansion_EA@blm.gov until 4:30 p.m., September 10, 2012. The PEA can be viewed on the BLM Battle Mountain District website at: www.blm.gov/nv/st/en/fo/battle_mountain_field.html. Copies of the PEA can be obtained by contacting the Battle Mountain BLM at the letterhead address above. In accordance with 43 CFR 3809.411(c), a copy of the Plan of Operations will also be available for review.

Correspondence #4
8/23/2012

THIS IS BEING SENT TO YOU FOR INFORMATION ONLY.

DURING THE 2011 SESSION, THE LEGISLATURE PASSED AND THE GOVERNOR SIGNED AB545, A BILL INCREASING THE POPULATION THRESHOLD AND EXERCISE OF POWERS OF LOCAL GOVERNMENTS FOR 313 NRS. ALTHOUGH THE MAJORITY OF NRS IN AB545 ARE SPECIFIC TO THE STATUS OF CLARK COUNTY IN A SUPERIOR POSITION OVER WASHOE COUNTY, SOME OF THE POPULATION THRESHOLD INCREASES MAY AFFECT OTHER COUNTIES AND CITIES. AB545 EXHIBIT "H" DATED 04/13/11 (SUBMITTED BY DIRECTOR LCB) CONTAINS SPECIFIC NRS AFFECTING SPECIFIC LOCAL GOVERNMENTS AND IS AVAILABLE ONLINE OR FROM THE LCB.

IF YOU HAVE ANY QUESTIONS ABOUT THE ISSUES I RAISED WITH THE GOVERNOR AND NEVADA POLICY RESEARCH INSTITUTE, PLEASE FEEL FREE TO CONTACT ME.

TERRY TIERNAY

Terry W. Tiernay
3555 Crazy Horse Rd.
Reno, NV 89510-9307

RENO, NV 894

AUG 2012 PM 2 T

Lander County
Board of County Commissioners
315 South Humboldt Street
Battle Mountain, NV 89820

RECEIVED

AUG 13 2012

COUNTY COMMISSION

89820+1982



July 19, 2012

Governor Sandoval,

This letter solicits your assistance in rectifying an action by the legislature during the 2011 session. I also have asked the Nevada Policy Research Institute (NPRI) for assistance on the issue discussed below. A copy of my request (NPRI 03-2012-0003) is attached. Not included is a copy of a notebook I also provided to NPRI. The notebook contains over 140 pages of Nevada specific case law, AGOs, legislative record excerpts to include minutes, journals and testimony from 1977 to the 2011 session.

As you are aware, the Nevada Constitution allows the legislature to enact three types of laws; special, local and general. Special laws affect a specific group of people (i.e. veteran tax breaks), local laws address a situation that is unique to a specific locality (Lake Tahoe, SNWA-Lake Mead), and general laws which address issues of statewide importance and application. General laws may have qualifiers like population or age thresholds that control when a threshold kicks in for town, cities and/or counties.

In 2011, the legislature passed and the governor signed into law AB545 (AN ACT relating to classifications based on population; changing the population basis for the exercise of certain powers by local governments; and providing other matters properly relating thereto). AB545 adjusted upward previously established population thresholds for 313 NRS. For Washoe County, the threshold was raised from 400,000 to a new figure of 700,000. Population thresholds were also adjusted for Reno and Sparks affecting specific NRS associated with those cities. This action denied Washoe residents the same privileges and/or burdens of law that Clark County had operated under for decades. These AB545 population threshold adjustments were a continuation of similar action by the legislature over 30 year period. Adjustments took place following each decennial census beginning with the 1979/80. Although population threshold laws have been used since the 1800s, 1979/80 marked the first time the legislature performed an en masse adjustment of all population based NRS meeting the previously established threshold. This en masse raising of general law thresholds was used to perpetuate the status quo of local governments, a clear example of enacting proscribed local legislation.

Changing population thresholds has two sides that must be considered. Although my concerns are mainly focused on Washoe County and its local governmental entities, it also has direct impact on cities in Clark County. For example NRS dealing with annexation by cities and regional planning. Cities in Clark County have had limitations put in place to curtail their ability to annex unincorporated regions. Raising population thresholds for Washoe, allows the cities of Reno and Sparks to continue to operate under the old population threshold rules that are less restrictive than those of Clark County cities. Therefore, non statewide application of General Laws could be challenged by Las Vegas, North Las Vegas and other cities. What's good for the goose is mandatory for the gander. This is one example of local government powers not being applied across the state, an article 4 constitutional violation. Other issues such as Fluoridation of Water applicable to certain Clark County water systems based on population thresholds could also be successfully challenged by anti fluoridation groups. When Clark County residents approved fluoridation by ballot, the legislature enacted the resulting statute as a General Law with a population threshold. A challenge to the requirement to consolidate law enforcement agencies of Clark County and City of Las Vegas when Las Vegas reached a population threshold of 200,000 could be made by the city of Reno and/or Washoe County for the right to or Las Vegas and/or Clark County for being forced to. Nevada courts have been quite clear that applying a date to or changing a population threshold that limits others that may come prospectively into (the threshold) is proscribed local/special legislation.

The forgoing paragraph conclusions are based on hundreds of hours of research with respect to population threshold NRS produced the following information:

- Nevada specific case law reveals that shifting population thresholds upward or assigning a limiting or cutoff date to a population based law to be unconstitutional local legislation. The courts have continually articulated three requirements for population based laws: (1) use of population criteria must be rationally related to subject matter of statute, (2) use of population criteria does not create odious or absurd distinction, and (3) classification applies

March 27, 2012

Dear NPRI,

This letter seeks NPRI's assistance in overturning unlawful Local/Special Laws enacted by the 2011 Legislature (AB545). AB545, the largest legislative bill since the enabling act, made changes to 313 individual population based statutes. AB545 was not the first time that the Legislature has used large scale population based adjustments to statutes or laws that were tailored to convey special status to Clark County.

Although the use of population basis laws has been ruled by Nevada's courts not to violate Article 4 sections 20 and 21, three qualifiers have been articulated by the courts. 1 - population basis must be rationally related to the subject of the law, 2 - local governments must be allowed to grow into the population benchmark, and 3 - the population basis must not create an odious or absurd distinction between local governments. Statutes with a population threshold have been used by the legislature since the 1800's in enacting General Laws that met the three standards or qualifiers.

In 1977 (SJR 1) the legislature asked the LCB to find a means of circumventing Article 4 sections 20, 21 and 25 of the Nevada Constitution, in order to allow the enactment of Local Laws applicable to Clark County exclusively. The framers of the NV constitution intended that Art. 4, sections 20, 21 and 25 ensure that all citizens enjoyed equal rights, opportunities and protections under the law. In 1979, the LCB returned to the legislature with a plan to use blocks of population based statutes applicable to distinct groups of counties and cities within the state. The tactic developed by the LCB was to use sliding population thresholds to change population based General Laws as other counties approached the bottom qualifying population figure. Attachment #1 (A HISTORY OF THE USE OF POPULATION BASIS) and other documentation in the enclosed notebook make it clear that legislative use of population basis adjustments is to create proscribed Local/Special Laws that favor Clark County, and its cities, to the exclusion of other counties and cities. The enclosed notebook is a compilation of 2011 and historical public record legislative minutes, recent case law and summary of court findings concerning Article 4 sections 17, 21, 22 and 25.

Residents of Washoe County continue to be denied the same rights enjoyed by Clark County. Attachment #2 gives examples of three important rights that Washoe residents have repeatedly been denied by legislative decennial upward adjustments of thresholds. 1 - yearly loss of tens of millions of dollars for Washoe schools, 2 - tighter regulations for Annexation, Planning and Development of unincorporated areas and protection of rural areas, and 3 - representation based on population. The latter being a violation of Article 1, section 13 in addition to the Article 4 sections previously listed. I chose these specific examples from over 200 NRS which affect Washoe County as I have standing required for legal action. Public hearings on AB545 were never held by Washoe elected officials who supported and recommended increasing thresholds from 400,000 to 700,000 for Washoe County. Once the effect of AB545 is made public, additional interest by residents with standing should materialize.

I have also included documentation that the 313 individual NRS "requiring" population adjustments, violate the constitutional stipulation that a bill must only address a single subject (Article 4, section 17).

Two law firms have been approached with no luck. The first firm was far too expensive and the senior partner did not feel a constitutional challenge case was in his comfort zone. The second, a new firm, was interested in the issue but has a heavy case load that precludes the time involved to do the case justice. Both firms believe that the issue has merit. Once counsel is secured one firm will file an amicus brief as an independent third party.

Frankly, NPRI is the best hope for successful action to remedy multiple constitutional violations by the legislature.

Sincerely,

Terry W. Tiernay
3555 Crazy Horse Road
Reno, NV 89510
775 741-5864 terrytiernay@yahoo.com

ATTACHMENT #2

The following information is based on use of population basis statutes which are General Laws applicable to every county and city that reaches the population threshold. Clark County has benefited from these General Laws since the introduction of massive application of population bases to block statutes.

LOSS OF REVENUE WASHOE COUNTY SCHOOL DISTRICT (WCSD)

The following information is based on use of population basis statutes which are General Laws applicable to every county and city that reaches the population threshold. Clark County has benefited from these General Laws since the introduction of en mass application of population bases to block statutes. Using Reno Sparks Convention and Visitors Authority figures for RY 2009 - 2010, WCSD would have been entitled to \$3.9 million from NRS 244.3354 and NRS 244.3359 (AB545 sections 8 and 9), Lodging Rental Taxes if the population threshold had not been raised from 400,000 to 700,000. In addition, WCSD would have been entitled to \$120 per \$100,00 generated by Real Property Transfer Taxes from NRS 375.020 and NRS 375.070 (AB545 sections 181 and 183) if the population threshold had not been raised. As the economy improves, the amount from each source would also have increased proportionally. Clark County schools have benefited from these laws for years, while it looks like WCSD was never intended to benefit.

This action is especially egregious is the fact that the Legislature passed a bill (AB376) that designated new Lodging Rental Taxes for use by RSCVA to improve downtown Reno convention facilities. It appears that legislative members can rationalize funding tourism (casinos) at the expense of students and schools. While NRS 244.3354 would have authorized 5/8's of one percent of lodging taxes to WCSD construction fund, AB376 generously gives a flat fee of \$2.00 for each room rental. To add further insult, the Reno City Council has also imposed the use of further room taxes for conversion of the old Moana baseball facilities to a sports complex.

ANNEXATION (NRS 268)

Concerning annexation, legislative intent says it best for counties with population over 700,000. NRS 268.572 section 5. Areas annexed to municipalities should include all of the urbanized unincorporated areas adjacent to municipalities, and piecemeal annexation of unincorporated areas should be avoided, securing to the residents within the area proposed to be annexed the right to protest. NRS 268.580 section 2. The total area ... (a) ... must be contiguous to the annexing city's boundaries ... (b) Not less than one-eighth ... must be contiguous to the boundaries ... section 3. ... territory ... must be developed for urban purposes. NRS 268.586 ... public hearing; right to protest, written or oral. NRS 268.592 Disapproval of annexation; ... section 1. If a majority of the property owners protest annexation, ... the city shall not annex ... NRS 268.578 Plans for extension of services ... section 4. ...plans ... for extending ... each major service performed within the annexing city at the time of annexation. (a) ... extending police protection, fire protection, street maintenance ... on the date effective of annexation, ... (d) ... plans must call for contracts to be let and construction to begin within 24 months ... NRS 268.602 Mandamus to compel city to extend services after annexation ... section 1. Not later than 27 months after effective date of the annexation. Extension services includes sewage systems, not authorized is the use of septic systems. Residents in the proposed area can by majority demand that the city pay for the extension of services or turn down annexation. Spheres of Influence are not allowed in counties 700,000 or over and must move directly to annexation upon the date set for annexation.

REGIONAL PLANNING (NRS 278)

This subject is complex and sometimes confusing, therefore extracts of specific NRS are used to document the rules Clark Count operates under to the exclusion of other counties which prospectively would come within the population basis. The following is just a few of numerous NRS that deal with planning regulations for counties over 400,000 (now 700,000) that protect the unincorporated regions of the county. NRS 278.02521 Legislative intent 1. ... recognizes the need for innovative strategies of planning and development that: (b) Will allow the **development of less populous regions** of this State if such regions: (1) **Seek increased**



Donna Bohall <dbohall@landercountynv.org>

SRS and PILT Information

1 message

Kenneth R. Brown <krbrownwca@allwest.net>

Tue, Aug 14, 2012 at 8:08 AM

To: Undisclosed Recipients <krbrownwca@allwest.net>

As you are probably aware, on July 6, 2012, the Secure Rural Schools and Community Self-Determination Act of 2000 was reauthorized for federal fiscal year (FY) 2012. The full funding amount for FY 2012 for all counties that elect to receive a share of the State payment is \$346,275,000. Payment-in-lieu-of-taxes (PILT) full-funding was also extended for one year through 2013. That gives us one more year to try and get PILT full-funding on a permanent basis or at the very least another five-year authorization. I have attached copies for charts for both SRS and PILT payments for your information.

Best Regards,

Kenneth R. Brown

Western Counties Alliance


krbrownwca@allwest.net

Phone (307) 679-3658

Fax (435) 793-5555

2 attachments

 nevada pilt.pdf
468K

 County Payments FY2008-2011 & Projected FY2012 for Nevada.pdf
236K

U.S. DEPARTMENT OF THE INTERIOR
PAYMENTS IN LIEU OF TAXES - FOR FISCAL YEAR 2012
SECTION 6902 PAYMENTS BY COUNTY

NEVADA

LOCAL UNIT OF GOVERNMENT	ENTITLEMENT ACRES	PRIOR YEAR PAYMENTS	UNIT POPULATION	CEILING	ALTERNATIVE A		ALTERNATIVE B	EST PAYMENT TO COUNTY
CARSON CITY	49,807	\$4,753	50,000	\$3,324,500	\$118,270	\$16,934	\$118,270	
CHURCHILL COUNTY	2,143,231	\$0	25,000	\$2,153,500	\$2,153,500	\$728,699	\$2,153,500	
CLARK COUNTY	4,809,178	\$123,309	50,000	\$3,324,500	\$3,201,191	\$1,635,121	\$3,201,191	
DOUGLAS COUNTY	258,324	\$13,560	47,000	\$3,266,970	\$624,500	\$87,830	\$624,500	
ELKO COUNTY	7,905,901	\$424,973	49,000	\$3,332,490	\$2,907,517	\$2,688,006	\$2,907,517	
ESMERALDA COUNTY	2,247,850	\$17,750	775	\$128,813	\$111,063	\$128,813	\$128,813	
EUREKA COUNTY	2,156,889	\$59,700	1,979	\$328,930	\$269,230	\$328,930	\$328,930	
HUMBOLDT COUNTY	4,978,803	\$123,752	17,000	\$1,643,560	\$1,519,808	\$1,643,560	\$1,643,560	
LANDER COUNTY	3,333,331	\$116,066	6,000	\$933,900	\$817,834	\$933,900	\$933,900	
LINCOLN COUNTY	6,410,564	\$27,633	5,000	\$831,050	\$803,417	\$831,050	\$831,050	
LYON COUNTY	868,505	\$170,917	50,000	\$3,324,500	\$1,974,290	\$295,292	\$1,974,290	
MINERAL COUNTY	1,940,455	\$156,841	4,593	\$763,403	\$606,562	\$659,755	\$659,755	
NYE COUNTY	8,533,115	\$858,405	43,000	\$3,119,220	\$2,260,815	\$2,901,259	\$2,901,259	
PERSHING COUNTY	2,927,801	\$0	7,000	\$1,025,920	\$1,025,920	\$995,452	\$1,025,920	
STOREY COUNTY	14,510	\$0	3,896	\$647,554	\$35,840	\$4,933	\$35,840	
WASHOE COUNTY	2,930,894	\$26,793	50,000	\$3,324,500	\$3,297,707	\$996,504	\$3,297,707	
WHITE PINE COUNTY	5,196,842	\$273,304	10,000	\$1,163,200	\$889,896	\$1,163,200	\$1,163,200	
TOTAL	56,706,000	\$2,397,756			\$22,617,360	\$16,039,238	\$23,929,202	

Payments in Lieu of Taxes



Western Counties Alliance

SECURE RURAL SCHOOLS

COUNTY PAYMENTS FOR FY2008-2011 & PROJECTED 2012 PAYMENT

NEVADA

COUNTY	FY 2008	FY2009	FY2010	FY2011	PROJECTED FY2012	TOTAL
CARSON CITY	9,803	9,684	9,505	9,379	8,583	46,954
CLARK	226,090	213,776	214,450	233,197	224,460	1,111,973
DOUGLAS	31,371	29,257	27,119	29,549	30,130	147,426
ELKO	1,047,105	943,819	858,331	841,155	697,319	4,387,729
ESMERALDA**	34,171	34,941	35,501	36,695	45,451	186,759
EUREKA	138,295	148,634	99,499	108,297	127,635	622,360
HUMBOLDT	329,120	328,479	291,181	269,346	163,306	1,381,432
LANDER	246,675	237,454	193,443	158,578	162,069	998,219
LINCOLN	61,292	68,082	55,265	55,639	63,163	303,441
LYON	437,901	436,398	402,157	385,813	343,928	2,006,197
MINERAL	543,418	520,272	369,038	349,373	314,887	2,096,988
NYE	2,267,029	2,239,783	2,019,777	2,028,963	1,885,161	10,440,713
WASHOE	58,204	55,268	53,587	60,429	56,040	283,528
WHITE PINE	\$651,484	\$595,165	\$552,112	\$545,130	\$525,334	2,869,225

**25% (SEVEN-YEAR ROLLING AVERAGE PAYMENT)

P.O. Box 21 ♦ Randolph, Utah 84064 ♦ Phone: 307-679-3658 FAX: 435-793-5555

krbrownwca@allwest.net



United States Department of the Interior

Correspondence #4
8/23/2012



BUREAU OF LAND MANAGEMENT

Battle Mountain District Office

50 Bastian Road

Battle Mountain, Nevada 89820

Phone: 775-635-4000

Fax: 775-635-4034

http://www.blm.gov/nv/st/en/fo/battle_mountain_field.html

In Reply Refer To:
4110 (NVB0000)

ENTERED AUG 13 2012

Dear Permittees:

As you know, much of the state of Nevada has been experiencing record drought. The Bureau of Land Management (BLM), Battle Mountain District (BMD) has placed a high priority on drought monitoring and as a result, has continued to monitor and document drought conditions and drought related resource impacts throughout the district. Monitoring information and field observations largely across the northern half of the district indicate that drought conditions and impacts are severe in most cases and continue to worsen. In order to increase our drought monitoring efforts, the Mount Lewis Field Office (MLFO) of the BMD has conducted, and continues to plan for additional ground and aviation monitoring to assess resource conditions and the condition of wild horses and burros in BLM Herd Management Areas (HMAs).

Observations made thus far, lead us to believe that livestock have been voluntarily removed by permittees from some allotments within the district as a response to the lack of forage and/or water. This is a positive response and we thank those permittees that have taken these voluntary measures.

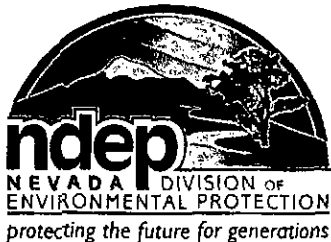
This letter is to inform you that if you have removed your livestock or reduced your livestock numbers please notify your assigned Rangeland Management Specialist immediately. Failure to do so will lead the BMD to incorrectly assume that livestock use levels during this severe drought continue to occur in accordance with either the annual authorization or grazing bill and/or full permitted use levels. This will lead to BMD potentially requiring livestock removal due to drought when in fact livestock have already been removed voluntarily by the permittee. Voluntary removal of livestock now and rest next season (from April 1 – July 31 for uplands or April 1 - Sept. 30 for drought stressed areas with riparian and/or wetland resources) is strongly encouraged where severe drought conditions exist and or have been documented. Following site visits with affected permittees the BMD will be requesting that permittees indicate to this office in writing by October 31, 2012 if they intend to apply for voluntary non-use in 2013 in their allotments or portions of their allotments for the dates specified above. If voluntary non-use agreements cannot be reached by October 31, 2012, the BMD will be required, by regulation to close allotments or portions of allotments or modify management practices by decision. Drought decisions would be in effect until drought conditions subside.

RECEIVED

AUG 14 2012

COUNTY COMMISSION

Correspondence #7
8/23/2012



STATE OF NEVADA
Department of Conservation & Natural Resources
DIVISION OF ENVIRONMENTAL PROTECTION

Brian Sandoval, Governor
Leo M. Drozdoff, P.E., Director
Colleen Cripps, Ph.D., Administrator

August 10, 2012

Ms. Amanda Appelt
Western Energetix
2360 Lindbergh Street
Auburn, CA 95602

RECEIVED
AUG 16 2012

COUNTY COMMISSION

Subject: Groundwater Monitoring Report – Second Quarter 2012
Facility: Western Energetix Bulk Plant, 125 N. Mountain Street, Battle Mountain, NV
NDEP ID # 5-000289, Petroleum Fund # 2009000020

Dear Ms. Appelt:

The Nevada Division of Environmental Protection (NDEP) has received your *Groundwater Monitoring Report-Second Quarter 2012*, dated July 27, 2012 prepared on your behalf by Broadbent & Associates.

Seven site monitoring wells (MW-1 through MW-7) were sampled on June 13, 2012 for 2nd quarter monitoring. All of the wells were non-detect for MTBE. Well MW-1 was the only well that contained detectable levels benzene above the 5 micrograms per liter (ug/l) maximum contaminant level. The report indicates that Benzene concentrations decreased in MW-1, MW-3 and MW-6 for the 2nd qtr. 2012 from. MW-1 decreased slightly from 350 to 340 ug/l and MW-3 decreased from 85 to 4.6 ug/l and MW-6 decreased from 19 ug/l to less than 1.0 ug/l.

The depth to ground water ranged from 7.82 to 8.24 feet below the top of well casing for the 2nd Quarter 2012. Groundwater has fluctuated less than one-tenth of a foot and the flow direction is north to northeasterly at 0.002 foot/foot.

Broadbent & Associates Recommendations:

- Postpone the next quarterly groundwater monitoring event until the two new offsite monitored wells are installed (MW-8 and MW-9).

NDEP does not concur with your *Groundwater Monitoring Report 2nd Quarter 2012* recommendation of postponing the 3rd quarter sampling until the offsite wells are installed. Sampling must be done quarterly however if drilling is scheduled to be completed shortly after the end of the sampling period, contact this office for verbal approval of postponing the sampling until completion of the monitoring wells.

Please keep this office appraised of the offsite access agreement situation. Based on my phone call to the adjacent property owner yesterday, she agreed to allow access for installation of the monitoring wells and was to forward the access agreement to your consultant.

Please provide the Third Quarter 2012 report to this office for review no later than October 31, 2012.



Correspondence #8
8/23/2012

**TOWN OF KINGSTON
KINGSTON TOWN WATER UTILITY
HC 65 BOX 130 KINGSTON
AUSTIN, NEVADA 89310
775 964-2120
kingstonh2o@starband.net**

Members:

June Manhire
Donald Haines
Rosalie Zamora
Ann Miles
Betty Kemp

RECEIVED

AUG 16 2012

COUNTY COMMISSION

August 13, 2012

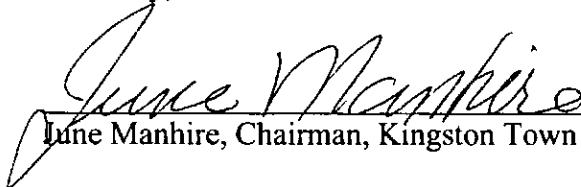
Lander County Commissioners
315 S. Humboldt Street
Battle Mountain, NV 89820

Dear Honorable Commissioners,

The Kingston Town Board would like to express their thanks and gratitude for the recent decision to give two parcels that were being held by the Lander County Treasurer to the town. One parcel has increased the size of common ground around the park and the other will make access to our water pumps easier. We appreciate the time and effort that Grace Powrie, Lander County Treasurer, spent on this project and for her coming to a Kingston Town Board meeting to explain the process with our board and residents.

The Kingston Town Board looks forward to working together with the Lander County Commissioners in the future.

Sincerely,


June Manhire, Chairman, Kingston Town Board

Correspondence #9
8/23/2012

**TOWN OF KINGSTON
KINGSTON TOWN WATER UTILITY
HC 65 BOX 130 KINGSTON
AUSTIN, NEVADA 89310
775 964-2120
kingstonh2o@starband.net**

Members:

June Manhire
Donald Haines
Rosalie Zamora
Ann Miles
Betty Kemp

RECEIVED

AUG 16 2012

COUNTY COMMISSION

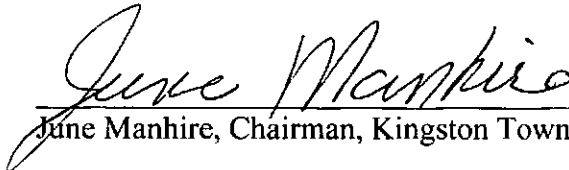
August 13, 2012

Lander County Commissioners
315 S. Humboldt Street
Battle Mountain, NV 89820

Dear Honorable Commissioners,

The Kingston Town Board and residents of Kingston would like to thank the Lander County Commissioners and Lander County Road and Bridge South for the asphalt job that was completed in Kingston in July. The paving job was done professionally and looks fantastic. Shannon Thiss would like to extend additional thanks to the Lander County Road and Bridge South supervisor and his crew for helping to coordinate with the town before, during and after the job and keeping her up to date on the project.

Sincerely,


June Manhire, Chairman, Kingston Town Board

Cc: Lander County Road and Bridge South



Donna Bohall <dbohall@landercountynv.org>

Fw: Question about geothermal revenue?

1 message

Kenneth R. Brown <krbrownwca@allwest.net>
To: Undisclosed Recipients <krbrownwca@allwest.net>

Fri, Aug 17, 2012 at 1:45 PM

I am forwarding information that was received from the Interior Budget office relating to geothermal revenue. The offset to PILT concern would only apply to Alternative A counties.

Kenneth R. Brown
Western Counties Alliance
krbrownwca@allwest.net
Phone (307) 679-3658
Fax (435) 793-5555

----- Original Message -----

From: Howell, William W
To: Kenneth R. Brown
Sent: Thursday, July 12, 2012 6:00 AM
Subject: RE: Question about geothermal revenue?

I am not sure what you mean by "geothermal". If "geothermal" falls under section 6 of the Mineral Leasing Act and those revenues are passed on to counties by the states then yes those revenues may be used as a deduction in the calculation of PILT unless they are subsequently passed on by the counties to some independent special purpose district (like grazing or school districts).

Bill

From: Kenneth R. Brown [mailto:krbrownwca@allwest.net]
Sent: Wednesday, July 11, 2012 2:14 PM
To: Howell, William W
Subject: Question about geothermal revenue?

Hi Bill:

How's everything in the company town? I have a question about geothermal revenue. Is the geothermal revenue that some alternative a counties receive in the west an offset to PILT?

Thanks for your time.

Best Regards,

Kenneth R. Brown
Western Counties Alliance
krbrownwca@allwest.net

Phone (307) 679-3658
Fax (435) 793-5555



Donna Bohall <dbohall@landercountynv.org>

Fw: Public Land Transfer

1 message

Kenneth R. Brown <krbrownwca@allwest.net>

Fri, Aug 17, 2012 at 2:14 PM

To: Undisclosed Recipients <krbrownwca@allwest.net>

Hello Everyone,

Attached is some additional information about HB 148 the Public Land Transfer bill that was passed by the Utah legislature during the 2012 session and supported by Utah's Governor Herbert. I would love to hear your comments or concerns about this process.

Best Regards,

Kenneth R. Brown
Western Counties Alliance
krbrownwca@allwest.net
Phone (307) 679-3658
Fax (435) 793-5555

2 attachments

 **Summary - Transfer of Public Lands Act HB148.docx**
42K

 **Historical Background Final.pdf**
2237K

HB148 Transfer of Public Lands Act

This bill:

- (i) establishes a deadline for the federal government to honor its promise in Utah's Enabling Act to transfer title to all public lands in Utah, and to do so now directly to the state, by December 31, 2014 to be managed by a public lands commission;
- (ii) expressly takes off the table National Parks, National Monuments managed by the National Park System, congressionally designated National Wilderness Preservation System wilderness lands as of January 1, 2012, (i.e. not included in the definition of public lands to be transferred to the state);
- (iii) charges the Constitutional Defense Council to
 - a. prepare legislation creating a Utah Public Lands Commission to manage the multiple use of the public lands including
 - i. open space (in addition to the National Parks, National Monuments, and congressionally designated wilderness lands expressly protected under the bill);
 - ii. access (recreation, hunting, fishing, etc.);
 - iii. local control; and
 - iv. the sustainable yield of the abundant natural resources;
 - b. prepare legislation to authorize and enable such sovereign actions by the state as may be necessary to secure the rights and enjoy the full benefits of statehood provided by Utah's Enabling Act;
 - c. Coordinate with Washington the transfer of the public lands to Utah;
- (iv) Indemnifies political subdivisions acting in furtherance of the Transfer of Public Lands Act.

Why? And . . . Why Now?

As a result of the federal government failing to honor to Utah the same promise it did honor to all states east of Colorado and to Hawaii to timely transfer title to all public lands, Utah has been deprived of the multiple use its lands and sustainable yield of its natural resources, and stands at a crossroads:

1. We remain perpetually last in the nation in per pupil funding, with the largest class sizes in the nation. It would take more than \$2.2 billion to close the per-pupil-funding gap with the national average. It would take more than \$4 billion to close the per-pupil-funding gap with neighboring states with access to their lands and natural resources (e.g. North Dakota student-teacher ratio is 11.6 to 1). Amazingly, the terms of North Dakota's Enabling Act are virtually word for word identical to Utah's Enabling Act. See attached comparison.
2. More than 30% of our state budget comes from federally sourced funds. With the failed "super committee," current federal law calls for 9% across the board cuts of federal funds in 2013, including funds to states. Erskine Bowles (former Clinton White House chief of staff and co-chair of Pres. Obama's Fiscal Responsibility Commission), David Walker (former independent Comptroller General of the U.S.), and major state policy organizations, warn "we face the most predictable economic crisis in history" and that "states have seen the high water mark in federal funds."
3. **Recent unanimous U.S. Supreme Court cases** uphold the principle of "the uniquely sovereign character"¹ of a state's admission into the Union, particularly where "virtually all of the State's public lands . . . are at stake," and expressly reject the notion that Congress "somehow can diminish" unilaterally the promises to states upon their admission.²

¹ "[T]he consequences of admission are instantaneous, and it ignores the uniquely sovereign character of that event ... to suggest that subsequent events [meaning acts of Congress] somehow can diminish what has already been bestowed. And that proposition applies a fortiori [with even greater force] where virtually all of the State's public lands . . . are at stake." *Hawaii v. OHA*, (2009)

² "Federalism is more than an exercise in setting the boundary between different institutions of government for their own integrity. 'State sovereignty is not just an end in itself: 'Rather, federalism secures to citizens the liberties that derive from the diffusion of sovereign power.'" *Bond v. U.S.*, (2011).

Co-Sponsors and Supporting Organizations: Fifty-eight (58) members of Utah's 75 member House of Representatives (from both parties) signed on as co-sponsors of this legislation. Having passed the House and the Senate by wide supermajorities, the bill takes immediate effect upon the signature of the governor. Supporting organizations include Utah Association of Counties, School and Institutional Trust Lands Administration (SITLA), Utah PTA, Utah State School Board, Utah School Boards Association, Utah School Superintendents Association, Jordan School District, Utah Education Association (UEA) Sandy Area Chamber of Commerce, Sportsmen for Fish & Wildlife, Utah Shared Access Alliance (USA-ALL), Utah Farm Bureau, Utah Wool Growers Association, Utah Public Lands Multiple Use Coalition, Utah Eagle Forum, and the Sutherland Institute.

For more information go to <http://www.AreWeNotAState.com>

Constitutional Note: The constitutional note to this bill cites an 1872 U.S. Supreme Court case, Gibson v. Chouteau. However, the Gibson case actually reaffirms that the federal government is duty-bound to dispose of the public lands. The substance of the Gibson case deals with state action viewed as interfering with the quiet title to lands three generations after the federal government had complied with its duty to dispose of public lands.

At page 100 of the case, the Gibson case mirrors language from the Andrew Jackson contemporaneous history on the public lands trust, which includes language directly from the Northwest Ordinance of 1787, stating "a provision has usually been inserted in the compacts by which new states have been admitted into the Union that such interference **with the primary disposal of the soil** of the United States shall never be made. Such a provision was inserted . . . that the legislature shall also not interfere 'with any regulation that Congress may find necessary for **securing title to the bona fide purchasers.**'"

Gibson confirms and reaffirms the federal government's "primary disposal" duty with respect to the public lands. It further confirms that the language in Section 3 of Utah's Enabling Act to the effect that the people of the state do "forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof" pertains only to quieting, or "securing title" in the federal government so that as it complies with its duty to dispose of the public lands, the recipient receives good, clear, undisputed title to the land. This makes sense given that in the enabling acts of states east of Colorado (where the federal government did dispose of their public lands upon statehood) their people did also "forever disclaim all right and title" to the public lands.

Is there no other way to close the education funding gap and provide for the risk of loss of the nearly \$5 billion in federal funds? See attached spreadsheet from our legislative fiscal analysts on the amount by which various taxes would have to increase in an attempt to close the \$2.2 billions education funding gap, the \$4.4 billion education gap to compete with neighboring states that do have access to their lands and resources yet with the same terms in their enabling acts, and a \$7.4 billion gap to deal with the education gap and the federal funds at risk.

Historical Background: See, HJR 3 Joint Resolution on Federal Transfer of Public Lands and the Historical Background for HB 148 draft by the Utah Attorney General's office.

President Andrew Jackson penned what is viewed as the most contemporaneous history on the trust duty of the federal government to timely dispose of the public lands, providing as follows:

"I do not doubt that it is the real interest of each and all the States in the Union, and particularly of the new States, that *the price of these lands shall be reduced and graduated, and that after they have been offered for a certain number of years the refuse remaining unsold shall be abandoned to the States and the machinery of our land system entirely withdrawn.* It can not be supposed the compacts intended that the United States should retain forever a title to lands within the States which are of no value, and no doubt is entertained that *the general interest would be best promoted by surrendering such lands to the States.*"

See also attached 1915 Resolution of the Utah Senate.

The promise to all states to dispose of the public lands was established in and through the congressional resolutions of 1780, the Land Ordinance of 1785, the Northwest Ordinance of 1787, all of which were incorporated into Article IV of the Constitution (the States section of the Constitution) which granted **the "power to dispose"** of the public lands in order "to preserve the statu quo" with respect to the public lands. The power to dispose of the public lands cannot logically be viewed as permitting the power to retain and never dispose without turning this delegated constitutional power on its head.

In the congressional hearings of 1932 on "Granting the Remaining Unreserved Public Lands to States," it was undisputed that the federal government was duty-bound to dispose of the public lands. The question before these hearings was not whether the federal government should dispose of the public lands, but when and how it must do so. However, two primary legislative proposals under consideration sought to reserve the mineral estate to the federal government, which is why the states actively opposed these bills.

The subsequent Taylor Grazing Act of 1934 (which led to the creation of BLM) expressly provided that it was merely a management act "pending final disposal of the lands."

Not until 1976 did the federal government first claim, by act of Congress, outright authority "*that **the public lands be retained in Federal ownership, unless . . . it is determined that disposal of a particular parcel will serve the national interest.***" FLPMA, sec. 102(a)(1). However, even under the unilateral congressional act that is FLPMA, the federal government promised local control, access, multiple use and the sustained yield of the natural resources. In recent years, however, it has become painfully apparent through a host of proofs that the federal government no intention of keeping even the promise it made under FLPMA, let alone the fundamental promise in each state's enabling act, which the U.S. Supreme Court has called a "solemn compact," a "bi-lateral agreement," to be performed "in a timely fashion."

Perhaps it is in view of the manifest injustice relating to the public lands that a unanimous U.S. Supreme Court recently counseled that "***the consequences of admission are instantaneous, and it ignores the uniquely sovereign character of that event . . . to suggest that subsequent events [meaning acts of Congress] somehow can diminish what has already been bestowed. And that proposition applies a fortiori [with even greater force] where virtually all of the State's public lands . . . are at stake.***" Hawaii v. OHA, (2009)

HISTORICAL
BACKGROUND TO HB 148

EXECUTIVE SUMMARY

Upon the acquisition of the vast western public lands, the Congress of the United States had determined that the lands would be disposed of through sale or grant, that the territories would be converted into new states, and that this process of adding states would be accomplished through the vehicle of enabling acts setting the conditions of statehood. Congress also recognized the need to fund education in the new states and made provisions in the enabling acts for such purposes through land grants and proceed sharing.

It was in this historical context that Utah's Enabling Act was passed by Congress. In addition to school land grants, the Enabling Act provided that: "five percentum of the proceeds of the sales of public lands lying within said States ... shall be paid to said State ... for the support of the common schools within said State."

Shortly after Utah's admission to the Union, federal policy began to shift from one of public land disposal to one of conservation and control. Ultimately, with the 1976 enactment of the Federal Land Policy and Management Act, the official federal public lands policy became one of retention and preservation, thereby abrogating the disposal policy that was relied upon in the Enabling Act.

Recent pronouncements by the United States Supreme Court have characterized the enabling acts of the western states as "solemn agreements," and the Court has stated the states are entitled to the "benefit of the bargain." The Court also has held that subsequent acts of Congress cannot override the commitments made in the enabling acts.

Utah has struggled since statehood with adequately funding public education. Utah is presently last in the nation in terms of per pupil funding. The funding dilemma is

largely due to the fact that 66 percent of the land in Utah is federally owned (see attached map) and not subject to taxation.

HB 148 addresses the failure of the United States to adhere to the letter and spirit of Utah's Enabling Act by seeking the transfer to the State of Utah of the public lands within its borders, and charges the Constitutional Defense Council with the duty of identifying available remedies in the event that such transfer does not occur. The object is to produce sufficient additional revenues to permit the needed funding of public education.

HISTORICAL BACKGROUND TO H148

I. Early Efforts of Land Disposal and Education Support

Even before our new nation was fully formed, the founding fathers were looking for ways to dispose of the then recently acquired “western” lands, and to support education. The Confederation of the States emerged from the Revolutionary War deeply in debt. Without an ability to tax, there were few assets that could be identified as a source of revenue. Publicly owned land was the obvious source of such revenue. Through the treaty with the British, and the cession of western lands by the original states, the Confederation had acquired substantial land holdings between the Appalachian Mountains and the Mississippi River and north of the Ohio River. It was determined by the Congress of the Confederation that these “Northwest Territories” would be disposed of through both grant and sale for the purposes of debt reduction. Accordingly, the Congress enacted the Land Ordinance of 1785 which provided for the surveying and division of these public lands into townships and sections, followed by disposition through sales or grants. The passage of the Northwest Ordinance of 1787 created a three-tiered mechanism for the creation and governance of first the territories, and then the states cut out of these western lands. This Act provided for the ultimate use of Enabling Acts to be enacted by Congress, followed by the adoption of state constitutions therewith consistent, and finally, approval by the President as the process of achieving statehood. This basic mechanism was employed in Utah’s statehood efforts between 1894 and 1896.

Education had been a program of particular emphasis during the colonial period. The colonists viewed the system of publicly endowed schools in Europe as important in the New World, and used the abundant land for this purpose. Accordingly, in the setting

up of communities, land was set aside to support the "common" schools with the objective that these lands would produce revenues for education purposes. This school grant concept was carried over to the Confederation as the Northwest Ordinance provided that, in the survey and township platting, Section number 16 in every township should be granted for the support of schools. This reservation began the Federal School Endowment Policy that endured to Utah's statehood and beyond.

During the first half of the nineteenth century, the new nation acquired all the lands that now make up the United States. Through the Louisiana Purchase (1803), the purchase of Florida (1819) and the Oregon Territory (1848), the Treaty of Guadalupe Hidalgo (1848), and the purchase of Alaska (1867), the United States added some 2,503,300 square miles or 36,604,827,800 acres to its western public lands.

With this enormous increase, Congress stepped up its efforts to settle and dispose of these public lands. Various programs were legislatively enacted to accomplish these objectives, including cash and credit programs, the Pre-emption Laws, the Homestead Acts, railroad grants and the Mining Acts. By 1894, the paradigm of public land disposal dictated federal land policy.

Always a part of this policy was the continuing use of school grants to fund education. As the western territories became more settled, western advocates began to press for more control over the public lands and/or the actual transfer of lands into state ownership upon statehood. Westerners chafed at the fact that eastern states having little public land within their borders reaped the benefits of resource development and private, taxable ownership. Various proposals were considered by Congress, some of which involved large land transfers. Ultimately, Congress determined that these western

concerns would be addressed by sharing the revenues from public land sales with the states in which the lands were situated. Of course, such sales of public lands into private ownership would ultimately result in the enlargement of aggregate values upon which tax revenues could be derived.

Significant insight into the nation's nineteenth century perspective on the disposal of the western public lands can be derived from the pen of President Andrew Jackson. In 1833, President Jackson vetoed a Land Bill passed by Congress following the extinguishment of the national debt that would have temporarily appropriated proceeds from the sale of public land in a manner that was inconsistent with the enabling acts of new states. In his veto message to Congress, President Jackson reviewed the history of the federal land cession policies. In so doing, he emphasized the solemnity of the covenants with the states:

The states claiming those lands acceded to those views and transferred their claims to the United States upon certain specific conditions, and on those conditions the grants were accepted. These solemn compacts, invited by Congress in a resolution declaring the purposes to which the proceeds of these lands should be applied, originating before the Constitution and forming the basis on which it was made, bound the United States to a particular course of policy in relation to them by ties as strong as can be invented to secure the faith of nations....

The debt for which these lands were pledged by Congress may be considered as paid, and they are consequently released from that lien. But that pledge formed no part of the compacts with the States, or of the conditions upon which the cessions were made. It was a contract between new parties—between the United States and their creditors. Upon payment of the debt the compacts remain in full force, and the obligation of the United States to dispose of the lands for the common benefit is neither destroyed nor impaired....

It appears to me that a more direct road to consolidation can not be devised. Money is power, and in that Government which pays all the public officers of the States will all political power be substantially concentrated. The State governments, if governments they might be called, would lose all their independence and dignity: the economy which now distinguishes them would be

converted into a profusion, limited only by the extent of the supply. Being the dependents of the General Government, and looking to its Treasury as the source of all their emoluments, the State officers, under whatever names they might pass and by whatever forms their duties might be prescribed, would in effect be the mere stipendiaries and instruments of the central power.

President Jackson concluded with the following:

On the whole, I adhere to the opinion, expressed by me in my annual message of 1832, that it is our true policy that the public lands shall cease as soon as practicable to be a source of revenue, except for the payment of those general charges which grow out of the acquisition of the lands, their survey and sale.... I do not doubt that it is the real interest of each and all the States in the Union, and particularly of the new States, that the price of these lands shall be reduced and graduated, and that after they have been offered for a certain number of years the refuse remaining unsold shall be abandoned to the States and the machinery of our land system entirely withdrawn. It can not be supposed the compacts intended that the United States should retain forever a title to lands within the States which are of no value, and no doubt is entertained that the general interest would be best promoted by surrendering such lands to the States.

II. Utah's Enabling Act, Constitution and Statehood

It was in this historical context of public lands disposal and lands-based educational support that Utah became a state. On July 16, 1894, Congress enacted Utah's Enabling Act setting forth the conditions upon which Utah could become a state. In accordance with the federal policy of education grants, Section 6 provided in part:

"That upon the admission of said State into the Union, sections numbered two, sixteen, thirty-two, and thirty-six in every township of said proposed State, and where such sections, or any parts thereof, have been sold or otherwise disposed of by or under the authority of any act of Congress, other lands equivalent thereto, in legal subdivisions of not less than one quarter section, and as contiguous as may be to the section in lieu of which the same is taken, are hereby granted to said State for the support of commons schools, . . ."

Further, and in accordance with the then prevailing federal policy of public lands disposal, Sections 9 and 10 provided:

Sec. 9. That five per centum of the proceeds of the sales of public lands lying within said State, which shall be sold by the United States

subsequent to the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to the said State, to be used as a permanent fund, the interest of which only shall be expended for the support of the common schools within said State.

Sec. 10. That the proceeds of land herein granted for educational purposes, except as hereinafter otherwise provided, shall constitute a permanent school fund, the interest of which only shall be expended for the support of said schools, and such land shall not be subject to pre-emption, homestead entry, or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be surveyed for school purposes only.

In addition, the Enabling Act required that the people of Utah “forever disclaim all right and title to the unappropriated public lands” within the state, that such lands would be subject to the disposition of the United States, and that “no taxes shall be imposed by the States” upon lands or property owned by the United States. Lastly, the Enabling Act required the holding of a convention for the adoption of a State Constitution consistent with the requirements of the Enabling Act.

Utah held its constitutional convention commencing on March 4, 1895, and ratified its new constitution on November 5, 1895. The Utah Constitution comported with the requirements of the Enabling Act. In so doing, it must be assumed that this comportment was in reliance upon the promises and representations made by Congress in the Enabling Act, including the disposal of public lands and educational support. On January 4, 1896, President Cleveland executed a proclamation designating Utah as a State on an equal footing with the other states of the Union.

III. Federal Shift From Public Lands Disposal to Reservation, Conservation and Preservation

Shortly following Utah’s statehood, the federal government began to shift public lands policy away from disposal and toward reservation and conservation. In 1905 the National Forest Service was created by combining the General Land Office (the agency created for the purpose

of disposing of the public land) and the Division of Forestry. In 1906 and 1907, President Theodore Roosevelt more than doubled the acreage of forest reserve. Perhaps more significantly, federal land policy moved toward conservation and resource management. Land disposal policies were replaced with policies that retained the public lands in federal ownership.

This shift of policy was not lost on the Utah Legislature. In its 1915 Session, the Legislature proposed a Joint Memorial to the President and both houses of Congress eloquently urging the federal government to return to its disposal policy:

“Rejoicing in the growth and development, the power and prestige of the older states of the union, and recognizing that their advancement was made possible through the beneficent operation of a wise and most generous public land policy on the part of the government, the people of Utah view with alarm and apprehension the national tendency toward the curtailment of the former liberal policies in handling the public domain and disposing of the natural resources, as evidenced in the vast land withdrawals and the pending legislation, calculated to make our coal, our mineral and our water power resources chattels for government exploitation through a system of leasing.

In harmony with the spirit and letter of the land grants to the National government, in perpetuation of a policy that has done more to promote the general welfare than any other policy in our national life, and in conformity with the terms of our Enabling Act, we, the members of the Legislature of the State of Utah, memorialize the President and the Congress of the United States for the speedy return to the former liberal National attitude toward the public domain, and we call attention to the fact that the burden of State and local government in Utah is borne by the taxation of less than one-third the lands of the State, which alone is vested in private or corporate ownership, and we hereby earnestly urge a policy that will afford an opportunity to settle our lands and make use of our resources on terms of equality with the older states, to the benefit and upbuilding of the State and to the strength of the nation.”

Federal policy was not reversed, however. Rather, the policies of conservation and control were expanded over time. In 1934 Congress passed the Taylor Grazing Act, thereby committing those lands previously open for disposal to the control and management by the U. S. Grazing Service. While this act expressly provided that it was “to promote the highest use of the

public lands pending its final disposal," it signaled that the last vestige of the theretofore open lands policy had come to an end.

Even the term "conservation" began to take on a more restrictive meaning. In the first half of the twentieth century "conservation" was used by federal land managers to mean retention of lands for resource development. Thereafter, and in response to recreational and environmental interests, "conservation" began to take on a much more restrictive meaning. "Conservation" became "preservation".

The move away from disposal of the public lands, and toward a policy of retention and preservation, culminated in the 1976 passage by Congress of the Federal Land Policy and Management Act ("FLPMA"). FLPMA declared that "it is the policy of the United States that the public lands be retained in Federal ownership, unless . . . it is determined that disposal of a particular parcel will serve the national interest."

The policy of disposal of public lands upon which the State of Utah had detrimentally relied for educational support at the time of statehood, and as is set forth in Section 9 of the Enabling Act, had been finally and unceremoniously brought to an end.

IV. Western Efforts to Obtain Relief

The western public lands states, including Utah, reacted to FLPMA's passage with both anger and action. In what came to be called the "Sagebrush Rebellion," the western states combined efforts to force the federal government to divest itself of the public lands. Those efforts took the form of state and local legislation, court challenges, federal administrative changes and federal legislation. In 1979, Nevada enacted a state law asserting state title, management and disposal authority over public lands administered by the Bureau of Land

Management (BLM). Utah passed a similar measure. Those efforts were rejected by the federal courts in two Nevada decisions that essentially stifled the rebellion.

In 1978, Nevada filed suit challenging the constitutionality of the federal land retention policy of FLPMA. Nevada argued that the "equal footing doctrine" that is set forth in the western states enabling acts insured that the western public lands would pass into state or private lands so as to place the western states on an "equal footing" with western states. In Nevada State Board of Agriculture v. United States, the court ruled that the equal footing doctrine applied only to political and sovereignty rights, and not to economic or geographic equality. The court further ruled that the Property Clause of the U.S. Constitution reserved to Congress the sole authority as to the disposal of public land. This case stands for the proposition that title to the public lands did not automatically vest in the State of Nevada under the equal footing provision of the Nevada Enabling Act, or by reason alone of the failure to dispose of such lands by the federal government. On appeal the case was affirmed on the basis that it was moot, thereby placing into question the lower court's ruling.

In 1993, public officials of Nye County, Nevada took a bulldozer to roads that had been closed by the Forest Service, asserting that Nevada had title to the roads. The United States sued seeking a declaratory judgment that it owned and had the authority to manage the disputed lands. In United States v. Nye County, the court ruled that the county resolution declaring that the State of Nevada owns all public lands was invalid under the Supremacy Clause of the U.S. Constitution. Neither case was heard by the U.S. Supreme Court.

V. **Recent Supreme Court Pronouncements Regarding State Enabling Acts**

While efforts thus far challenging FLMPA and the federal land retention policies therein set forth have been unsuccessful, there are two more recent U.S. Supreme Court decisions that shed new light upon the enforceability of Enabling Acts.

In the 1980 case of Andrus v. Utah, the Supreme Court had before it Utah's in lieu selections under Section 6 of its Enabling Act. While the court ruled against Utah's selections on valuation grounds, it also characterized the contractual nature of the Enabling Act:

“As Utah correctly emphasizes, the school land grant was a “solemn agreement” which in some ways may be analogized to a contract between private parties. The United States agreed to cede some of its land to the State in exchange for a commitment by the State to use the revenues derived from the land to educate the citizenry.

The State's right to select indemnity lands may be viewed as the remedy stipulated by the parties for the Federal Government's failure to perform entirely its promise to grant the specific numbered sections. The fact that the Utah Enabling Act used the phrase “lands equivalent thereto” and described the substituted lands as “indemnity lands” implies that the purpose of these substitute selections was to provide the State with roughly the same resources with which to support its schools as it would have had had it actually received all of the granted sections in place. Thus, as is typical of private contract remedies, the purpose of the right to make indemnity selections was to give the State the benefit of the bargain.”

This case stands for the proposition that the Enabling Act, and the state constitutional provisions complying with the Act, constitute a solemn agreement, and that if the United States cannot or does not provide the State with the benefits of its bargain, the State is entitled to a remedy.

More recently in Hawaii v. Office of Hawaiian Affairs, a 2009 case, the Supreme Court dealt with the preeminence between a state's enabling act and subsequent, inconsistent congressional action. “[The] consequences of admission are instantaneous, and it ignores the

uniquely sovereign character of that event . . . to suggest that subsequent events somehow can diminish what has already been bestowed.”

This case arguably stands for the proposition that, if FLPMA is found to contravene a commitment made by the United States in Utah’s Enabling Act, the rights and benefits set forth in the Enabling Act should govern.

VI. Utah’s Continuing Struggle to Fund Education

Since statehood, Utah has struggled to adequately fund public education. Utah is presently last in the Nation in terms of per pupil funding. Per pupil spending in Utah of \$5,978.00 compares to a national average of \$10,297.00. This is in large part due to the fact that some 66% of the lands within its borders are owned and controlled by the federal government and not subject to taxation (see attached map). Lands that otherwise would be part of Utah’s tax base containing resources that would otherwise produce state revenues that would go to the funding of education, are largely locked up by the prevailing federal land policies.

At the time of statehood, Utah was led to believe, both expressly in the Enabling Act and impliedly by the then prevailing federal policy of land disposal, that the public lands would be transferred into either state or private lands. Section 9 of the Enabling Act so states: “That five per centum of the proceeds of the sales of public lands lying within said state, which shall be sold by the United States subsequent to the admission of said State into the Union . . . shall be paid to the said State, to be used as a permanent fund, the interest of which only shall be expended for the support of the common schools within said State.”

While the emphasized language can be read in more than one way, any such ambiguity is removed when it is read in the historical context in which it was promulgated. It was the prevailing intent at both the federal and state level that the public lands would be disposed of. It

was also apparent that not only would the State receive 5% of the net proceeds from such disposal, but also that the land would become part of Utah's revenue base. That was the mutually intended benefit of Utah's bargain – a benefit that Utah still awaits, and in the absence of which the education of Utah's children remains under-funded.

The federal government has recognized the difficulty of the revenue shortfall and has implemented several revenue-sharing programs, e.g. resource-based proceeds sharing and payments in lieu of taxes. However, the revenues resulting from these programs falls far short of the funds that would otherwise have resulted from disposal of the public lands, and the amounts needed for education needs.

VII. HB148 Seeks a Remedy for the Federal Breach of Utah's Solemn Promise

If the State of Utah is to achieve an adequate, if not necessary, level of funding for public education, it must find a way to overcome the adverse effects of the federal land policies herein described. HB148 is designed to productively readdress the failure of the United States to follow through on its statehood commitments to Utah's educational system. HB148 would establish a deadline for the federal government to cure its breach of the Enabling Act by transferring all public lands to state ownership, management and control. In the interim, the Act would charge the existing Constitutional Defense Council with the duty to:

1. Prepare legislation creating a Utah Public Lands Commission to manage the multiple use of the public lands including open space (including terms for constitutionally ceding the national parklands to the national government), access (recreating, hunting, fishing, etc.), local control, and the sustainable yield of the natural resources.

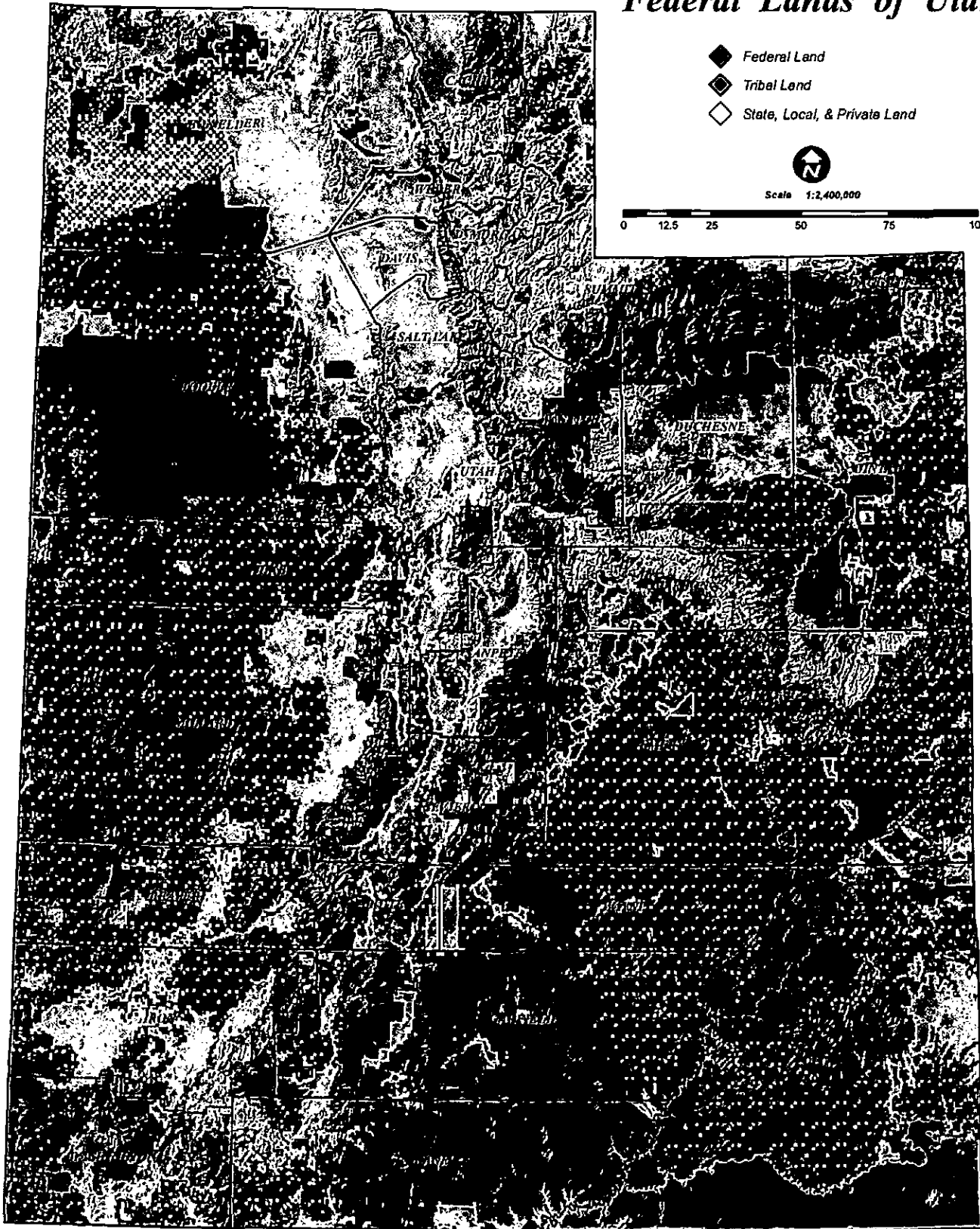
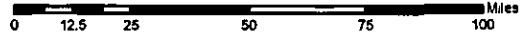
2. Prepare legislation to authorize and enable such sovereign actions by the state as may be necessary to secure the rights and enjoy the full benefits of statehood provided by Utah's Enabling Act, including the educational funding therein promised.

Federal Lands of Utah

- ◆ Federal Land
- ◈ Tribal Land
- ◇ State, Local, & Private Land

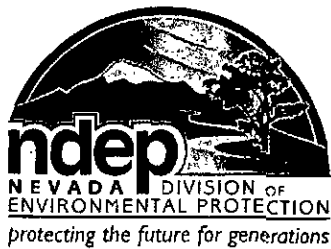


Scale 1:2,400,000



Map prepared by the State of Utah
Automated Geographic Reference Center (AGRC)
Room 5130 State Office Building
Salt Lake City, Utah 84114
Map data compiled from the SGID
December 14, 2008





STATE OF NEVADA
Department of Conservation & Natural Resources
DIVISION OF ENVIRONMENTAL PROTECTION

Brian Sandoval, Governor
Leo M. Drozdoff, P.E., Director
Colleen Cripps, Ph.D., Administrator

August 13, 2012

The Estate of Martin T. Wessel
c/o Misty Wessel-Darr/Debra Jill Phillips
11359 W. Irving Lane
Boise, Idaho 83713

RECEIVED

AUG 20 2012

COUNTY COMMISSION

Subject: Second Quarter, 2012 Monitoring Report,
Former Ted's Chevron Facility, 474 West Front Street, Battle Mountain, Nevada
Facility ID Number: 5-000104
Petroleum Fund ID: 1999000052

Dear Ms. Darr:

The Nevada Division of Environmental Protection (NDEP) has reviewed your *Second Quarter 2012 Monitoring Report*, dated July 27, 2012, prepared on your behalf by Jeremy Boucher, Certified Environmental Manager for Broadbent & Associates, Inc. (BAI).

The site wells were monitored and sampled on June 11 and 12, 2012. Sixteen monitoring wells were monitored this quarter for MTBE and BTEX compounds along with analysis for bio-parameters. Three wells contained benzene above the 5 microgram per liter (ug/l) maximum contaminant level at 43 ug/l (MW-4), 48 ug/l (MW-12) and 19 ug/l (MW-15). Slight variations in benzene concentrations continue with minor changes estimated due to water table fluctuations. None of the other analytes exceeded their respective MCL's. BAI also noted that the indicators of biodegradation parameters measured in wells MW-11 and MW-15 indicate that intrinsic biodegradation of petroleum hydrocarbon constituents in groundwater is on-going at the site.

Depth to groundwater ranged between 5.12 (MW-8) to 8.10 (MW-14) feet to water and the gradient direction was north-northwest or northwest at 0.001 ft/ft. Average groundwater elevation change for this quarter increased 0.06 feet.

Recommendations by Broadbent for the third quarter include;

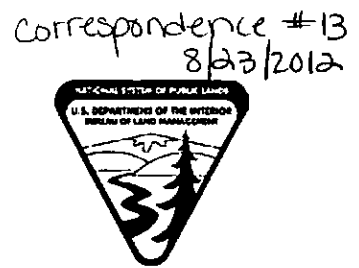
- Surveying the 5 wells not tied in to the existing base map;
- Third Quarter monitoring/sampling;
- Attempt to locate the remaining two wells (MW-1 and MW-9) and add to the survey and sampling; and
- Set up a meeting with NDEP to discuss the June 18, 2012 Additional Characterization and Remedial Feasibility Pilot Test work Plan and Site clean-up goals.





United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Nevada State Office
1340 Financial Boulevard
Reno, Nevada 89502-7147
<http://www.blm.gov/nv>



In Reply Refer To:
2800 (NV910)
N-78803

August 2012

Dear Reader:

Enclosed is an errata sheet for the *Clark, Lincoln, and White Pine Counties Groundwater Development Project Final Environmental Impact Statement* (Final EIS), which was issued on August 3, 2012. Please review the errata as you read the EIS.

The *Clark, Lincoln, and White Pine Counties Groundwater Development Project Final Environmental Impact Statement* will be available for 60 days from the date of the original distribution. The final day to submit descriptions of new or missed information would be October 1, 2012. A hard copy of the document (or additional copies of the executive summary) will be provided on request while supplies last.

Penny Woods, Project Manager
Bureau of Land Management
Nevada Groundwater Projects Office
Nevada State Office (NV-910.2)
1340 Financial Blvd
Reno, NV 89502
FAX: 775.861.6689
Email: nvgwprojects@blm.gov

RECEIVED

AUG 20 2012

COUNTY COMMISSION

Errata for the Clark, Lincoln, and White Pine Counties Groundwater Development Final Environmental Impact Statement (EIS) (August 2012) FES 12-33

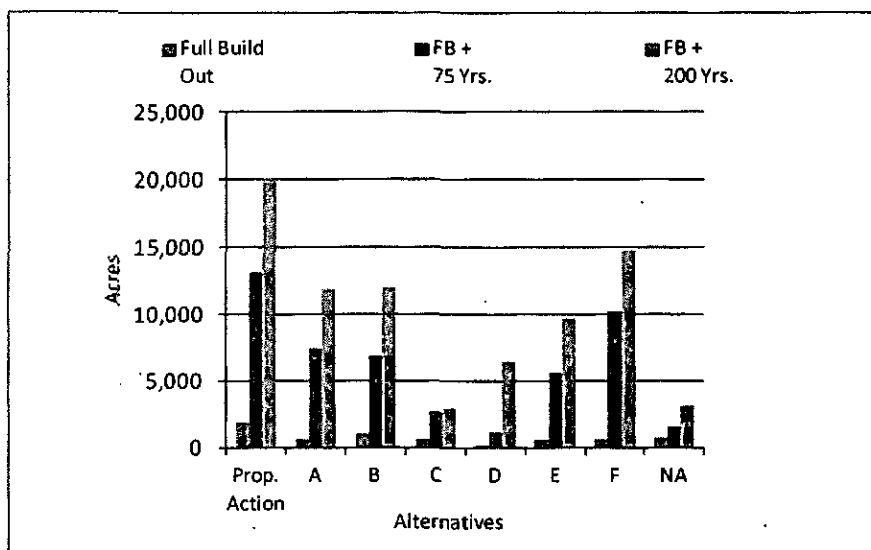
Abstract

Third and Fourth Pages of the Final EIS (unnumbered): The date the Final EIS was filed with the USEPA is July 27, 2012. The date the Abstract was signed by the State Director also is July 27, 2012.

The following corrections are provided for the Executive Summary and Final EIS regarding potential groundwater pumping effects on hydric soils:

Executive Summary

Page ES-62, Figure ES-31: Acres of Hydric Soils at Risk from Drawdown (≥ 10 feet) for Alternative F were revised as follows: Full build out (532 acres); Full build out +75 years (10,209 acres); Full build out +200 years (14,765 acres). Replace Figure ES-31 with the following:



Page ES-79, Table ES-10: Soils, Acres of hydric soils within high or moderate risk zones within drawdown areas, Alternative F - Replace 4,949 acres with 10,209 acres and Cumulative with Alternative F - Replace 14,727 acres with 22,123 acres.

Final EIS

Chapter 2, Page 2-133, Table 2.10-3: Soils, Acres of Hydric Soils Within Drawdown Area (>10 feet) - Alternative F. Replace 4,949 acres with 10,209 acres.

Chapter 2, Page 2-138, Table 2.10-4: Soils, Acres of Hydric Soils Within Drawdown Area (>10 feet) - Alternative F. Replace 8,403 acres with 14,765 acres.

Chapter 2. Page 3.4-31, Section 3.4, Soils: Replace Table 3.4-13 with the following:

Table 3.4-13 Estimate of Impacts to Hydric Soils from Drawdown within High and Moderate Risk Zones for Alternative F

Basins with Hydric Soils Affected by Drawdown	Total Hydric Soils in Basin (acre) ¹	Hydric Soils at Risk from Drawdown (acre)		
		Full Build Out	Full Build Out Plus 75 Years	Full Build Out Plus 200 Years
Lake Valley	3,852	—	—	2,728
Spring Valley (184)	26,766	532	10,209	11,880
Pahrangat Valley	1,178	—	—	157
Total Acres	31,796	532	10,209	14,765

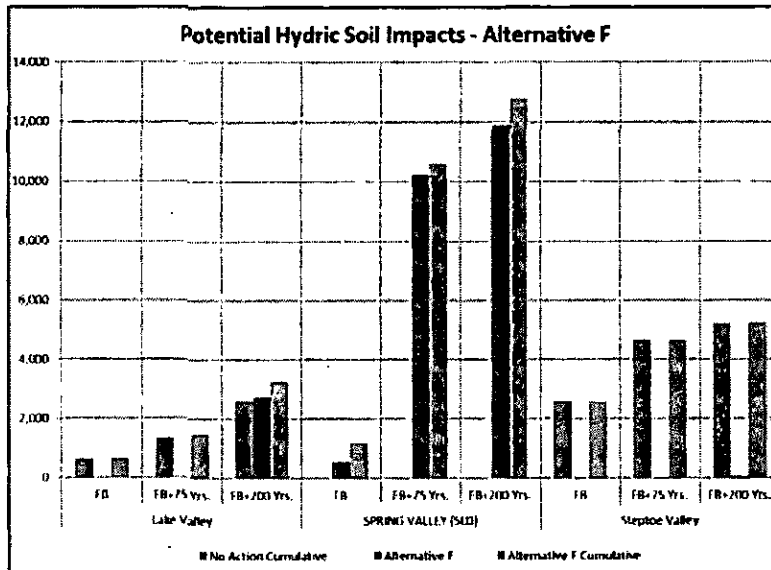
¹ Based on SSURGO map data.

Note: "At Risk" refers to hydric soils potentially affected by drawdown in High or Moderate Risk Zones. Where no hydric soils would be at risk, cell is marked with the — symbol.

Section 3.4, Soils, Page 3.4-33, Table 3.4-15: Alternative F, Maximum area (acres) of hydric soils potentially affected by 10-foot pumping drawdown within high and moderate risk zones. Replace 8,403 acres with 14,765 acres.

Section 3.4, Soils, Page 3.4-45, Paragraph 2 under Groundwater Pumping Effects, Lines 8, 10, and 11. Replace Alternative E with Alternative F.

Section 3.4, Soils Page 3.4-46. Replace Figure 3.4-11 with the following:



Section 3.4, Soils, Page 3.4-46, Table 3.4-16: Alternative F, Maximum Area (acres) of Hydric Soils Potentially Affected by 10-foot Pumping Drawdown Within High and Moderate Risk Zones. Replace 14,727 acres with 22,123 acres.

A G E N D A

LANDER COUNTY COMMISSIONERS MEETING TOWN BOARD OF BATTLE MOUNTAIN & AUSTIN BOARD OF COUNTY HIGHWAY COMMISSIONERS

AUGUST 23, 2012

LANDER COUNTY COURTHOUSE
COMMISSIONERS' CHAMBER
315 SOUTH HUMBOLDT STREET
BATTLE MOUNTAIN, NEVADA

Also Via Teleconference At

AUSTIN COURTHOUSE
COMMISSION OFFICE
122 MAIN STREET
AUSTIN, NEVADA

9:00 A.M. ✓ Call to Order
✓ Pledge of Allegiance
✓ *Discussion for possible action regarding approval of Agenda Notice.
✓ *Discussion for possible action regarding approval and acceptance of Minutes of:
AUGUST 9, 2012 – REGULAR SESSION

- ✓ Commissioner Reports on meetings, conferences and seminars attended.
- ✓ Staff Reports on meetings, conferences and seminars attended.
- ✓ *Discussion for possible action regarding Payment of the Bills.
- ✓ *Discussion for possible action regarding Payroll Change Requests.

✓ Public Comment - For non-agendized items only. *Persons are invited to submit comments in writing and/or attend and make comments on any agenda item at the Board meeting. All public comment may be limited to three (3) minutes per person, at the discretion of the Board. Reasonable restrictions may be placed on public comments based upon time, place and manner, but public comment based upon viewpoint may not be restricted.*

FINANCE

- ✓ (1) Discussion for possible action regarding budget review, contracts, financial update and other matters properly relating thereto.

Public comment.

9:30 A.M. ✓ ***PUBLIC HEARING***
✓ (2) Public Hearing to discuss lease of storage/maintenance shop facility "Old Battle Mountain Water and Sewer Yard" located at 145 West Third Street in Battle Mountain, Nevada.

Public comment.

COMMISSIONERS

- ~~*(3)~~ Discussion for possible action regarding adoption of Resolution No. 2012-17, pursuant to Nevada Revised Statutes (NRS) 244.2833(1)(b), a resolution to establish the lease of the "Old Battle Mountain Water and Sewer Yard" being in the best interest of the County and other matters properly related thereto.

Public comment.

- ~~*(4)~~ Discussion for possible action regarding lease of the storage/maintenance shop facility "Old Battle Mountain Water and Sewer Yard" located at 145 West Third Street in Battle Mountain, Nevada and other matters properly related thereto.

Public comment.

ROAD AND BRIDGE SOUTH

- ~~*(5)~~ Discussion and update on Road and Bridge South projects and other matters properly related thereto.

Public comment.

ROAD AND BRIDGE NORTH

- ~~*(6)~~ Discussion and update on Road and Bridge North projects and other matters properly related thereto.

Public comment.

- ~~*(7)~~ Discussion for possible action regarding ratification of contract between Lander County and Hunewill Construction Co., in the amount of \$2,209,926.48, for the 2012 Road Paving Projects, PWP-LA-2012-251, and other matters properly related thereto.

Public comment.

- ~~*(8)~~ Discussion for possible action regarding approval/disapproval of Change Order No. 1 for the Lander County Paving Project – Overlay Projects 2012, in the amount of \$477,340.00, and other matters properly related thereto.

Public comment.

PUBLIC WORKS

- ~~*(9)~~ Discussion and update on Public Works projects and other matters properly related thereto.

Public comment.

COMMISSIONERS

- ~~*(10)~~ Discussion for possible action regarding Amendment No. 2 to the Agreement between the Nevada Department of Transportation (NDOT) and Lander County for the Austin Loneliest Highway Visitors Center project and other matters properly related thereto.

Public comment.

- ~~*(11)~~ Discussion for possible action regarding approval/disapproval of Supplemental Engineering Agreement No. 1 to the existing Agreement for Professional Services between Lander County and J-U-B Engineers, Inc. dated July 26, 2011, in an amount not to exceed \$1,145.00, for additional engineering services rendered during the Battle Mountain Airport Apron Reconstruction project, AIP 3-32-0001-21 and other matters properly related thereto.

Public comment.

- ~~*(12)~~ Discussion for possible action regarding approval/disapproval of Resolution No. 2012-18, a resolution in support of post secondary educational services provided by Great Basin College to Nevada citizens in rural Nevada and other matters properly related thereto.

Public comment.

- ~~*(13)~~ Discussion for possible action regarding development and submission of a Bill Draft Request (BDR) for action by the 2013 Nevada State Legislature to relax and/or eliminate State's statutory provisions to allow for the adjustment of property boundary lines, easements and realignments within the Town of Austin and other matters properly related thereto.

*Public comment.****CLOSED LABOR SESSION PURSUANT TO NRS 288.220***

- ~~*(14)~~ Closed labor session with management representatives to discuss upcoming labor negotiations.

COMMISSIONERS

- ~~*(15)~~ Discussion for possible action regarding review of Lander County Local 3 General Employees' Bargaining Unit representation and paid membership report; direction to staff on whether or not to proceed in filing a petition to decertify the bargaining unit; and other matters properly related thereto.

Public comment.

12:00 P.M. Recess for Lunch

1:00 P.M. ***COMMISSIONERS***

- ~~*(16)~~ Discussion for possible action regarding update by Phil Hanna, Battle Mountain General Hospital CEO, on the emergency medical services in Lander County, under administration by the Lander County Hospital District (LCHD), and other matters properly related thereto.

Public comment.

- ~~*(17)~~ Correspondence/reports/potential upcoming agenda items.

Public comment.

- 2:00 P.M. ~~*(18)~~ Discussion for possible action regarding presentation by Turner Construction Company for Construction Manager at Risk (CMAR) Services for the Lander County Courthouse/Administration Building project and other matters properly related thereto.

Public comment.

- ~~*(19)~~ Discussion for possible action regarding presentation by Q&D Construction, Inc. for Construction Manager at Risk (CMAR) Services for the Lander County Courthouse/Administration Building project and other matters properly related thereto.

Public comment.

- ~~*(20)~~ Discussion for possible action regarding presentation by CORE Construction for Construction Manager at Risk (CMAR) Services for the Lander County Courthouse/Administration Building project and other matters properly related thereto.

Public comment.

- *~~(21)~~ Discussion for possible action regarding selection of a firm to perform Construction Manager at Risk Services for the Lander County Courthouse/Administration Building project and other matters properly related thereto.

Public comment.

Public Comment – For non-agendized items only. *Persons are invited to submit comments in writing and/or attend and make comments on any agenda item at the Board meeting. All public comment may be limited to three (3) minutes per person, at the discretion of the Board. Reasonable restrictions may be placed on public comments based upon time, place and manner, but public comment based upon viewpoint may not be restricted.*

ADJOURN

*Denotes discussion/action item with information provided at the meeting. Action may be taken according to the "Nevada Open Meeting Law Manual" via a telephone conference call in which a quorum of the Board members is simultaneously linked to one another telephonically.

NOTE: TIMES ARE APPROXIMATE

This is the tentative schedule for the meeting. The Board reserves the right to take items out of order to accomplish business in the most efficient manner. The Board may combine two or more agenda items for consideration. The Board may remove an item from the agenda or delay discussion relating to an item on the agenda at any time.

Notice to persons with disabilities: Members of the public who are disabled and require special assistance or accommodations at the meeting are requested to notify the County Clerk in writing at the Courthouse, 315 S. Humboldt Street, Battle Mountain, Nevada 89820, or call (775) 635-5738 at least one day in advance of the meeting.

AFFIDAVIT OF POSTING

State of Nevada)

) ss.
County of Lander)

Cathy Myers, Deputy Clerk, of said Lander County, Nevada, being duly sworn, says, that on the 17th day of August 2012, she posted a notice, of which the attached is a copy, at the following places: 1) Battle Mountain Civic Center, 2) Battle Mountain Post Office, 3) Lander County Courthouse and 4) Swackhamer's Plaza Bulletin Board, in said Lander County, where proceedings are pending.

CATHY MYERS, DEPUTY CLERK Cathy Myers

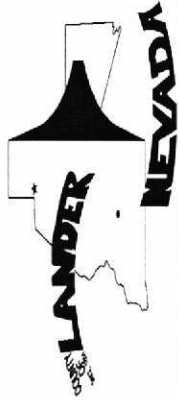
Subscribed and sworn to before me this 17th day of August 2012.

WITNESS May Ann May

Payment of Bills

August 23, 2012

ROGENE HILL
Lander County Finance Director



ACKNOWLEDGEMENT OF REVIEW & AUTHORIZATION

DATE

Chairman

Commissioner

Commissioner

Commissioner

Commissioner

LANDER COUNTY COMMISSION MEETING

August 23, 2012

APPROVE / DISAPPROVE
SUBMITTED EXPENDITURES IN THE AMOUNT OF \$ 303,385.83
From Check #41668 thru #41776

Report No: PH1308
Run Date : 08/21/12

LANDER COUNTY
CHECK REGISTER 8/23/12

CHECK
TOTAL

AMOUNT

TRANS#

DATE

P/O #

INVOICE DESCRIPTION

VENDOR

CHECK NUMBER

41668 ADVANCED DATA SYSTEMS INC

7/31/12/ANML SUPPRT/A JC
7/31/12/COMP EXPS/
7/31/12/ANML SUPPRT/CLERK
7/31/12 NETWORK/AJC
7/31/12 MONTHLYSUPPORT

41669 AL PARK PETROLEUM

7/19/12/TRANSIENT ASST

41670 AMPED-OUT-ELECTRICAL, LLC

8/17/12 REPRS DMV BLDGS
8/9/12/ REPRS RODEGRNDS

41671 STARCAP MARKETING LLC

7/28/12/MAINTRENEWAL/ASSE

41672 ASSESSORS ASSOC. OF NV

8/14/12/FALL CONF/DUVALL
8/14/12/FALL CONF/STIENME

41673 ATLAS TOWING & RECOVERY

8/7/12 CAR WASH BMVFD
8/7/12/JULY WASHES/R&B
7/31/12 WASHS BM ABUL

41674 AUSTIN POSTMASTER

8/2/12/ POSTAGE A R&B

41675 B & T SALES & SERVICE, INC

7/9/12/REPAIRS/A R&B
7/9/12/REPAIRS/A SO

41676 B M AUTO BODY

8/6/12/UNIT22 TRIM/SO

41677 B M AUTO SUPPLY, INC

5/15/12 CREDIT BM R&B
6/14/12 CREDIT A R&B
6/27/12/DEMURAGE/A R&B
7/12/12/ COVERALLS/LNDFIL
7/23/12/BATT GLF CRS
7/27/12/HOSE/ A R&B
7/30/12/OIL/ LNDFIL
7/31/12/ GASKET A R&B
8/1/12/SCREWS/R&B
8/1/12/RAGS R&B
8/2/12/SEALER/R&B
8/2/12/ CREDIT/ BM W&S
8/3/12/ FIL BM W&S
8/6/12/BATT/R&B
8/6/12/COUPLERS//A R&B
8/6/12/HYD DOLY/A R&B
8/6/12/WIRE BM W&S
8/7/12/ BATT/ BM W&S
8/7/12/ANTIFREEZE/ BM W&

5,112.00

33.99

428.92

645.00

100.00

153.75

100.00

179.77

35.00

6.05-
4.41-
450.00
16.15
32.99
101.22
63.57
16.68
5.00
45.98
21.54
67.35-
24.41
85.34
497.88
495.86
12.38
197.17
69.16

CHECK
 TOTAL

CHECK NUMBER	VENDOR	INVOICE DESCRIPTION	P/O #	DATE	TRANS#	AMOUNT	CHECK TOTAL
41678	B M CLINIC	8/7/12/FIL LNDFIL		8/23/12	71107	4.64	3,532.07
		8/7/12/FIL LNDFIL		8/23/12	71107	47.45	
		8/7/12/FIL/FLRMATA R&B		8/23/12	71107	177.01	
		8/8/12/FILS/A R&B		8/23/12	71107	90.68	
		8/8/12/CLEVIS PIN BMR&B		8/23/12	71107	3.74	
		8/8/12/HYD OIL/A R&B		8/23/12	71107	615.00	
		8/9/12/HOSE END/A R&B		8/23/12	71107	204.73	
		8/9/12/HOSE END/FLRMATS		8/23/12	71107	251.70	
		8/9/12		8/23/12	71107	10.46	
		8/9/12/GLVS ARMORALL		8/23/12	71107	20.11	
		8/9/12NUTS/BATT/CABL/W&S		8/23/12	71107	49.03	
41679	B M POSTMASTER	7/18/12/PHYS EXAM/		8/23/12	71159	95.00	95.00
41680	BLUE MOON PORTABLES	8/3/12/POSTAGE		8/23/12	71108	395.52	395.52
41681	BOARD OF REGENTS	8/2/12/ DUMP		8/23/12	71110	150.00	680.00
		8/2/12/ LL FIELDS		8/23/12	71110	165.00	
		8/2/12/ GLF CRS		8/23/12	71110	165.00	
		8/2/12/ A AIRPORT		8/23/12	71110	200.00	
41682	DOLAN LAW, LLC.	8/14/12/COURSE EDGAR		8/23/12	71207	570.00	570.00
41683	BONANZA PRODUCE CO	7/12/12/JUV CASE/DC		8/23/12	71203	1,505.30	1,591.24
		8/8/12/JUV CASE/DC		8/23/12	71203	85.94	
41684	BOSS TANKS, INC.	8/2/12/PRODUCE SR CTR		8/23/12	71160	90.55	90.55
41685	STACY BROOKS	8/5/12/POWERWINGSET/R&B		8/23/12	71202	580.00	580.00
41686	BROWNELLS, INC	JULY & AUG FOOD/SR CTR		8/23/12	71161	16.08	20.98
		JULY&AUG POSTAGE		8/23/12	71161	4.90	
41687	C & B OPERATIONS, LLC DBA:	7/27/12/MULTI-VISE/SO		8/23/12	71162	245.82	245.82
		8/13/12 FAIRWAYMOWER/GLF		8/23/12	71201	45,016.54	
41688	ART CASTELLANOS	8/8/12/ JUV CASE		8/23/12	71111	108.62	108.62
41689	NOLIENA CASTELLANOS	8/15/12/JUV CASE		8/23/12	71112	500.00	500.00
		8/8/12/JUV CASE		8/23/12	71112	50.00	
		8/15/12/JUV CASE		8/23/12	71112	70.00	70.00
41690	ROBERTO CHAVIRA JR.						620.00

CHECK NUMBER	VENDOR	INVOICE DESCRIPTION	P/O #	DATE	TRANS#	AMOUNT	CHECK TOTAL
41691	CHIEF SUPPLY CORPORATION	8/7/12/ TRM TREES/CEMETAR 8/1/12/ TRM TREES/LIONS		8/23/12 8/23/12	71113 71113	280.00 800.00	1,080.00
41692	WESTERN SURETY COMPANY	5/17/12/SHIPPING HDL/SO 7/31/12/YVONNE WEBB/DA		8/23/12 8/23/12	71212 71197	29.99 128.00	29.99 128.00
41693	CHARLES P. COCKERILL	8/1/12/TELECONF/		8/23/12	71163	225.00	225.00
41694	CRIMSON IMAGING SUPPLIES	8/3/12/INK CARTG SO		8/23/12	71164	304.00	304.00
41695	CUMMINS ROCKY MOUNTAIN	7/13/12/ MAINT AGREE/SO 8/6/12/MAINTAGREE/MT LEWI		8/23/12 8/23/12	71165 71165	721.00 654.56	1,375.56
41696	DELBERT L. CORNELIA	8/15/12 CIVIC CTR 8/15/12/CRT HOUSE/ASSESSO 8/15/12/SR CENTER 7/31/12 COURT HSE 8/15/12/EXT OFFICE 8/16/12/ANIMAL SHELTER		8/23/12 8/23/12 8/23/12 8/23/12 8/23/12 8/23/12	71239 71239 71239 71239 71239 71239	65.00 32.50 76.23 547.72 65.00 355.64	1,142.09
41697	NV DEPT. OF PUBLIC SAFETY	8/1/12/PSI/SO		8/23/12	71167	345.50	345.50
41698	DRAKE ROSE & ASSOCIATES,	8/7/12/PRO SERVC AUG5TH		8/23/12	71166	9,400.00	9,400.00
41699	LURA DUVAL	8/14/12/CONF ELY SEPT 8/14/12/CONF ELY SEPT		8/23/12 8/23/12	71204 71204	35.00 153.18	188.18
41700	ELKO TROPHY	7/24/12/DESKPLT/ASSESSOR		8/23/12	71115	21.00	21.00
41701	ENGS MOTOR TRUCK CO.	7/17/12/ACC RELAY 7/24/12/ 4*STT/R&B 7/25/12/GROMMETR&B 7/30/12/WINGWINDOWKIT/R&B		8/23/12 8/23/12 8/23/12 8/23/12	71116 71116 71116 71116	77.00 54.97 12.90 209.09	353.96
41702	ETCHEVERRYS FOOD TOWN	6/25/12/SUPPLIES/CLERK 7/11/12/ SUPPLIES POOL 7/13/12/ SUPPLIES POOL 7/30/12/DISCOUNT 7/26/12/FOODINMATEMEALS S 7/30/12/INMATEMEALS/SO 7/20/12FOODINMATEMEALS/SO 7/23/12FOODINMATEMEALS/SO 7/2/12/FOODINMATEMEALS/SO		8/23/12 8/23/12 8/23/12 8/23/12 8/23/12 8/23/12 8/23/12 8/23/12	71168 71114 71114 71168 71168 71168 71168 71168	30.60 18.45 26.75 226.82- 141.27 95.52 270.53 125.22 95.52	

Report No: PB1309
Run Date : 08/21/12

LANDER COUNTY
CHECK REGISTER 8/23/12

CHECK NUMBER VENDOR INVOICE DESCRIPTION P/O # DATE TRANS# AMOUNT CHECK TOTAL

41703 FALLON AUTO MALL 8/6/12/STUDS/A R&B 8/23/12 71206 10.05 983.06

41704 FERGUSON SAFETY PRODUCTS 8/8/12 SPRINKLRS/PARKS 8/23/12 71214 243.75 10.05
8/8/12/BASIN/RS/PARKS 8/23/12 71214 47.14

41705 FIRST ADVANTAGE OHS 7/31/12/DRGTEST/ 8/23/12 71169 94.06 290.89

41706 FLEET PRIDE 7/20/12/R134A R&B 8/23/12 71117 250.00 94.06

41707 HY T. FORGERON 8/1/12/STVSV SHIELDS 8/23/12 71208 1,120.00 250.00
8/1/12/JUV CASE/ 8/23/12 71208 1,280.00
8/1/12/ JUV CASE 8/23/12 71208 530.00

41708 GEM ST. PAPER & SUPPLY CO 8/2/12/KIT SUPPLIES/SR CT 8/23/12 71170 27.82 2,930.00
8/2/12/KIT SUPPLIES/SR CT 8/23/12 71170 18.55

41709 GEORGE T HALL CO. INC. 8/1/12/WELLCABLE/REDUCER 8/23/12 71215 2,174.95 46.37

41710 RICHARD HARDIN 8/13/12/CONCERT /A R&B 8/23/12 71209 360.00 2,174.95
8/14/12/CONCERT /A R&B 8/23/12 71209 360.00

41711 RICHARD K HARLESS BATTLE MTN AIRPORT 8/23/12 71118 6,083.33 720.00

41712 DEE HELMING 8/1/12/ MTNG BM 8/23/12 71120 99.90 6,083.33

41713 THEODORE C. HERRERA PUBLIC DEFENDER 8/23/12 71119 3,541.50 99.90

41714 HUMBOLDT COUNTY YOUTH 8/9/12//JUV CASE 8/23/12 71121 20.00 3,541.50

41715 IDENT-A-DRUG REFERENCE 8/3/12/REFERWEBANLFFEE/SO 8/23/12 71172 357.00 20.00

41716 INLAND SUPPLY CO INC 8/6/12/ SUPPLIES 8/23/12 71173 148.15 357.00
8/6/12/RESTOCK SUPP 8/23/12 71173 91.90
8/10/12/SUPPLIES/PARKS 8/23/12 71173 254.40
8/10/12/SUPPLIES/PARKS 8/23/12 71173 87.40
8/10/12SUPPLIES/ 8/23/12 71173 50.00

41717 IRON MOUNTAIN 7/31/12/SPLIT 8/23/12 71175 37.53 631.85

CHECK
 TOTAL

300.24

119.25

350.00

898.64

305.00

100.00

382.84

231.06

861.35

CHECK NUMBER	VENDOR	INVOICE DESCRIPTION	P/O #	DATE	TRANS#	AMOUNT
41718	J W WELDING SUPPLY	7/31/12/SPLIT		8/23/12	71175	37.53
		7/31/12/SPLIT		8/23/12	71175	37.53
		7/31/12/SPLIT		8/23/12	71175	37.53
		7/31/12/ RECORDER		8/23/12	71122	150.12
41719	JOHN DAVIS TRUCKING, INC.	7/31/12/OXYGEN/A AMBUL		8/23/12	71123	119.25
41720	LACAL EQUIPMENT, INC.	8/9/12/20YDSAND/GLF CRS		8/23/12	71205	350.00
41721	LEXIS-NEXIS	8/3/12/MOTOR&PARTS/R&B		8/23/12	71174	898.64
41722	LEXISNEXIS RISK DATA MGMT	7/31/12/RESEARCH/DA		8/23/12	71134	305.00
41723	MCMaster-CARR SUPPLY CO	7/31/12/RESEARCH/AU JC		8/23/12	71176	100.00
41724	METROQUIP. INC.	7/30/12/GRND BITS/W&S		8/23/12	71124	382.84
41725	MIDWAY MARKET	8/1/12/SPRYNZL/R&B		8/23/12	71125	231.06
		7/10/12FOOD INMATEMEALS		8/23/12	71177	3.18
		7/19/12FOOD INMATEMEALS		8/23/12	71177	175.42
		7/12/12FOOD INMATEMEALS		8/23/12	71177	76.00
		7/3/12/FOOD INMATEMEALS		8/23/12	71177	7.07
		7/26/12FOOD INMATEMEALS		8/23/12	71177	196.62
		7/27/12FOOD INMATEMEALS		8/23/12	71177	19.20
		7/5/12/FOOD INMATEMEALS		8/23/12	71177	191.46
		7/24/12FOOD INMATEMEALS		8/23/12	71177	18.93
		7/13/12/BLEACH/LITTER/DGP		8/23/12	71177	59.90
		7/12/FOOD SR CTR		8/23/12	71177	68.14
		7/12/FOOD SR CTR		8/23/12	71177	45.43
41726	MILLS ENTERPRISES, INC.	7/5/12/PACKAGEING		8/23/12	71178	1.00
		7/9/12/INMATEMEDS/SO		8/23/12	71178	24.79
		7/13/12/INMATEMEDS/SO		8/23/12	71178	15.16
		7/17/12/MEDS/SO		8/23/12	71178	3.00
		7/19/12/MEDS INMATE		8/23/12	71178	16.97
		7/23/12/MEDS INMATE		8/23/12	71178	27.99
		7/24/12/MEDS INMATE		8/23/12	71178	39.67
		7/24/12/MEDS INMATE		8/23/12	71178	6.99
		7/27/12/MEDS INMATE		8/23/12	71178	25.00
		7/30/12/MEDS INMATE		8/23/12	71178	27.68
		7/30/12/MEDS INMATE		8/23/12	71178	7.99
		8/1/12//MEDS INMATE		8/23/12	71178	18.72
		8/3/12//MEDS INMATE		8/23/12	71178	18.98
41727	BART E. NEGRO	8/7/12/FUEL /		8/23/12	71126	49.00

233.94

Report No: PS1308
 Run Date : 08/21/12

LANDER COUNTY
 CHECK REGISTER 8/23/12

CHECK NUMBER	VENDOR	INVOICE DESCRIPTION	P/O #	DATE	TRANS#	AMOUNT	CHECK TOTAL
41728	NORCO, INC.	7/31/12/CYLINDERRENT		8/23/12	71179	18.60	49.00
41729	NORTHSTAR IMAGING, INC	7/10/12/S SMITH/SO		8/23/12	71180	72.80	18.60
41730	NUTRI-SYSTEMS CORPORATION	7/26/12/ELECTCORD/SR CTR		8/23/12	71181	53.39	72.80
41731	NV DIVISION OF WILDLIFE	8/7/12/REV COLL JULY 12		8/23/12	71127	50.00	53.39
		8/7/12/REV COLL JULY 12		8/23/12	71127	50.00	100.00
41732	NV FOOD DISTRIBUTION PRGM	7/19/12/FOOD SR CTR		8/23/12	71182	5.00	100.00
41733	THE OFFICE SUPPLIERS INC.	7/2/12/OFFICESUPP/AUST JC		8/23/12	71128	92.93	5.00
41734	PAIR NETWORKS, INC.	8/1/12/DISKUSAGE/ASSESSOR		8/23/12	71130	54.50	92.93
41735	SMS COMPUTING, INC.	8/10/12/CATE5 CABLE/BLDG		8/23/12	71242	123.88	54.50
41736	PETHEALTH SERVICES, INC.	7/31/12/PROG LIC AND REG		8/23/12	71183	14.55	123.88
41737	POWERPLAN	7/17/12/CREDITMOTOR/ 8/1/12/COUPLER, SUPP, R&B 8/8/12/ ORINGS/LINE/ 8/1/12/ CLMP/R&B 8/8/12/HSCLMP,HOSE		8/23/12	71216	125.00- 104.56 233.71 17.96 88.84	14.55
41738	ROBERT QUICK	9/10/12TRNG ADVMEALS/SO		8/23/12	71184	140.00	320.07
41739	QUILL CORP	7/27/12//SUPP/COFFEE 8/3/12/BK APP BOOK/DC 8/6/12/PTOWELS/BLDG		8/23/12	71185	197.41 49.99 119.96	140.00
41740	R B F EXCAVATING	8/6/12/REPRSEWERLINE		8/23/12	71220	1,260.00	367.36
41741	RENO RADIOLOGICAL ASSOC.	4/3/12/MRI D HOPPER		8/23/12	71213	345.00	1,260.00
41742	RESEARCH AND CONSULTING	8/2/12 CONSULT SERVC		8/23/12	71260	8,129.33	345.00
41743	GUY ROCK	8/20/12 INSPECTIONS		8/23/12	71258	141.52	8,129.33

Report No: PB1308
 Run Date : 08/21/12
 CHECK
 NUMBER

LANDER COUNTY
 CHECK REGISTER 8/23/12

CHECK
 TOTAL

AMOUNT

TRANS#

DATE

P/O #

INVOICE DESCRIPTION

41744 ROCKHURST UNIVERSITY

41745 ROYAL HARDWARE

INVOICE DESCRIPTION	P/O #	DATE	TRANS#	AMOUNT
8/6/12/TRNG MANG/A R&B		8/23/12	71210	179.00
7/2/12/BARK, PONDPEBBLES		8/23/12	71133	445.25
7/2/12/MENDINGPLTS/W&S		8/23/12	71133	17.03
7/2/12/PVC PIPE/W&S		8/23/12	71133	10.60
7/03/12/SPRYER/ GLF CRS		8/23/12	71133	44.99
7/3/12/PLG ABS/ RODEGRND		8/23/12	71133	4.47
7/3/12/CREDIT/RDOGRNDS		8/23/12	71133	1.99-
7/6/12/LIQNAILS/SO		8/23/12	71133	2.79
7/6/12/TAPE,TRLHOSE,RDOGR		8/23/12	71133	50.45
7/7/12/CASTERS/POOL		8/23/12	71133	16.98
7/09/12/HOSES/WL/W&S		8/23/12	71133	6.49
7/10/12/PVCPTS/CPLR/GLF		8/23/12	71133	73.74
7/11/12/FERTILIZER/GLF		8/23/12	71133	1,500.00
7/11/12/ RND UP/PRKS		8/23/12	71133	329.98
7/13/12/SQUEEGEE/R&B		8/23/12	71133	6.49
7/16/12/PAINT,CLNRS		8/23/12	71133	38.44
7/16/12/MISCTOOLS/SCREWS		8/23/12	71133	76.19
7/17/12/KEYS/R&B		8/23/12	71133	8.25
7/18/12/SSCLMP,ADETR/GLF		8/23/12	71133	31.06
7/18/12/GRDN HOSE/ GLF		8/23/12	71133	133.98
7/19/12/PVC PRTS SUPP		8/23/12	71133	261.56
7/19/12/ SOIL/PARKS		8/23/12	71133	48.00
7/19/12/PVC PRTS SUPP		8/23/12	71133	115.54
7/19/12/BROOM,R&B		8/23/12	71133	11.99
7/20/12/DELTAPEPRKIT/W		8/23/12	71133	6.99
7/21/12/TAPE,ROLLERS/LDNF		8/23/12	71133	35.94
7/21/12/PAINT,LNDFIL		8/23/12	71133	275.97
7/21/12/FAN,BITS,POOL		8/23/12	71133	48.24
7/24/12/GALV PRTS/W&S		8/23/12	71133	130.03
7/24/12/KEYS/SR CTR		8/23/12	71133	.70
7/24/12/KEYS/SR CTR		8/23/12	71133	1.80
7/24/12/GRDN SPADE/GLF		8/23/12	71133	62.97
7/24/12/EDGING/ GLF CRS		8/23/12	71133	76.92
7/24/12/ORINGS W&S		8/23/12	71133	2.19
7/24/12/ KEYS/W&S		8/23/12	71133	9.90
7/24/12 SAW BLDE/W&S		8/23/12	71133	10.99
7/24/12/DRILLBIT,ANCHR/PO		8/23/12	71133	8.15
7/25/12/PIPE,PVCPTS,BARK		8/23/12	71133	432.77
7/25/12 FASTENERS/GLF		8/23/12	71133	5.77-
7/25/12/BRUSH/PARKS		8/23/12	71133	4.99
7/26/12/ACTOOLSFT/PRTS		8/23/12	71133	97.43
7/26/12/PVC PARTS/GLFCRS		8/23/12	71133	20.34
7/26/12/NOZZLE/POOL		8/23/12	71133	15.98
7/27/12/GATE VALVE/GLF CR		8/23/12	71133	169.98
7/27/12/ MISCP/PRTS/W&S		8/23/12	71133	76.62
7/30/12/GRAPHITE/ PARKS		8/23/12	71133	4.49
7/30/12/PVC ADAPTR/GLF CR		8/23/12	71133	42.47
7/30/12 PVC PRTS /GLFCRS		8/23/12	71133	19.11
7/31/12/BATT /GLFCRS		8/23/12	71133	10.99
7/31/12/PVC SUPP/PARKS		8/23/12	71133	9.35

4,801.82

41746 WILLIAM E. SCHAEFFER

CONTRACT PYMNT

1,125.00

71135

8/23/12

CHECK NUMBER	VENDOR	INVOICE DESCRIPTION	P/O #	DATE	TRANS#	AMOUNT	CHECK TOTAL
41747	SECRETARY OF STATE	7/31/12/Y WEBB/APPLC		8/23/12	71139	35.00	1,125.00
41748	SHAW ENGINEERING	7/31/12/AUSTLONLYHWY PROJ 7/31/12/GLDCREEKUTILREHAB 7/31/12/A&K PAVING PROJ 7/31/12/WELL9ARSENICPROJ 7/31/12/ENGINEERFEES&S 7/31/12/ENGINEERFEELCARPT		8/23/12	71186	2,394.12 600.00 900.00 8,000.00 7,700.52 256.50	35.00
41749	BERRY ENTERPRISES	8/2/12/TPGR/VFD BM 8/7/12/BATTERY/VFD BM		8/23/12	71238	45.00 125.00	19,851.14
41750	SIERRA PACIFIC TURF	8/2/12/SUPPLIES/GLF CRS 8/2/12/WATER PRO/GLF CRS 8/2/12/HOSE/ GLF CRS 8/3/12/GYFSUM/GLF CRS 8/3/12/HANDPUMP/GLF CRS		8/23/12	71129	331.56 3,533.00 193.21 3,280.00 47.82	170.00
41751	DESMOND SKEATH	PARKS CONTRACT PMT BUILDING MAINTENANCE		8/23/12	71136	1,191.50 400.00	7,385.59
41752	DESMOND SKEATH	AUSTIN LIBRARY		8/23/12	71137	350.00	1,591.50
41753	SMITH FAMILY FUNERAL HOME	8/1/12/S WINROD TRANSP		8/23/12	71187	150.00	350.00
41754	SPB UTILITY SERVICE INC	7/31/12/JULY LABS/W&S		8/23/12	71138	2,575.25	150.00
41755	ARTHUR W. STRAIN	8/16/12/COMPLETEDGREENS		8/23/12	71241	118,700.00	2,575.25
41756	ST OF NEVADA	7/31/12 RACKSPACE/ 7/31/12 RACKSPACE/ A R&B 8/3/12/WAN SERV		8/23/12	71188	1,016.57 1,016.56 5.61	118,700.00
41757	ST OF NV DEPT OF PUBLIC	8/1/12/FNGRPRNTS/ SO 8/1/12/FNGRPRNTS/		8/23/12	71140	187.50 75.00	2,038.74
41758	DONNA STIENMETZ	8/14/12 ROOMS TRNG/ELY 8/14/12 MEALS TRNG/ELY		8/23/12	71189	153.18 35.00	262.50
41759	SUMMIT ENGINEERING CORP.	8/7/12/PHS 3 LEVEE		8/23/12	71190	1,595.00	188.18
41760	SYSCO						1,595.00

Report No: PB1308
 Run Date : 08/21/12
 CHECK NUMBER

LANDER COUNTY
 CHECK REGISTER 8/23/12

CHECK NUMBER	VENDOR	INVOICE DESCRIPTION	P/O #	DATE	TRANS#	AMOUNT	CHECK TOTAL
41761	SYSCO FOOD SERVICES	8/2/12/FOOD SR CTR		8/23/12	71191	11.64	819.96
		8/2/12/FOOD SR CTR		8/23/12	71191	7.76	
		8/2/12/FOOD SR CTR		8/23/12	71191	480.34	
		8/2/12/FOOD SR CTR		8/23/12	71191	320.22	
41762	T & M LAWN CARE	7/26/12/FOODSR CTR		8/23/12	71192	26.59	397.06
		8/2/12/FOOD SR CTR		8/23/12	71192	370.47	
41763	THE DOUBLE H GROUP, LLC	PARKS MAINTENANCE		8/23/12	71141	7,550.88	7,550.88
41764	THE FURMAN GROUP, INC.	8/2/12/PRINTED CARDS/AUJC		8/23/12	71155	36.00	36.00
41765	THOMSON WEST	7/31/12/PROF SERV		8/23/12	71142	7,540.00	7,540.00
41766	TIC - THE INDUSTRIAL CO.	JULY31,12/LAWLIB/DA		8/23/12	71219	1,227.00	1,227.00
41767	TIRE FACTORY	8/9/12/REFUND OVREPMNT		8/23/12	71193	220.00	220.00
		7/31/12/WHEELS/R&B		8/23/12	71143	298.68	5,805.37
		7/26/12/TIRES EQ 109/A R&		8/23/12	71143	1,199.44	
		8/1/12/REFRS PRTS BMAMBUL		8/23/12	71143	328.65	
		8/6/12/UNIT 21/SO		8/23/12	71143	95.80	
		8/8/12/TIRES CHEVY/WATER		8/23/12	71143	1,094.88	
		8/8/12/TIRESLDFIL TRK		8/23/12	71143	954.00	
		8/8/12/ UNIT 6 REPRS		8/23/12	71143	865.26	
		8/13/12/REP FLAT/BMR&B		8/23/12	71143	30.50	
		8/8/12/PRTS EMPTRK AVFD		8/23/12	71143	478.78	
		6/6/12/SPARETIRESAUSTIN		8/23/12	71143	459.38	
41768	TURF EQUIPMENT &	8/2/12/BKCABKIT, PRTS		8/23/12	71217	44.38	174.84
		8/10/12/GOVCABLES		8/23/12	71217	130.46	
41769	U S POSTAL SERVICE	8/2/12/ POSTAGE/SO		8/23/12	71195	200.00	200.00
41770	UNITED PARCEL SERVICE	7/28/12/PARCELSERV		8/23/12	71194	15.13	15.13
41771	USA BLUE BOOK	7/27/12/POWERBOX..SEWER		8/23/12	71144	2,015.00	2,209.03
		7/27/12/SCEWDVR SET/SEWER		8/23/12	71144	31.44	
		8/2/12/CLMP, VACTUBE/		8/23/12	71144	111.10	
		8/3/12/QUKCLMP/SEWER		8/23/12	71144	51.49	
41772	VETTER PR, INC.	8/13/12 UPDATES/MAINT/		8/23/12	71196	800.00	800.00
41773	KEITH WESTENGARD						

Report No: PB1308
Run Date : 08/21/12

LANDER COUNTY
CHECK REGISTER 8/23/12

CHECK NUMBER	VENDOR	INVOICE DESCRIPTION	P/O #	DATE	TRANS#	AMOUNT	CHECK TOTAL
41774	WESTERN NEVADA SUPPLY CO	8/15/12/CONTRT		8/23/12	71240	400.00	400.00
		8/8/12/VALVEBOXES		8/23/12	71218	1,087.40	
		8/8/12SWINGJOINTASSMBLY		8/23/12	71218	385.28	
41775	WINNEMUCCA PUB. CO., INC.	7/16/12/INV TO BID/R&B		8/23/12	71198	81.95	1,472.68
		8/8/12/PUB NOTICE/EXC DR		8/23/12	71198	70.88	
41776	YOUNGER AGENCY	8/8/12/PROF SERV FIND		8/23/12	71199	900.00	152.83
		8/8/12/ NCED PROF SERVC		8/23/12	71199	4,235.07	
							5,135.07
							303,385.83

CHECKS TOTAL

COUNTY OF LANDER

RENO BUICK GMC CADILLAC

DATE	INVOICE	AMOUNT	REMARKS
08/20/12	52824/ FA45	20,875.00	7/31/12 2012CANYONGMC,W&S
08/20/12	52826/FA45	22,876.00	7/31/12/GMC SIERRA,W&S

CHECK NO 41656 \$43,751.00 **

COUNTY OF LANDER

315 SOUTH HUMBOLDT STREET
BATTLE MOUNTAIN, NV 89820
(775) 635-2573

WELLS FARGO BANK
BATTLE MOUNTAIN, NV 89820
GENERAL ACCOUNT

No. 041656

94-7074
3212

VOID IF NOT CASHED
WITHIN 90 DAYS

PAY TO THE ORDER OF

RENO BUICK GMC CADILLAC

DATE	CHECK NO.	AMOUNT
08/20/12 **VOID**	41656 **VOID**	\$43,751.00 **VOID**

VOID**43,751DOLLARS AND00CENTS***


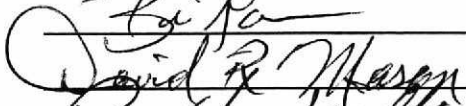
RENO BUICK GMC CADILLAC
P.O. BOX 7380

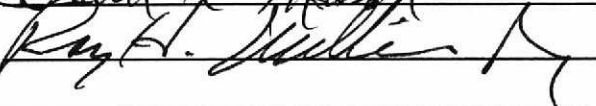
RENO NV 89510

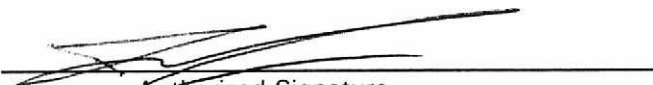
VOID
NON-NEGOTIABLE

COUNTY COMMISSION APPROVAL

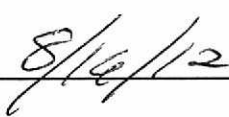
I certify that the foregoing claim is correct and just; that the articles specified have been received by the proper officials of the County, the Courts and/or Special Districts, or the services stated have been performed; and that they were necessary for, have been or will be applied to County, Court or Special District purposes.


 _____ Chairman






 Authorized Signature



 Date

RECEIVED
AUG 20 2012
 For Comptroller Use Only
 L.I. FINANCE

COUNTY OF LANDER
ATTN: PHIL HANNA

LCHD

DATE	INVOICE	AMOUNT	REMARKS
08/20/12	JULY STATEMENTS	2,300.86-	FUEL, OPI, NORCO, JWELDING
08/20/12	SEPT 1, 2012	25,000.00	BM AMBUL SEPT /EMS

CHECK NO 41650 \$22,699.14 **

COUNTY OF LANDER
315 SOUTH HUMBOLDT STREET
BATTLE MOUNTAIN, NV 89820
(775) 635-2573

WELLS FARGO BANK
BATTLE MOUNTAIN, NV 89820
GENERAL ACCOUNT

No. 041650

94-7074
3212

VOID IF NOT CASHED
WITHIN 90 DAYS

PAY TO THE ORDER OF
LCHD

DATE	CHECK NO.	AMOUNT
08/20/12 **VOID**	41650 **VOID**	\$22,699.14 **VOID**

VOID**22,699DOLLARS AND14CENTS***

LCHD
535 SO. HUMBOLDT STREET
BATTLE MOUNTAIN NV 89820

ATTN: PHIL HANNA

VOID
NON-NEGOTIABLE

I certify that the foregoing claim is correct and just; that the articles specified have been received by the proper officials of the County, the Courts and/or Special

[Signature]
Authorized Signature

8/20/12
Date

COUNTY COMMISSION APPROVAL

[Signature]
Chairman

[Signature]

[Signature]

COUNTY OF LANDER
INCORPORATED

H.E. HUNEWILL CONST.CO.,

DATE	INVOICE	AMOUNT	REMARKS
08/13/12	82	1,321,794.00	7/31/12/AUST/KING PAVING
08/13/12	84	201,227.35	7/31/12FY12/13REHABPROJEC
08/13/12	85	449,252.25	7/31/12 GOLDCREEK PAVING
08/13/12	86	328,500.00	7/31/12/AUST/KING PAVING
08/13/12	87	183,366.00	7/31/12/AUST/KING PAVING
08/13/12	88	49,916.92	7/31/12GLDCREEKPAVNGFINAL

CHECK NO 41644 \$2,534,056.52 **

COUNTY OF LANDER

315 SOUTH HUMBOLDT STREET
BATTLE MOUNTAIN, NV 89820
(775) 635-2573

WELLS FARGO BANK
BATTLE MOUNTAIN, NV 89820
GENERAL ACCOUNT

No. 041644

94-7074
3212

VOID IF NOT CASHED
WITHIN 90 DAYS

PAY TO THE ORDER OF

H.E. HUNEWILL CONST.CO.,

DATE	CHECK NO.	AMOUNT
08/20/12 **VOID**	41644 **VOID**	\$2,534,056.52 **VOID**

VOID*2,534,056DOLLARS AND52CENTS***

H.E. HUNEWILL CONST.CO.,
1410 W. RAILROAD STREET

INCORPORATED

WINNEMUCCA

NV 89445

NON-NEGOTIABLE

I certify that the foregoing claim is correct and just; that the articles specified have been received by the proper officials of the County, the Courts and/or Special Districts, or the services stated have been performed; and that they were necessary for, have been or will be applied to County, Court or Special District purposes.

Authorized Signature

[Handwritten Signature]
8/13/12

Date

[Handwritten Signatures]
Chairman

COUNTY OF LANDER
GREAT BASIN COLLEGE

BOARD OF REGENTS

DATE	INVOICE	AMOUNT	REMARKS
08/13/12	BTBK3170	119.22	8/14/12/BOOKREALESTATE

CHECK NO 41636 \$119.22 **

COUNTY OF LANDER

315 SOUTH HUMBOLDT STREET
BATTLE MOUNTAIN, NV 89820
(775) 635-2573

WELLS FARGO BANK
BATTLE MOUNTAIN, NV 89820
GENERAL ACCOUNT

No. 041636

94-7074
3212

VOID IF NOT CASHED
WITHIN 90 DAYS

PAY TO THE ORDER OF

BOARD OF REGENTS

DATE	CHECK NO.	AMOUNT
08/20/12	41636	\$119.22
VOID	**VOID**	**VOID**

VOID**119DOLLARS AND22CENTS***

BOARD OF REGENTS
1500 COLLEGE BASIN PKWY

GREAT BASIN COLLEGE

ELKO

NV 89801

VOID
NON-NEGOTIABLE

I certify that the foregoing is (or attached claims are) correct and just; that same were necessarily contracted for county purposed; that same is now provided for by law and in pursuance to court order.

Signed: _____
(Title) District Judge/Clerk of the Court

Rejected: _____

Laid Over: _____

Date Approved: _____
Board of County Commissioners

Chairman: Dean Bullock
David R. Mason
Ray A. [Signature]

**COUNTY OF LANDER
INCORPORATED**

H.E. HUNEWILL CONST.CO.,

DATE	INVOICE	AMOUNT	REMARKS
6/30/12	83 /FA16	65,482.96	7/31/12FINALPYMNTGLDCRKPJ

CHECK NO 41627 \$65,482.96 **

COUNTY OF LANDER

315 SOUTH HUMBOLDT STREET
BATTLE MOUNTAIN, NV 89820
(775) 635-2573

WELLS FARGO BANK
BATTLE MOUNTAIN, NV 89820
GENERAL ACCOUNT

No. 041627

94-7074
3212

VOID IF NOT CASHED
WITHIN 90 DAYS

PAY TO THE ORDER OF

H.E. HUNEWILL CONST.CO.,

DATE	CHECK NO.	AMOUNT
08/14/12 **VOID**	41627 **VOID**	\$65,482.96 **VOID**

VOID**65,482DOLLARS AND96CENTS***

H.E. HUNEWILL CONST.CO., INCORPORATED
1410 W. RAILROAD STREET
WINNEMUCCA NV 89445

NON-NEGOTIABLE

I certify that the foregoing claim is correct and just; that the articles specified have been received by the proper officials of the County, the Courts and/or Special Districts, or the services stated have been performed; and that they were necessary for, have been or will be applied to County, Court or Special District purposes.

[Signature]
Authorized Signature

8/13/12

Date

[Signature] Chairman
[Signature]
[Signature]

RECEIVED
AUG 13 2012
L.C. FINANCE

NORCO, INC.

COUNTY OF LANDER

DATE	INVOICE	AMOUNT	REMARKS
08/20/12	G1370	651.49	7/31/12/OXY/TANKS/BMAMBUL
06/30/12	27610133.00/LEPC	16,119.65	6/29/12/SAFETYSUPPLIES

CHECK NO 41652 \$16,771.14 **

COUNTY OF LANDER

315 SOUTH HUMBOLDT STREET
BATTLE MOUNTAIN, NV 89820
(775) 635-2573

WELLS FARGO BANK
BATTLE MOUNTAIN, NV 89820
GENERAL ACCOUNT

No. 041652

94-7074
3212

PAY TO THE ORDER OF

NORCO, INC.

VOID IF NOT CASHED
WITHIN 90 DAYS

DATE	CHECK NO.	AMOUNT
08/20/12 **VOID**	41652 **VOID**	\$16,771.14 **VOID**

VOID**16,771DOLLARS AND14CENTS***

NORCO, INC.
P.O. BOX 15299

BOISE

ID 83715

VOID
NON-NEGOTIABLE

L.C. FINANCE

Don Bullock
Boya
David R. Hayden
Roy H. Webb

1-SALE	3-CR. MEMO	5-DEBIT
2-PAYMENT	4-SER. CHARGE	MEMO

TOTAL DUE ▶ 651.49




CURRENT	31 - 60 DAYS	61 - 90 DAYS	OVER 90 DAYS
651.49	.00	.00	.00

TAX	.00
TOTAL ▶	269.70

ROGENE HILL
Lander County Finance Director



ACKNOWLEDGEMENT OF REVIEW & AUTHORIZATION

	DATE
 Chairman	8/23/12
 Commissioner	8-23-12
 Commissioner	8/23/12
_____ Commissioner	_____

LANDER COUNTY COMMISSION MEETING

August 23, 2012

APPROVE / DISAPPROVE
SUBMITTED EXPENDITURES IN THE AMOUNT OF \$ 303,385.83
From Check #41668 thru #41776

Commissioners' Report

August 23, 2012

CORRESPONDENCE

August 23, 2012

1. Tracy Larkin-Thomason, P.E., Nevada Department of Transportation, to Chairman Dean Bullock, Lander County Commission, letter of appreciation for opportunity to present NDOT's Annual Work Program at recent Commission meeting.
2. US Fish and Wildlife Service, Nevada Fish and Wildlife Office, to Lander County Board of Commissioners, postcard announcing two Spring Mts. Butterflies to be reviewed for possible protection under the Endangered Species Act.
3. Christopher J. Cook, Bureau of Land Management, to Interested Public, letter regarding Preliminary Environmental Assessment (PEA) for the Ruby Hill Project (NVN-067782).
4. Terry Tiernay, Reno, Nevada, to Lander County Board of Commissioners, letter regarding legislation passed and signed by the Governor during the 2011 Legislative Session.
5. Kenneth R. Brown, Western Counties Alliance, to Lander County Board of Commissioners, e-mail regarding Secure Rural Schools and Payment-In-Lieu-Of-Taxes (PILT) funding.
6. Douglas W. Furtado, District Manager, Bureau of Land Management, to Permittees, letter regarding drought conditions and drought related resource impacts throughout the Battle Mountain District.
7. Kevin E. Sullivan, Nevada Division of Environmental Protection, to Amanda Appelt, Western Energetix, letter regarding Groundwater Monitoring Report - 2nd Quarter 2012, Western Energetix Bulk Plant, 125 N. Mountain Street, Battle Mountain, NV, NDEP ID #5-000289, Petroleum Fund #2009000020.
8. June Manhire, Chairman, Kingston Town Board, to Lander County Commissioners, letter expressing appreciation for the Board's recent decision to give two parcels of property held by the Lander County Treasurer to the Town of Kingston.
9. June Manhire, Chairman, Kingston Town Board, to Lander County Commissioners, letter expressing appreciation to the Lander County Commissioners and Lander County Road and Bridge South Department for the road paving project recently completed in the Town of Kingston.

10. Kenneth R. Brown, Western Counties Alliance, to Lander County Commissioners, e-mail regarding offset of geothermal revenue to Payment In Lieu of Tax (PILT) concerns.
11. Kenneth R. Brown, Western Counties Alliance, to Lander County Commissioners, e-mail regarding HB 148, the Public Land Transfer bill passed by the Utah Legislature during the 2012 session.
12. Kevin E. Sullivan, Nevada Division of Environmental Protection, to the Estate of Martin T. Wessel, c/o Misty Wesse-Darr/Debra Jill Phillips, letters regarding 2nd Quarter 2012 Monitoring Report, Former Ted's Chevron Facility, 474 West Front Street, Battle Mountain, NV, Facility ID #5-000104, Petroleum Fund ID - 1999000052.
13. Penny Woods, Project Manager, Bureau of Land Management, to Reader, letter regarding errata sheet for Clark, Lincoln, White Pine Counties Groundwater Development Project Final Environmental Impact Statement (Final EIS) issued on August 3, 2012.



BRIAN SANDOVAL
Governor

STATE OF NEVADA
DEPARTMENT OF TRANSPORTATION
1263 S. Stewart Street
Carson City, Nevada 89712

Correspondence #1
8/23/2012

SUSAN MARTINOVICH, P.E., Director

In Reply Refer to:

July 30, 2012

The Honorable Dean Bullock
Chairman, Lander County Commission
315 South Humboldt Street
Battle Mountain, NV 89820

Dear Chairman Bullock:

The Nevada Department of Transportation (NDOT) would like to thank you for the opportunity for allowing Planning Chief Jason Van Havel present our Annual Work Program to the Lander County Commission last week.

We would also like to express our appreciation for the working relationship that exists between Lander County and NDOT. Although this annual meeting provides an opportunity to not only discuss the annual work program and issues you might be facing, it is the year round cooperation between our agencies that has allowed us to establish and maintain the working relationship we enjoy. We would like to thank you for bringing several issues to our attention and want you to know we will be investigating your concerns and reporting our findings back to you shortly. Please let me know if you have any questions and concerns.

Sincerely,

Tracy Larkin-Thomason, P.E.
Assistant Director, Planning

TLT:TC

Cc: Susan Martinovich, P.E., Director
Rudy Malfabon, P.E., Deputy Director
Bill Hoffman, P.E., Assistant Director-Engineering
Dennis Taylor, Chief-Transportation Multimodal Planning
Kevin Lee, P.E., District Engineer

RECEIVED

AUG - 9 2012

COUNTY COMMISSION

August 7, 2012

Two Spring Mts. butterflies to be reviewed for possible protection under the Endangered Species Act

The U.S. Fish and Wildlife Service (Service) will conduct in-depth status reviews of two Spring Mountains dark blue butterflies (*Euphilotes ancilla purpura* and *Euphilotes ancilla cryptica*) to determine whether the two species warrant protection under the Endangered Species Act of 1973, as amended (ESA). The Service will not conduct an in-depth status review of the Morand's checkerspot butterfly (*Euphydryas anicia morandi*). The decision, known as a 90-day finding, was published in the *Federal Register* on August 7, 2012. Publication of the finding opens a 60-day public comment period and signals the beginning of 12-month status reviews of the two Spring Mountains dark blue butterflies. This finding is available on the internet at www.regulations.gov — Docket Number FWS-R8-ES-2012-0041.

This finding was prepared in response to two petitions. The Service received a petition on October 6, 2011, from Wild Earth Guardians, asking the agency to list the two Spring Mountains dark blue butterflies as endangered or threatened species. The Service determined that this petition did present substantial information to indicate that listing the butterflies may be warranted. The second petition was received by the Service on November 1, 2011, from Bruce M. Boyd asking the agency to list the Morand's checkerspot butterfly as endangered or threatened. The Service determined this petition did not present substantial information to indicate that listing the butterfly may be warranted.

Please submit information regarding the Spring Mountains dark blue butterflies by one of these methods:

- Federal eRulemaking Portal at www.regulations.gov (Follow the instructions for submitting comments)
- U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS-R8-ES-2012-0041; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

Emails and faxes will not be accepted, and all information received on www.regulations.gov will be posted. This generally means the Service will post any personal information provided. Comments must be received by October 5, 2012.

RECEIVED

AUG - 9 2012

COUNTY COMMISSION



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Mount Lewis Field Office

50 Bastian Road

Battle Mountain, Nevada 89820

Phone: 775-635-4000

Fax: 775-635-4034

http://www.blm.gov/nv/st/en/fo/battle_mountain_field.html

Correspondence #3
8/23/2012



In Reply Refer To:
3809 (NVB0100)
NVN-067782

ENTERED AUG 08 2012

RECEIVED

AUG 10 2012

COUNTY COMMISSION

Dear Interested Public:

The Bureau of Land Management (BLM) Mount Lewis Field Office (MLFO) has prepared a Preliminary Environmental Assessment (PEA) for the Ruby Hill Project (NVN-067782). The Ruby Hill Project is an existing mining operation located approximately 0.7 mile northwest of the town of Eureka, Nevada. The Project is located on both public land administered by the MLFO BLM and private land. Homestake Mining Company of California (Homestake) submitted to the BLM an amended Plan of Operations to expand an existing open pit gold and silver mining and processing operation.

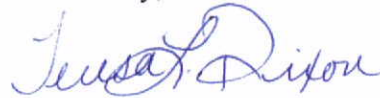
Pursuant to the National Environmental Policy Act (NEPA) and Council on Environmental Quality regulations for implementing NEPA, the PEA identifies, describes and evaluates the potential impacts from the expansion activities and takes into consideration the specific resource protection measures identified for the Ruby Hill Project.

The proposed expansion would utilize the existing primary and secondary crushers, solution processing plant, and ancillary support facilities. The Plan of Operations includes the following activities: expansion of the existing open pit and pit activity area; lowering of the final pit bottom by 240 feet; inclusion of a conceptual process pond for future fluid management of heap drain down flows during closure; realignment of portions of the existing perimeter fence associated with the open pit expansion; increasing the authorized acreage of surface exploration related disturbance; expansion of the Class III landfill; and the establishment of a flexible mining and ore hauling timeline based on mining rates and economic conditions. Expansion activities would disturb approximately 34.3 acres of additional BLM-administered public land and approximately 72.3 acres of additional private land for a proposed surface disturbance total of 106.6 acres. The total of the existing and proposed surface disturbance for the Project would be 1,742.4 acres within the existing Project area.

The BLM is seeking public input on the PEA for the Ruby Hill Project. The PEA will be available for a 30-day public comment period beginning August 10, 2012, and closing September 10, 2012. Written comments on this PEA will be accepted at the above address or via email at BLM_NV_BMDO_RubyHillMineExpansion_EA@blm.gov until 4:30 p.m., September 10, 2012. The PEA can be viewed on the BLM Battle Mountain District website at: www.blm.gov/nv/st/en/fo/battle_mountain_field.html. Copies of the PEA can be obtained by contacting the Battle Mountain BLM at the letterhead address above. In accordance with 43 CFR 3809.411(c), a copy of the Plan of Operations will also be available for review.

After the public review period has ended, comments will be analyzed and considered as part of the decision-making process. If you have any questions or comments regarding this PEA, please contact Tessa Teems, Planning and Environmental Coordinator, at (775) 635-4000.

Sincerely,



for Christopher J. Cook
Field Manager
Mount Lewis Field Office

Correspondence #4
8/23/2012

THIS IS BEING SENT TO YOU FOR INFORMATION ONLY.

DURING THE 2011 SESSION, THE LEGISLATURE PASSED AND THE GOVERNOR SIGNED AB545, A BILL INCREASING THE POPULATION THRESHOLD AND EXERCISE OF POWERS OF LOCAL GOVERNMENTS FOR 313 NRS. ALTHOUGH THE MAJORITY OF NRS IN AB545 ARE SPECIFIC TO THE STATUS OF CLARK COUNTY IN A SUPERIOR POSITION OVER WASHOE COUNTY, SOME OF THE POPULATION THRESHOLD INCREASES MAY AFFECT OTHER COUNTIES AND CITIES. AB545 EXHIBIT "H" DATED 04/13/11 (SUBMITTED BY DIRECTOR LCB) CONTAINS SPECIFIC NRS AFFECTING SPECIFIC LOCAL GOVERNMENTS AND IS AVAILABLE ONLINE OR FROM THE LCB.

IF YOU HAVE ANY QUESTIONS ABOUT THE ISSUES I RAISED WITH THE GOVERNOR AND NEVADA POLICY RESEARCH INSTITUTE, PLEASE FEEL FREE TO CONTACT ME.

TERRY TIERNAY

Terry W. Tiernay
3555 Crazy Horse Rd.
Reno, NV 89510-9307

RENO, NV 894

AUG 2012 PM 2 T



Lander County
Board of County Commissioners
315 South Humboldt Street
Battle Mountain, NV 89820

RECEIVED

AUG 13 2012

COUNTY COMMISSION

89820+1982



July 19, 2012

Governor Sandoval,

This letter solicits your assistance in rectifying an action by the legislature during the 2011 session. I also have asked the Nevada Policy Research Institute (NPRI) for assistance on the issue discussed below. A copy of my request (NPRI 03-2012-0003) is attached. Not included is a copy of a notebook I also provided to NPRI. The notebook contains over 140 pages of Nevada specific case law, AGOs, legislative record excerpts to include minutes, journals and testimony from 1977 to the 2011 session.

As you are aware, the Nevada Constitution allows the legislature to enact three types of laws; special, local and general. Special laws affect a specific group of people (i.e. veteran tax breaks), local laws address a situation that is unique to a specific locality (Lake Tahoe, SNWA-Lake Mead), and general laws which address issues of statewide importance and application. General laws may have qualifiers like population or age thresholds that control when a threshold kicks in for town, cities and/or counties.

In 2011, the legislature passed and the governor signed into law AB545 (AN ACT relating to classifications based on population; changing the population basis for the exercise of certain powers by local governments; and providing other matters properly relating thereto). AB545 adjusted upward previously established population thresholds for 313 NRS. For Washoe County, the threshold was raised from 400,000 to a new figure of 700,000. Population thresholds were also adjusted for Reno and Sparks affecting specific NRS associated with those cities. This action denied Washoe residents the same privileges and/or burdens of law that Clark County had operated under for decades. These AB545 population threshold adjustments were a continuation of similar action by the legislature over 30 year period. Adjustments took place following each decennial census beginning with the 1979/80. Although population threshold laws have been used since the 1800s, 1979/80 marked the first time the legislature performed an en masse adjustment of all population based NRS meeting the previously established threshold. This en masse raising of general law thresholds was used to perpetuate the status quo of local governments, a clear example of enacting proscribed local legislation.

Changing population thresholds has two sides that must be considered. Although my concerns are mainly focused on Washoe County and its local governmental entities, it also has direct impact on cities in Clark County. For example NRS dealing with annexation by cities and regional planning. Cities in Clark County have had limitations put in place to curtail their ability to annex unincorporated regions. Raising population thresholds for Washoe, allows the cities of Reno and Sparks to continue to operate under the old population threshold rules that are less restrictive than those of Clark County cities. Therefore, non statewide application of General Laws could be challenged by Las Vegas, North Las Vegas and other cities. What's good for the goose is mandatory for the gander. This is one example of local government powers not being applied across the state, an article 4 constitutional violation. Other issues such as Fluoridation of Water applicable to certain Clark County water systems based on population thresholds could also be successfully challenged by anti fluoridation groups. When Clark County residents approved fluoridation by ballot, the legislature enacted the resulting statute as a General Law with a population threshold. A challenge to the requirement to consolidate law enforcement agencies of Clark County and City of Las Vegas when Las Vegas reached a population threshold of 200,000 could be made by the city of Reno and/or Washoe County for the right to or Las Vegas and/or Clark County for being forced to. Nevada courts have been quite clear that applying a date to or changing a population threshold that limits others that may come prospectively into (the threshold) is proscribed local/special legislation.

The forgoing paragraph conclusions are based on hundreds of hours of research with respect to population threshold NRS produced the following information:

- Nevada specific case law reveals that shifting population thresholds upward or assigning a limiting or cutoff date to a population based law to be unconstitutional local legislation. The courts have continually articulated three requirements for population based laws: (1) use of population criteria must be rationally related to subject matter of statute, (2) use of population criteria does not create odious or absurd distinction, and (3) classification applies

prospectively to all counties which might come within its designated class.

- The practice of en masse population threshold increases began in 1979 and has continued every 10 years following the US decennial census.

- The genesis of population threshold adjustments was SJ1 during the 1977 legislative session. SJ1 was a result of legislators desire to circumvent the provisions of Article 4 sections 20, 25 and 37 in order to “permit variety of forms of county government. (BDR C241)” Both State Senators Bill Raggio and Richard Bryant opposed attempts to get around the constitutional prohibition of special and local laws. “Senator Raggio questioned the change in section 25. ‘How far will this go? This might lead to some abuse’.” Although the legislative journal states that Senator Bryant made comments, those comments are not included in the record. Both senators voted against SJ1.

- Washoe County BoCC and District Attorney asked for the population threshold for Washoe to be raised from 400,000 to 700,000. This action was done without public hearings to address the impact of adjusting over 240 NRS affecting the residents of Washoe County. Mr. Gammick in testimony to Senate Committee on Government Affairs: “Washoe County submitted this bill for population thresholds, and we expected it to be a bill on population thresholds.” and “Laws unique to Clark County because of its population have been passed since the 1980s; this was the population threshold over 400,000. Washoe County went over 400,000 during the last U.S. Census. Assembly Bill 545 was drafted to increase that threshold from 400,000 to 700,000. The bill is enormous. It is 281 pages, and about 240 laws are affected by this bill. The reason for the bill's size is that there are things unique to Clark County that other counties did not need or want. It is imperative that this bill becomes law.” and “There are approximately 243 State laws unique to Clark County.” Following Gammick’s testimony, CHAIR LEE: “It is a forgone conclusion this bill will pass because of the population thresholds. The amendment acts as a bill on its own as we know the bill is going to pass.”

AB545 embraces changes to 312 NRS and violates Article 4 section 17, a bill to address a single subject. Individual subjects addressed in AB545 include court security, school revenues, various forms of taxes, airports, medical topics, annexation and regional planning to name a few of over hundred subjects. Also missing is a detailed statement of the impact of AB545. According to court rulings, the people through the initiative process are co-equal with the legislature in creating laws and therefore each held to the same enactment standards. Should the courts find that AB545 does not violate Art 4 sec 17, then the people’s initiative process becomes easier to meet constitutional and statutory requirements. Either way, a win for the people.

Most legislators probably did not read AB545 as it contained over 130,000 words in approximately 284 pages. An average college educated individual would require over 7 hours to read, much less assimilate, a document the size of this bill.

As the chief elected official of this state, and defender of the state constitution, I ask that the Governor take this matter seriously. I am willing to lend a copy of the notebook to which I earlier referred, it would be useful should the Governor decide to get an opinion from the AG.

Respectfully,

Terry W. Tiernay
3555 Crazy Horse Road
Reno, NV 89510 (775) 741-5864
terrytiernay@yahoo.com

Distribution: all legislative members, legislative candidates, all BoCCs, Washoe BoCC candidates, all county DAs (excluding Gammick), all City Councils/Mayors, Reno/Sparks City Council candidates, City Attorneys; Attorney General, Lt. Governor, WCSO, select state media

March 27, 2012

Dear NPRI,

This letter seeks NPRI's assistance in overturning unlawful Local/Special Laws enacted by the 2011 Legislature (AB545). AB545, the largest legislative bill since the enabling act, made changes to 313 individual population based statutes. AB545 was not the first time that the Legislature has used large scale population based adjustments to statutes or laws that were tailored to convey special status to Clark County.

Although the use of population basis laws has been ruled by Nevada's courts not to violate Article 4 sections 20 and 21, three qualifiers have been articulated by the courts. 1 - population basis must be rationally related to the subject of the law, 2 - local governments must be allowed to grow into the population benchmark, and 3 - the population basis must not create an odious or absurd distinction between local governments. Statutes with a population threshold have been used by the legislature since the 1800's in enacting General Laws that met the three standards or qualifiers.

In 1977 (SJR 1) the legislature asked the LCB to find a means of circumventing Article 4 sections 20, 21 and 25 of the Nevada Constitution, in order to allow the enactment of Local Laws applicable to Clark County exclusively. The framers of the NV constitution intended that Art. 4, sections 20, 21 and 25 ensure that all citizens enjoyed equal rights, opportunities and protections under the law. In 1979, the LCB returned to the legislature with a plan to use blocks of population based statutes applicable to distinct groups of counties and cities within the state. The tactic developed by the LCB was to use sliding population thresholds to change population based General Laws as other counties approached the bottom qualifying population figure. Attachment #1 (A HISTORY OF THE USE OF POPULATION BASIS) and other documentation in the enclosed notebook make it clear that legislative use of population basis adjustments is to create proscribed Local/Special Laws that favor Clark County, and its cities, to the exclusion of other counties and cities. The enclosed notebook is a compilation of 2011 and historical public record legislative minutes, recent case law and summary of court findings concerning Article 4 sections 17, 21, 22 and 25.

Residents of Washoe County continue to be denied the same rights enjoyed by Clark County. Attachment #2 gives examples of three important rights that Washoe residents have repeatedly been denied by legislative decennial upward adjustments of thresholds. 1 - yearly loss of tens of millions of dollars for Washoe schools, 2 - tighter regulations for Annexation, Planning and Development of unincorporated areas and protection of rural areas, and 3 - representation based on population. The latter being a violation of Article 1, section 13 in addition to the Article 4 sections previously listed. I chose these specific examples from over 200 NRS which affect Washoe County as I have standing required for legal action. Public hearings on AB545 were never held by Washoe elected officials who supported and recommended increasing thresholds from 400,000 to 700,000 for Washoe County. Once the effect of AB545 is made public, additional interest by residents with standing should materialize.

I have also included documentation that the 313 individual NRS "requiring" population adjustments, violate the constitutional stipulation that a bill must only address a single subject (Article 4, section 17).

Two law firms have been approached with no luck. The first firm was far too expensive and the senior partner did not feel a constitutional challenge case was in his comfort zone. The second, a new firm, was interested in the issue but has a heavy case load that precludes the time involved to do the case justice. Both firms believe that the issue has merit. Once counsel is secured one firm will file an amicus brief as an independent third party.

Frankly, NPRI is the best hope for successful action to remedy multiple constitutional violations by the legislature.

Sincerely,

Terry W. Tiernay
3555 Crazy Horse Road
Reno, NV 89510
775 741-5864 terrytiernay@yahoo.com

ATTACHMENT #1

NEVADA LEGISLATURE

A HISTORY OF USING POPULATIONS BASIS TO ENACT SPECIAL LAWS

In 1979, the legislature began a practice of adjusting population based GENERAL LAWS upward in order to enact SPECIAL/LOCAL LAWS favoring Clark County.

- 1979; SB72 changed 125 statutes. To keep Washoe from "prospectively coming within" approximately 40 NRS that had applied exclusively to Clark, the legislature raised every population classification of 200,000 to a new threshold of 250,000. 1980 US Census reported Washoe's population to exceed 200,000.

- 1989; AB873 enacted population threshold change to over 90 individual NRS, of which over 50 specifically denied Washoe County coming within the designated class of 250,000. Population criteria for Washoe County was raised from 250,000 to 400,000. The following year, 1990, the US Census reported Washoe County's population exceeded the previous 250,000 criteria.

- 2001; AB650 modified over 60 NRS mostly affecting smaller counties and cities. AB650 had little, if any, impact on Washoe County.

- 2011; AB545 modified 313 individual NRS. Washoe County's population criterion was raised from 400,000 to 700,000 thereby affecting approximately 240 statutes the county had come within the designated class of 400,000.

Nevada courts have upheld the use of population based statutes and laws if three conditions are met in enactment of those statutes and laws:

- use of population criteria must be rationally related to subject matter of statute
- use of population criteria does not create odious or absurd distinction
- and classification applies prospectively to all counties which might come within its designated class

In Nevada use of population basis or thresholds are limited to enactment of GENERAL LAWS and may not be used to circumvent constitutional prohibitions of SPECIAL or LOCAL LAWS and the requirement that the legislature establish a system of county government which shall be uniform throughout state.

The forgoing historical research shows how the use of population thresholds has evolved from enactment of "general" laws to a means of skirting the Nevada Constitutional prohibition of "special" laws for local governments.

With the 2011 change of population based laws, many of the approximately 240 NRS affecting Washoe dealt with tax revenues (sorely needed in the current economic downturn), Annexation and Regional Planning. The increase of the population threshold for Washoe from 400,000 to 700,000 has resulted in the loss of tens of millions of dollars for schools, the continuation of "indexed" supplemental fuel taxes and uncontrolled leap frog annexation, plundering of the rural areas in favor of Reno and Sparks growth funded by tax payers instead of developers. I have attached specific details of these and other disadvantages Washoe residents have suffered by proscribed (unlawful) action by the legislature. Also included are a small sample of court rulings supporting the contention that the legislature has in fact and deed violated numerous provisions of the Nevada Constitution.

ATTACHMENT #2

The following information is based on use of population basis statutes which are General Laws applicable to every county and city that reaches the population threshold. Clark County has benefited from these General Laws since the introduction of massive application of population bases to block statutes.

LOSS OF REVENUE WASHOE COUNTY SCHOOL DISTRICT (WCSD)

The following information is based on use of population basis statutes which are General Laws applicable to every county and city that reaches the population threshold. Clark County has benefited from these General Laws since the introduction of en mass application of population bases to block statutes. Using Reno Sparks Convention and Visitors Authority figures for RY 2009 - 2010, WCSD would have been entitled to \$3.9 million from NRS 244.3354 and NRS 244.3359 (AB545 sections 8 and 9), Lodging Rental Taxes if the population threshold had not been raised from 400,000 to 700,000. In addition, WCSD would have been entitled to \$120 per \$100,00 generated by Real Property Transfer Taxes from NRS 375.020 and NRS 375.070 (AB545 sections 181 and 183) if the population threshold had not been raised. As the economy improves, the amount from each source would also have increased proportionally. Clark County schools have benefited from these laws for years, while it looks like WCSD was never intended to benefit.

This action is especially egregious is the fact that the Legislature passed a bill (AB376) that designated new Lodging Rental Taxes for use by RSCVA to improve downtown Reno convention facilities. It appears that legislative members can rationalize funding tourism (casinos) at the expense of students and schools. While NRS 244.3354 would have authorized 5/8's of one percent of lodging taxes to WCSD construction fund, AB376 generously gives a flat fee of \$2.00 for each room rental. To add further insult, the Reno City Council has also imposed the use of further room taxes for conversion of the old Moana baseball facilities to a sports complex.

ANNEXATION (NRS 268)

Concerning annexation, legislative intent says it best for counties with population over 700,000. NRS 268.572 section 5. Areas annexed to municipalities should include all of the urbanized unincorporated areas adjacent to municipalities, and piecemeal annexation of unincorporated areas should be avoided, securing to the residents within the area proposed to be annexed the right to protest. NRS 268.580 section 2. The total area ... (a) ... must be contiguous to the annexing city's boundaries ... (b) Not less than one-eighth ... must be contiguous to the boundaries ... section 3. ... territory ... must be developed for urban purposes. NRS 268.586 ... public hearing; right to protest, written or oral. NRS 268.592 Disapproval of annexation; ... section 1. If a majority of the property owners protest annexation, ... the city shall not annex ... NRS 268.578 Plans for extension of services ... section 4. ... plans ... for extending ... each major service performed within the annexing city at the time of annexation. (a) ... extending police protection, fire protection, street maintenance ... on the date effective of annexation, ... (d) ... plans must call for contracts to be let and construction to begin within 24 months ... NRS 268.602 Mandamus to compel city to extend services after annexation ... section 1. Not later than 27 months after effective date of the annexation. Extension services includes sewage systems, not authorized is the use of septic systems. Residents in the proposed area can by majority demand that the city pay for the extension of services or turn down annexation. Spheres of Influence are not allowed in counties 700,000 or over and must move directly to annexation upon the date set for annexation.

REGIONAL PLANNING (NRS 278)

This subject is complex and sometimes confusing, therefore extracts of specific NRS are used to document the rules Clark Count operates under to the exclusion of other counties which prospectively would come within the population basis. The following is just a few of numerous NRS that deal with planning regulations for counties over 400,000 (now 700,000) that protect the unincorporated regions of the county. NRS 278.02521 Legislative intent 1. ... recognizes the need for innovative strategies of planning and development that: (b) Will allow the **development of less populous regions** of this State if such regions: (1) **Seek increased**

economic development; and (2) Have sufficient resources of land and water to accommodate development in a manner that is **environmentally sound**. 2. The Legislature further recognizes (a) **Protecting environmentally sensitive areas**; (b) **Maintaining the economic viability of agricultural and other predominantly rural land uses**; 3. ... should set forth a process of planning which: (a) Allows for: (1) **use of land within existing urban areas**; and (2) (b) **establishment of new towns**, the maintenance of open space and mixed-use development. 4. promote a strategy of maximizing the **use of existing facilities and services through redevelopment, interspersions of new housing and businesses in established neighborhoods and other mechanisms for urban revitalization**. NRS 278.02528 contents of plan; 2. (b) (3) (1) **gaming enterprise districts**; 3. 3. The regional planning coalition shall not adopt or amend the comprehensive regional policy plan unless the adoption or amendment is by resolution of the regional planning coalition: (a) Carried by the affirmative votes of not less than two-thirds of its total membership; and (b) **Ratified by the board of county commissioners of the county and the city council** of each city that jointly established the regional planning coalition NRS 278.02535 1. interspersions of new housing and businesses in established neighborhoods; 2. "infrastructure" including, without limitation, parks, roads, schools, libraries, community centers, police and fire protection, sanitary sewers, facilities for mass transit and facilities for the conveyance of water and the treatment of wastewater.

REPRESENTATION ACCORDING TO POPULATION (ARTICLE 1, SEC 13, NRS 244.016, 244.018)
Washoe County residents have been denied representation according to population three times since 1990. In 1977 the Legislature of Nevada added NRS 244.016 to the list of state statutes stating that "In each county having a population of 250,000 or more, the board of county commissioners consists of seven members". In 1989, population growth indicated that Washoe would come under the provisions of the population threshold of 250,000, or more, and join Clark County with 7 BoCC members. Knowing that the US Census of 1990 would so reflect, the Legislature (AB873, 1989) changed the population threshold for over 50 individual NRS from 250,000, or more, to 400,000, or more. In 2006, the Governor certified Washoe County's population as exceeding the 400,000 threshold. According to the Nevada Supreme (Court *County of Clark v. City of Las Vegas*, 92 Nev. 323, 550 P.2d 779 (1976)) and Attorney General Opinion (AGO 98-03), Washoe County BoCC should have moved to 7 commissioner districts as required by NRS 244.016 using the provisions of NRS 244.018. In 2011 (AB545), the Legislature knowing that Washoe County had qualified for the 400,000 or more, population threshold, moved the 400,000 figure to 700,000 for over 240 individual NRS including NRS 244.016.

In closing, just a few citations of Nevada court ruling and case law contained in the enclosed notebook.

Enactment of law applicable within certain classification of counties based upon voting population is not prohibited. Provisions of Nev. Art. 4, § 20, prohibiting enactment of local and special laws in certain cases, and Nev. Art. 4, § 21, requiring laws to be uniform and of general application, do not prohibit enactment of law which is applicable within certain classification of counties, based upon voting population, if in its operation and effect the law is so framed as to apply in future to all counties coming within class mentioned, and classification is based on real and substantial grounds. State ex rel. Patterson v. Donovan, 20 Nev. 75, 15 Pac. 783 (1887), cited, Fairbanks v. Pavlikowski, 83 Nev. 80, at 86, 423 P.2d 401 (1967), dissenting opinion, State ex rel. Pagni v. Brown, 88 Nev. 339, at 341, 497 P.2d 1364 (1972), Reid v. Woofter, 88 Nev. 378, at 380, 498 P.2d 361 (1972), Damus v. County of Clark, 93 Nev. 512, at 517, 569 P.2d 933 (1977), Anthony v. State, 94 Nev. 337, at 341, 580 P.2d 939 (1978), County of Clark v. City of Las Vegas, 97 Nev. 260, at 264, 628 P.2d 1120 (1981), distinguished, McDonald v. Beemer, 67 Nev. 419, at 425, 220 P.2d 217 (1950)

Law granting one county comparatively large and varied powers was local and special act and also violated constitutional requirement of system of uniform county government throughout state. In comparison with laws governing all of other counties in state, statute which constituted one county a municipal corporation with large and varied powers, such as right to have seal and to hold both real and personal property, either within or without the municipality, was in conflict with Nev. Art. 4, § 20, which forbids local and special laws regulating county business, and Nev. Art. 4, § 25, which requires that legislature establish system of county government which shall be uniform throughout state. Schweiss v. First Judicial Dist. Court, 23 Nev. 226, 45 Pac. 289 (1896), cited, Washoe County Water Conservation Dist. v. Beemer, 56 Nev. 104, at 120, 45 P.2d 779 (1935)



Donna Bohall <dbohall@landercountynv.org>

SRS and PILT Information

1 message

Kenneth R. Brown <krbrownwca@allwest.net>

Tue, Aug 14, 2012 at 8:08 AM

To: Undisclosed Recipients <krbrownwca@allwest.net>

As you are probably aware, on July 6, 2012, the Secure Rural Schools and Community Self-Determination Act of 2000 was reauthorized for federal fiscal year (FY) 2012. The full funding amount for FY 2012 for all counties that elect to receive a share of the State payment is \$346,275,000. Payment-in-lieu-of-taxes (PILT) full-funding was also extended for one year through 2013. That gives us one more year to try and get PILT full-funding on a permanent basis or at the very least another five-year authorization. I have attached copies for charts for both SRS and PILT payments for your information.

Best Regards,

Kenneth R. Brown

Western Counties Alliance

krbrownwca@allwest.net

Phone (307) 679-3658

Fax (435) 793-5555

2 attachments



nevada pilt.pdf

468K



County Payments FY2008-2011 & Projected FY2012 for Nevada.pdf

236K

NEVADA

U.S. DEPARTMENT OF THE INTERIOR
 PAYMENTS IN LIEU OF TAXES - FOR FISCAL YEAR 2012
 SECTION 6902 PAYMENTS BY COUNTY

LOCAL UNIT OF GOVERNMENT	ENTITLEMENT ACRES	PRIOR YEAR PAYMENTS	UNIT POPULATION	CEILING	ALTERNATIVE A	ALTERNATIVE B	EST PAYMENT TO COUNTY
CARSON CITY	49,807	\$4,753	50,000	\$3,324,500	\$118,270	\$16,934	\$118,270
CHURCHILL COUNTY	2,143,231	\$0	25,000	\$2,153,500	\$2,153,500	\$728,699	\$2,153,500
CLARK COUNTY	4,809,178	\$123,309	50,000	\$3,324,500	\$3,201,191	\$1,635,121	\$3,201,191
DOUGLAS COUNTY	258,324	\$13,560	47,000	\$3,266,970	\$624,500	\$87,830	\$624,500
ELKO COUNTY	7,905,901	\$424,973	49,000	\$3,332,490	\$2,907,517	\$2,688,006	\$2,907,517
ESMERALDA COUNTY	2,247,850	\$17,750	775	\$128,813	\$111,063	\$128,813	\$128,813
EUREKA COUNTY	2,156,889	\$59,700	1,979	\$328,930	\$269,230	\$328,930	\$328,930
HUMBOLDT COUNTY	4,978,803	\$123,752	17,000	\$1,643,560	\$1,519,808	\$1,643,560	\$1,643,560
LANDER COUNTY	3,333,331	\$116,066	6,000	\$933,900	\$817,834	\$933,900	\$933,900
LINCOLN COUNTY	6,410,564	\$27,633	5,000	\$831,050	\$803,417	\$831,050	\$831,050
LYON COUNTY	868,505	\$170,917	50,000	\$3,324,500	\$1,974,290	\$295,292	\$1,974,290
MINERAL COUNTY	1,940,455	\$156,841	4,593	\$763,403	\$606,562	\$659,755	\$659,755
NYE COUNTY	8,533,115	\$858,405	43,000	\$3,119,220	\$2,260,815	\$2,901,259	\$2,901,259
PERSHING COUNTY	2,927,801	\$0	7,000	\$1,025,920	\$1,025,920	\$995,452	\$1,025,920
STOREY COUNTY	14,510	\$0	3,896	\$647,554	\$35,840	\$4,933	\$35,840
WASHOE COUNTY	2,930,894	\$26,793	50,000	\$3,324,500	\$3,297,707	\$996,504	\$3,297,707
WHITE PINE COUNTY	5,196,842	\$273,304	10,000	\$1,163,200	\$889,896	\$1,163,200	\$1,163,200
TOTAL	56,706,000	\$2,397,756			\$22,617,360	\$16,039,238	\$23,929,202

171

Payments in Lieu of Taxes



Western Counties Alliance

SECURE RURAL SCHOOLS

COUNTY PAYMENTS FOR FY2008-2011 & PROJECTED 2012 PAYMENT

NEVADA

COUNTY	FY 2008	FY2009	FY2010	FY2011	PROJECTED FY2012	TOTAL
CARSON CITY	9,803	9,684	9,505	9,379	8,583	46,954
CLARK	226,090	213,776	214,450	233,197	224,460	1,111,973
DOUGLAS	31,371	29,257	27,119	29,549	30,130	147,426
ELKO	1,047,105	943,819	858,331	841,155	697,319	4,387,729
ESMERALDA**	34,171	34,941	35,501	36,695	45,451	186,759
EUREKA	138,295	148,634	99,499	108,297	127,635	622,360
HUMBOLDT	329,120	328,479	291,181	269,346	163,306	1,381,432
LANDER	246,675	237,454	193,443	158,578	162,069	998,219
LINCOLN	61,292	68,082	55,265	55,639	63,163	303,441
LYON	437,901	436,398	402,157	385,813	343,928	2,006,197
MINERAL	543,418	520,272	369,038	349,373	314,887	2,096,988
NYE	2,267,029	2,239,783	2,019,777	2,028,963	1,885,161	10,440,713
WASHOE	58,204	55,268	53,587	60,429	56,040	283,528
WHITE PINE	\$651,484	\$595,165	\$552,112	\$545,130	\$525,334	2,869,225

**25% (SEVEN-YEAR ROLLING AVERAGE PAYMENT)

P.O. Box 21 ♦ Randolph, Utah 84064 ♦ Phone: 307-679-3658 FAX: 435-793-5555

[krcbrownwca@allwest.net](mailto:krbrownwca@allwest.net)



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Battle Mountain District Office

50 Bastian Road

Battle Mountain, Nevada 89820

Phone: 775-635-4000

Fax: 775-635-4034

http://www.blm.gov/nv/st/en/fo/battle_mountain_field.html



Correspondence #4
8/23/2012

In Reply Refer To:
4110 (NVB0000)

ENTERED AUG 13 2012

Dear Permittees:

As you know, much of the state of Nevada has been experiencing record drought. The Bureau of Land Management (BLM), Battle Mountain District (BMD) has placed a high priority on drought monitoring and as a result, has continued to monitor and document drought conditions and drought related resource impacts throughout the district. Monitoring information and field observations largely across the northern half of the district indicate that drought conditions and impacts are severe in most cases and continue to worsen. In order to increase our drought monitoring efforts, the Mount Lewis Field Office (MLFO) of the BMD has conducted, and continues to plan for additional ground and aviation monitoring to assess resource conditions and the condition of wild horses and burros in BLM Herd Management Areas (HMAs).

Observations made thus far, lead us to believe that livestock have been voluntarily removed by permittees from some allotments within the district as a response to the lack of forage and/or water. This is a positive response and we thank those permittees that have taken these voluntary measures.

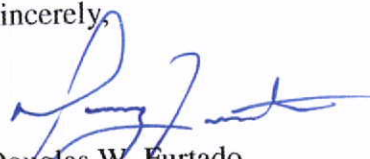
This letter is to inform you that if you have removed your livestock or reduced your livestock numbers please notify your assigned Rangeland Management Specialist immediately. Failure to do so will lead the BMD to incorrectly assume that livestock use levels during this severe drought continue to occur in accordance with either the annual authorization or grazing bill and/or full permitted use levels. This will lead to BMD potentially requiring livestock removal due to drought when in fact livestock have already been removed voluntarily by the permittee. Voluntary removal of livestock now and rest next season (from April 1 – July 31 for uplands or April 1 - Sept. 30 for drought stressed areas with riparian and/or wetland resources) is strongly encouraged where severe drought conditions exist and or have been documented. Following site visits with affected permittees the BMD will be requesting that permittees indicate to this office in writing by October 31, 2012 if they intend to apply for voluntary non-use in 2013 in their allotments or portions of their allotments for the dates specified above. If voluntary non-use agreements cannot be reached by October 31, 2012, the BMD will be required, by regulation to close allotments or portions of allotments or modify management practices by decision. Drought decisions would be in effect until drought conditions subside.

RECEIVED
AUG 14 2012
COUNTY COMMISSION

Lastly field and aviation flight observations also have revealed that in some allotments, unauthorized water hauling on public lands is occurring, and that livestock supplements are being placed along riparian zones or within one quarter mile of a water source on public lands, which is a violation of the terms and conditions of grazing permits. These actions are considered prohibited acts under 43 CFR §4140. If you wish to seek approval for temporary water hauling on public lands, please contact your assigned rangeland management specialist. It is important to keep in mind that when considering approval of water hauling on public land, it is unlikely that we will approve requests to haul water, given these severe drought conditions, in areas of intact native plant communities or in areas determined to be sage grouse priority habitat.

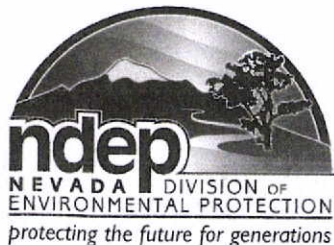
If you have any questions, please contact your assigned rangeland management specialist at the Mount Lewis Field Office at (775) 635-4000.

Sincerely,



Douglas W. Furtado
District Manager
Battle Mountain District Office

CC: State Director, NV (NV-910) / (NV-930)
District Manager, Winnemucca
District Manager, Elko
District Manager, Ely
Nevada Cattlemen's Association
Eureka County Commissioners
Eureka Department of Natural Resources
Lander County Commissioners



STATE OF NEVADA

Department of Conservation & Natural Resources

DIVISION OF ENVIRONMENTAL PROTECTION

Correspondence #7
8/23/2012

Brian Sandoval, Governor

Leo M. Drozdoff, P.E., Director

Colleen Cripps, Ph.D., Administrator

August 10, 2012

Ms. Amanda Appelt
Western Energetix
2360 Lindbergh Street
Auburn, CA 95602

RECEIVED

AUG 16 2012

COUNTY COMMISSION

Subject: Groundwater Monitoring Report – Second Quarter 2012
Facility: Western Energetix Bulk Plant, 125 N. Mountain Street, Battle Mountain, NV
NDEP ID # 5-000289, Petroleum Fund # 2009000020

Dear Ms. Appelt:

The Nevada Division of Environmental Protection (NDEP) has received your *Groundwater Monitoring Report-Second Quarter 2012*, dated July 27, 2012 prepared on your behalf by Broadbent & Associates.

Seven site monitoring wells (MW-1 through MW-7) were sampled on June 13, 2012 for 2nd quarter monitoring. All of the wells were non-detect for MTBE. Well MW-1 was the only well that contained detectable levels benzene above the 5 micrograms per liter (ug/l) maximum contaminant level. The report indicates that Benzene concentrations decreased in MW-1, MW-3 and MW-6 for the 2nd qtr. 2012 from. MW-1 decreased slightly from 350 to 340 ug/l and MW-3 decreased from 85 to 4.6 ug/l and MW-6 decreased from 19 ug/l to less than 1.0 ug/l.

The depth to ground water ranged from 7.82 to 8.24 feet below the top of well casing for the 2nd Quarter 2012. Groundwater has fluctuated less than one-tenth of a foot and the flow direction is north to northeasterly at 0.002 foot/foot.

Broadbent & Associates Recommendations:

- Postpone the next quarterly groundwater monitoring event until the two new offsite monitored wells are installed (MW-8 and MW-9).

NDEP does not concur with your *Groundwater Monitoring Report 2nd Quarter 2012* recommendation of postponing the 3rd quarter sampling until the offsite wells are installed. Sampling must be done quarterly however if drilling is scheduled to be completed shortly after the end of the sampling period, contact this office for verbal approval of postponing the sampling until completion of the monitoring wells.

Please keep this office appraised of the offsite access agreement situation. Based on my phone call to the adjacent property owner yesterday, she agreed to allow access for installation of the monitoring wells and was to forward the access agreement to your consultant.

Please provide the Third Quarter 2012 report to this office for review no later than October 31, 2012.



If you have any questions or need further assistance, please contact me at 775-687-9376 or kevins@ndep.nv.gov.

Sincerely,

A handwritten signature in cursive script that reads "Kevin E. Sullivan".

Kevin E. Sullivan
UST/LUST Supervisor
Bureau of Corrective Actions

- cc: Todd Croft, Supervisor, NDEP, Bureau of Corrective Actions
Darrin Galloway, Broadbent & Associates, 2000 Kirman Avenue, Reno, NV 89502
Hayden Bridwell, NDEP, Bureau of Corrective Actions
- cc: Chuck Chapin, Chairman, Lander County Board of Commissioners, 315 South Humboldt Street, Battle Mountain, NV 89820
Jacob Edgar, Public Works Foreman, 315 South Humboldt Street, Battle Mountain, NV 89820
Tom and Imogean Acor, c/o Jeannie Stroup, 36946 Firethorn Dr., Palmdale, CA 93550

Correspondence #8
8/23/2012

**TOWN OF KINGSTON
KINGSTON TOWN WATER UTILITY
HC 65 BOX 130 KINGSTON
AUSTIN, NEVADA 89310
775 964-2120
kingstonh2o@starband.net**

Members:

June Manhire
Donald Haines
Rosalie Zamora
Ann Miles
Betty Kemp

**RECEIVED
AUG 16 2012
COUNTY COMMISSION**

August 13, 2012

Lander County Commissioners
315 S. Humboldt Street
Battle Mountain, NV 89820

Dear Honorable Commissioners,

The Kingston Town Board would like to express their thanks and gratitude for the recent decision to give two parcels that were being held by the Lander County Treasurer to the town. One parcel has increased the size of common ground around the park and the other will make access to our water pumps easier. We appreciate the time and effort that Grace Powrie, Lander County Treasurer, spent on this project and for her coming to a Kingston Town Board meeting to explain the process with our board and residents.

The Kingston Town Board looks forward to working together with the Lander County Commissioners in the future.

Sincerely,


June Manhire, Chairman, Kingston Town Board

Correspondence #9
8/23/2012

**TOWN OF KINGSTON
KINGSTON TOWN WATER UTILITY
HC 65 BOX 130 KINGSTON
AUSTIN, NEVADA 89310
775 964-2120
kingstonh2o@starband.net**

Members:

June Manhire
Donald Haines
Rosalie Zamora
Ann Miles
Betty Kemp

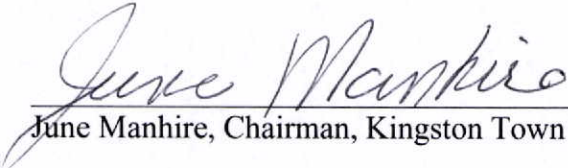
August 13, 2012

Lander County Commissioners
315 S. Humboldt Street
Battle Mountain, NV 89820

Dear Honorable Commissioners,

The Kingston Town Board and residents of Kingston would like to thank the Lander County Commissioners and Lander County Road and Bridge South for the asphalt job that was completed in Kingston in July. The paving job was done professionally and looks fantastic. Shannon Thiss would like to extend additional thanks to the Lander County Road and Bridge South supervisor and his crew for helping to coordinate with the town before, during and after the job and keeping her up to date on the project.

Sincerely,


June Manhire, Chairman, Kingston Town Board

**RECEIVED
AUG 16 2012
COUNTY COMMISSION**

Cc: Lander County Road and Bridge South



Donna Bohall <dbohall@landercountynv.org>

Fw: Question about geothermal revenue?

1 message

Kenneth R. Brown <krbrownwca@allwest.net>
To: Undisclosed Recipients <krbrownwca@allwest.net>

Fri, Aug 17, 2012 at 1:45 PM

I am forwarding information that was received from the Interior Budget office relating to geothermal revenue. The offset to PILT concern would only apply to Alternative A counties.

Kenneth R. Brown
Western Counties Alliance
krbrownwca@allwest.net
Phone (307) 679-3658
Fax (435) 793-5555

----- Original Message -----

From: Howell, William W
To: Kenneth R. Brown
Sent: Thursday, July 12, 2012 6:00 AM
Subject: RE: Question about geothermal revenue?

I am not sure what you mean by "geothermal". If "geothermal" falls under section 6 of the Mineral Leasing Act and those revenues are passed on to counties by the states then yes those revenues may be used as a deduction in the calculation of PILT unless they are subsequently passed on by the counties to some independent special purpose district (like grazing or school districts).

Bill

From: Kenneth R. Brown [<mailto:krbrownwca@allwest.net>]
Sent: Wednesday, July 11, 2012 2:14 PM
To: Howell, William W
Subject: Question about geothermal revenue?

Hi Bill:

How's everything in the company town? I have a question about geothermal revenue. Is the geothermal revenue that some alternative a counties receive in the west an offset to PILT?

Thanks for your time.

Best Regards,

Kenneth R. Brown
Western Counties Alliance
krbrownwca@allwest.net

Phone (307) 679-3658
Fax (435) 793-5555



Donna Bohall <dbohall@landercountynv.org>

Fw: Public Land Transfer

1 message

Kenneth R. Brown <krbrownwca@allwest.net>
To: Undisclosed Recipients <krbrownwca@allwest.net>

Fri, Aug 17, 2012 at 2:14 PM


Hello Everyone,

Attached is some additional information about HB 148 the Public Land Transfer bill that was passed by the Utah legislature during the 2012 session and supported by Utah's Governor Herbert. I would love to hear your comments or concerns about this process.

Best Regards,

Kenneth R. Brown
Western Counties Alliance
krbrownwca@allwest.net
Phone (307) 679-3658
Fax (435) 793-5555

2 attachments

 **Summary - Transfer of Public Lands Act HB148.docx**
42K

 **Historical Background Final.pdf**
2237K

HB148 Transfer of Public Lands Act

This bill:

- (i) establishes a deadline for the federal government to honor its promise in Utah's Enabling Act to transfer title to all public lands in Utah, and to do so now directly to the state, by December 31, 2014 to be managed by a public lands commission;
- (ii) expressly takes off the table National Parks, National Monuments managed by the National Park System, congressionally designated National Wilderness Preservation System wilderness lands as of January 1, 2012, (i.e. not included in the definition of public lands to be transferred to the state);
- (iii) charges the Constitutional Defense Council to
 - a. prepare legislation creating a Utah Public Lands Commission to manage the multiple use of the public lands including
 - i. open space (in addition to the National Parks, National Monuments, and congressionally designated wilderness lands expressly protected under the bill);
 - ii. access (recreation, hunting, fishing, etc.);
 - iii. local control; and
 - iv. the sustainable yield of the abundant natural resources;
 - b. prepare legislation to authorize and enable such sovereign actions by the state as may be necessary to secure the rights and enjoy the full benefits of statehood provided by Utah's Enabling Act;
 - c. Coordinate with Washington the transfer of the public lands to Utah;
- (iv) Indemnifies political subdivisions acting in furtherance of the Transfer of Public Lands Act.

Why? And . . . Why Now?

As a result of the federal government failing to honor to Utah the same promise it did honor to all states east of Colorado and to Hawaii to timely transfer title to all public lands, Utah has been deprived of the multiple use its lands and sustainable yield of its natural resources, and stands at a crossroads:

1. We remain perpetually last in the nation in per pupil funding, with the largest class sizes in the nation. It would take more than \$2.2 billion to close the per-pupil-funding gap with the national average. It would take more than \$4 billion to close the per-pupil-funding gap with neighboring states with access to their lands and natural resources (e.g. North Dakota student-teacher ratio is 11.6 to 1). Amazingly, the terms of North Dakota's Enabling Act are virtually word for word identical to Utah's Enabling Act. See attached comparison.
2. More than 30% of our state budget comes from federally sourced funds. With the failed "super committee," current federal law calls for 9% across the board cuts of federal funds in 2013, including funds to states. Erskine Bowles (former Clinton White House chief of staff and co-chair of Pres. Obama's Fiscal Responsibility Commission), David Walker (former independent Comptroller General of the U.S.), and major state policy organizations, warn "we face the most predictable economic crisis in history" and that "states have seen the high water mark in federal funds."
3. **Recent unanimous U.S. Supreme Court cases** uphold the principle of "the uniquely sovereign character"¹ of a state's admission into the Union, particularly where "virtually all of the State's public lands . . . are at stake," and expressly reject the notion that Congress "somehow can diminish" unilaterally the promises to states upon their admission.²

¹ "[T]he consequences of admission are instantaneous, and it ignores the uniquely sovereign character of that event ... to suggest that subsequent events [meaning acts of Congress] somehow can diminish what has already been bestowed. And that proposition applies a fortiori [with even greater force] where virtually all of the State's public lands . . . are at stake." *Hawaii v. OHA*, (2009)

² "Federalism is more than an exercise in setting the boundary between different institutions of government for their own integrity. 'State sovereignty is not just an end in itself: 'Rather, federalism secures to citizens the liberties that derive from the diffusion of sovereign power.'" *Bond v. U.S.*, (2011).

Co-Sponsors and Supporting Organizations: Fifty-eight (58) members of Utah's 75 member House of Representatives (from both parties) signed on as co-sponsors of this legislation. Having passed the House and the Senate by wide supermajorities, the bill takes immediate effect upon the signature of the governor. Supporting organizations include Utah Association of Counties, School and Institutional Trust Lands Administration (SITLA), Utah PTA, Utah State School Board, Utah School Boards Association, Utah School Superintendents Association, Jordan School District, Utah Education Association (UEA) Sandy Area Chamber of Commerce, Sportsmen for Fish & Wildlife, Utah Shared Access Alliance (USA-ALL), Utah Farm Bureau, Utah Wool Growers Association, Utah Public Lands Multiple Use Coalition, Utah Eagle Forum, and the Sutherland Institute.

For more information go to <http://www.AreWeNotAState.com>

Constitutional Note: The constitutional note to this bill cites an 1872 U.S. Supreme Court case, *Gibson v. Chouteau*. However, the Gibson case actually reaffirms that the federal government is duty-bound to dispose of the public lands. The substance of the Gibson case deals with state action viewed as interfering with the quiet title to lands three generations after the federal government had complied with its duty to dispose of public lands.

At page 100 of the case, the Gibson case mirrors language from the Andrew Jackson contemporaneous history on the public lands trust, which includes language directly from the Northwest Ordinance of 1787, stating "a provision has usually been inserted in the compacts by which new states have been admitted into the Union that such interference **with the primary disposal of the soil** of the United States shall never be made. Such a provision was inserted . . . that the legislature shall also not interfere 'with any regulation that Congress may find necessary for **securing title to the bona fide purchasers.**'"

Gibson confirms and reaffirms the federal government's "primary disposal" duty with respect to the public lands. It further confirms that the language in Section 3 of Utah's Enabling Act to the effect that the people of the state do "forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof" pertains only to quieting, or "securing title" in the federal government so that as it complies with its duty to dispose of the public lands, the recipient receives good, clear, undisputed title to the land. This makes sense given that in the enabling acts of states east of Colorado (where the federal government did dispose of their public lands upon statehood) their people did also "forever disclaim all right and title" to the public lands.

Is there no other way to close the education funding gap and provide for the risk of loss of the nearly \$5 billion in federal funds? See attached spreadsheet from our legislative fiscal analysts on the amount by which various taxes would have to increase in an attempt to close the \$2.2 billions education funding gap, the \$4.4 billion education gap to compete with neighboring states that do have access to their lands and resources yet with the same terms in their enabling acts, and a \$7.4 billion gap to deal with the education gap and the federal funds at risk.

Historical Background: See, HJR 3 Joint Resolution on Federal Transfer of Public Lands and the Historical Background for HB 148 draft by the Utah Attorney General's office.

President Andrew Jackson penned what is viewed as the most contemporaneous history on the trust duty of the federal government to timely dispose of the public lands, providing as follows:

"I do not doubt that it is the real interest of each and all the States in the Union, and particularly of the new States, that *the price of these lands shall be reduced and graduated, and that **after they have been offered for a certain number of years the refuse remaining unsold shall be abandoned to the States and the machinery of our land system entirely withdrawn.*** It can not be supposed the compacts intended that the United States should retain forever a title to lands within the States which are of no value, and no doubt is entertained that **the general interest would be best promoted by surrendering such lands to the States.**"

See also attached 1915 Resolution of the Utah Senate.

The promise to all states to dispose of the public lands was established in and through the congressional resolutions of 1780, the Land Ordinance of 1785, the Northwest Ordinance of 1787, all of which were incorporated into Article IV of the Constitution (the States section of the Constitution) which granted **the "power to dispose"** of the public lands in order "to preserve the statu quo" with respect to the public lands. The power to dispose of the public lands cannot logically be viewed as permitting the power to retain and never dispose without turning this delegated constitutional power on its head.

In the congressional hearings of 1932 on "Granting the Remaining Unreserved Public Lands to States," it was undisputed that the federal government was duty-bound to dispose of the public lands. The question before these hearings was not whether the federal government should dispose of the public lands, but when and how it must do so. However, two primary legislative proposals under consideration sought to reserve the mineral estate to the federal government, which is why the states actively opposed these bills.

The subsequent Taylor Grazing Act of 1934 (which led to the creation of BLM) expressly provided that it was merely a management act "pending final disposal of the lands."

Not until 1976 did the federal government first claim, by act of Congress, outright authority "*that **the public lands be retained in Federal ownership, unless . . . it is determined that disposal of a particular parcel will serve the national interest.***" FLPMA, sec. 102(a)(1). However, even under the unilateral congressional act that is FLPMA, the federal government promised local control, access, multiple use and the sustained yield of the natural resources. In recent years, however, it has become painfully apparent through a host of proofs that the federal government no intention of keeping even the promise it made under FLPMA, let alone the fundamental promise in each state's enabling act, which the U.S. Supreme Court has called a "solemn compact," a "bi-lateral agreement," to be performed "in a timely fashion."

Perhaps it is in view of the manifest injustice relating to the public lands that a unanimous U.S. Supreme Court recently counseled that "***the consequences of admission are instantaneous, and it ignores the uniquely sovereign character of that event . . . to suggest that subsequent events [meaning acts of Congress] somehow can diminish what has already been bestowed. And that proposition applies a fortiori [with even greater force] where virtually all of the State's public lands . . . are at stake.***" Hawaii v. OHA, (2009)

HISTORICAL
BACKGROUND TO HB 148

EXECUTIVE SUMMARY

Upon the acquisition of the vast western public lands, the Congress of the United States had determined that the lands would be disposed of through sale or grant, that the territories would be converted into new states, and that this process of adding states would be accomplished through the vehicle of enabling acts setting the conditions of statehood. Congress also recognized the need to fund education in the new states and made provisions in the enabling acts for such purposes through land grants and proceed sharing.

It was in this historical context that Utah's Enabling Act was passed by Congress. In addition to school land grants, the Enabling Act provided that: "five percentum of the proceeds of the sales of public lands lying within said States ... shall be paid to said State ... for the support of the common schools within said State."

Shortly after Utah's admission to the Union, federal policy began to shift from one of public land disposal to one of conservation and control. Ultimately, with the 1976 enactment of the Federal Land Policy and Management Act, the official federal public lands policy became one of retention and preservation, thereby abrogating the disposal policy that was relied upon in the Enabling Act.

Recent pronouncements by the United States Supreme Court have characterized the enabling acts of the western states as "solemn agreements," and the Court has stated the states are entitled to the "benefit of the bargain." The Court also has held that subsequent acts of Congress cannot override the commitments made in the enabling acts.

Utah has struggled since statehood with adequately funding public education. Utah is presently last in the nation in terms of per pupil funding. The funding dilemma is

largely due to the fact that 66 percent of the land in Utah is federally owned (see attached map) and not subject to taxation.

HB 148 addresses the failure of the United States to adhere to the letter and spirit of Utah's Enabling Act by seeking the transfer to the State of Utah of the public lands within its borders, and charges the Constitutional Defense Council with the duty of identifying available remedies in the event that such transfer does not occur. The object is to produce sufficient additional revenues to permit the needed funding of public education.

HISTORICAL BACKGROUND TO H148

I. Early Efforts of Land Disposal and Education Support

Even before our new nation was fully formed, the founding fathers were looking for ways to dispose of the then recently acquired “western” lands, and to support education. The Confederation of the States emerged from the Revolutionary War deeply in debt. Without an ability to tax, there were few assets that could be identified as a source of revenue. Publicly owned land was the obvious source of such revenue. Through the treaty with the British, and the cession of western lands by the original states, the Confederation had acquired substantial land holdings between the Appalachian Mountains and the Mississippi River and north of the Ohio River. It was determined by the Congress of the Confederation that these “Northwest Territories” would be disposed of through both grant and sale for the purposes of debt reduction. Accordingly, the Congress enacted the Land Ordinance of 1785 which provided for the surveying and division of these public lands into townships and sections, followed by disposition through sales or grants. The passage of the Northwest Ordinance of 1787 created a three-tiered mechanism for the creation and governance of first the territories, and then the states cut out of these western lands. This Act provided for the ultimate use of Enabling Acts to be enacted by Congress, followed by the adoption of state constitutions therewith consistent, and finally, approval by the President as the process of achieving statehood. This basic mechanism was employed in Utah’s statehood efforts between 1894 and 1896.

Education had been a program of particular emphasis during the colonial period. The colonists viewed the system of publicly endowed schools in Europe as important in the New World, and used the abundant land for this purpose. Accordingly, in the setting

up of communities, land was set aside to support the “common” schools with the objective that these lands would produce revenues for education purposes. This school grant concept was carried over to the Confederation as the Northwest Ordinance provided that, in the survey and township platting, Section number 16 in every township should be granted for the support of schools. This reservation began the Federal School Endowment Policy that endured to Utah’s statehood and beyond.

During the first half of the nineteenth century, the new nation acquired all the lands that now make up the United States. Through the Louisiana Purchase (1803), the purchase of Florida (1819) and the Oregon Territory (1848), the Treaty of Guadalupe Hidalgo (1848), and the purchase of Alaska (1867), the United States added some 2,503,300 square miles or 36,604,827,800 acres to its western public lands.

With this enormous increase, Congress stepped up its efforts to settle and dispose of these public lands. Various programs were legislatively enacted to accomplish these objectives, including cash and credit programs, the Pre-emption Laws, the Homestead Acts, railroad grants and the Mining Acts. By 1894, the paradigm of public land disposal dictated federal land policy.

Always a part of this policy was the continuing use of school grants to fund education. As the western territories became more settled, western advocates began to press for more control over the public lands and/or the actual transfer of lands into state ownership upon statehood. Westerners chafed at the fact that eastern states having little public land within their borders reaped the benefits of resource development and private, taxable ownership. Various proposals were considered by Congress, some of which involved large land transfers. Ultimately, Congress determined that these western

concerns would be addressed by sharing the revenues from public land sales with the states in which the lands were situated. Of course, such sales of public lands into private ownership would ultimately result in the enlargement of aggregate values upon which tax revenues could be derived.

Significant insight into the nation's nineteenth century perspective on the disposal of the western public lands can be derived from the pen of President Andrew Jackson. In 1833, President Jackson vetoed a Land Bill passed by Congress following the extinguishment of the national debt that would have temporarily appropriated proceeds from the sale of public land in a manner that was inconsistent with the enabling acts of new states. In his veto message to Congress, President Jackson reviewed the history of the federal land cession policies. In so doing, he emphasized the solemnity of the covenants with the states:

The states claiming those lands acceded to those views and transferred their claims to the United States upon certain specific conditions, and on those conditions the grants were accepted. These solemn compacts, invited by Congress in a resolution declaring the purposes to which the proceeds of these lands should be applied, originating before the Constitution and forming the basis on which it was made, bound the United States to a particular course of policy in relation to them by ties as strong as can be invented to secure the faith of nations....

The debt for which these lands were pledged by Congress may be considered as paid, and they are consequently released from that lien. But that pledge formed no part of the compacts with the States, or of the conditions upon which the cessions were made. It was a contract between new parties—between the United States and their creditors. Upon payment of the debt the compacts remain in full force, and the obligation of the United States to dispose of the lands for the common benefit is neither destroyed nor impaired....

It appears to me that a more direct road to consolidation can not be devised. Money is power, and in that Government which pays all the public officers of the States will all political power be substantially concentrated. The State governments, if governments they might be called, would lose all their independence and dignity: the economy which now distinguishes them would be

converted into a profusion, limited only by the extent of the supply. Being the dependents of the General Government, and looking to its Treasury as the source of all their emoluments, the State officers, under whatever names they might pass and by whatever forms their duties might be prescribed, would in effect be the mere stipendiaries and instruments of the central power.

President Jackson concluded with the following:

On the whole, I adhere to the opinion, expressed by me in my annual message of 1832, that it is our true policy that the public lands shall cease as soon as practicable to be a source of revenue, except for the payment of those general charges which grow out of the acquisition of the lands, their survey and sale.... I do not doubt that it is the real interest of each and all the States in the Union, and particularly of the new States, that the price of these lands shall be reduced and graduated, and that after they have been offered for a certain number of years the refuse remaining unsold shall be abandoned to the States and the machinery of our land system entirely withdrawn. It can not be supposed the compacts intended that the United States should retain forever a title to lands within the States which are of no value, and no doubt is entertained that the general interest would be best promoted by surrendering such lands to the States.

II. Utah's Enabling Act, Constitution and Statehood

It was in this historical context of public lands disposal and lands-based educational support that Utah became a state. On July 16, 1894, Congress enacted Utah's Enabling Act setting forth the conditions upon which Utah could become a state. In accordance with the federal policy of education grants, Section 6 provided in part:

“That upon the admission of said State into the Union, sections numbered two, sixteen, thirty-two, and thirty-six in every township of said proposed State, and where such sections, or any parts thereof, have been sold or otherwise disposed of by or under the authority of any act of Congress, other lands equivalent thereto, in legal subdivisions of not less than one quarter section, and as contiguous as may be to the section in lieu of which the same is taken, are hereby granted to said State for the support of commons schools, . . .”

Further, and in accordance with the then prevailing federal policy of public lands disposal, Sections 9 and 10 provided:

Sec. 9. That five per centum of the proceeds of the sales of public lands lying within said State, which shall be sold by the United States

subsequent to the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to the said State, to be used as a permanent fund, the interest of which only shall be expended for the support of the common schools within said State.

Sec. 10. That the proceeds of land herein granted for educational purposes, except as hereinafter otherwise provided, shall constitute a permanent school fund, the interest of which only shall be expended for the support of said schools, and such land shall not be subject to pre-emption, homestead entry, or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be surveyed for school purposes only.

In addition, the Enabling Act required that the people of Utah “forever disclaim all right and title to the unappropriated public lands” within the state, that such lands would be subject to the disposition of the United States, and that “no taxes shall be imposed by the States” upon lands or property owned by the United States. Lastly, the Enabling Act required the holding of a convention for the adoption of a State Constitution consistent with the requirements of the Enabling Act.

Utah held its constitutional convention commencing on March 4, 1895, and ratified its new constitution on November 5, 1895. The Utah Constitution comported with the requirements of the Enabling Act. In so doing, it must be assumed that this comportment was in reliance upon the promises and representations made by Congress in the Enabling Act, including the disposal of public lands and educational support. On January 4, 1896, President Cleveland executed a proclamation designating Utah as a State on an equal footing with the other states of the Union.

III. Federal Shift From Public Lands Disposal to Reservation, Conservation and Preservation

Shortly following Utah’s statehood, the federal government began to shift public lands policy away from disposal and toward reservation and conservation. In 1905 the National Forest Service was created by combining the General Land Office (the agency created for the purpose

of disposing of the public land) and the Division of Forestry. In 1906 and 1907, President Theodore Roosevelt more than doubled the acreage of forest reserve. Perhaps more significantly, federal land policy moved toward conservation and resource management. Land disposal policies were replaced with policies that retained the public lands in federal ownership.

This shift of policy was not lost on the Utah Legislature. In its 1915 Session, the Legislature proposed a Joint Memorial to the President and both houses of Congress eloquently urging the federal government to return to its disposal policy:

“Rejoicing in the growth and development, the power and prestige of the older states of the union, and recognizing that their advancement was made possible through the beneficent operation of a wise and most generous public land policy on the part of the government, the people of Utah view with alarm and apprehension the national tendency toward the curtailment of the former liberal policies in handling the public domain and disposing of the natural resources, as evidenced in the vast land withdrawals and the pending legislation, calculated to make our coal, our mineral and our water power resources chattels for government exploitation through a system of leasing.

In harmony with the spirit and letter of the land grants to the National government, in perpetuation of a policy that has done more to promote the general welfare than any other policy in our national life, and in conformity with the terms of our Enabling Act, we, the members of the Legislature of the State of Utah, memorialize the President and the Congress of the United States for the speedy return to the former liberal National attitude toward the public domain, and we call attention to the fact that the burden of State and local government in Utah is borne by the taxation of less than one-third the lands of the State, which alone is vested in private or corporate ownership, and we hereby earnestly urge a policy that will afford an opportunity to settle our lands and make use of our resources on terms of equality with the older states, to the benefit and upbuilding of the State and to the strength of the nation.”

Federal policy was not reversed, however. Rather, the policies of conservation and control were expanded over time. In 1934 Congress passed the Taylor Grazing Act, thereby committing those lands previously open for disposal to the control and management by the U. S. Grazing Service. While this act expressly provided that it was “to promote the highest use of the

public lands pending its final disposal,” it signaled that the last vestige of the theretofore open lands policy had come to an end.

Even the term “conservation” began to take on a more restrictive meaning. In the first half of the twentieth century “conservation” was used by federal land managers to mean retention of lands for resource development. Thereafter, and in response to recreational and environmental interests, “conservation” began to take on a much more restrictive meaning. “Conservation” became “preservation”.

The move away from disposal of the public lands, and toward a policy of retention and preservation, culminated in the 1976 passage by Congress of the Federal Land Policy and Management Act (“FLPMA”). FLPMA declared that “it is the policy of the United States that the public lands be retained in Federal ownership, unless . . . it is determined that disposal of a particular parcel will serve the national interest.”

The policy of disposal of public lands upon which the State of Utah had detrimentally relied for educational support at the time of statehood, and as is set forth in Section 9 of the Enabling Act, had been finally and unceremoniously brought to an end.

IV. Western Efforts to Obtain Relief

The western public lands states, including Utah, reacted to FLPMA’s passage with both anger and action. In what came to be called the “Sagebrush Rebellion,” the western states combined efforts to force the federal government to divest itself of the public lands. Those efforts took the form of state and local legislation, court challenges, federal administrative changes and federal legislation. In 1979, Nevada enacted a state law asserting state title, management and disposal authority over public lands administered by the Bureau of Land

Management (BLM). Utah passed a similar measure. Those efforts were rejected by the federal courts in two Nevada decisions that essentially stifled the rebellion.

In 1978, Nevada filed suit challenging the constitutionality of the federal land retention policy of FLPMA. Nevada argued that the “equal footing doctrine” that is set forth in the western states enabling acts insured that the western public lands would pass into state or private lands so as to place the western states on an “equal footing” with western states. In Nevada State Board of Agriculture v. United States, the court ruled that the equal footing doctrine applied only to political and sovereignty rights, and not to economic or geographic equality. The court further ruled that the Property Clause of the U.S. Constitution reserved to Congress the sole authority as to the disposal of public land. This case stands for the proposition that title to the public lands did not automatically vest in the State of Nevada under the equal footing provision of the Nevada Enabling Act, or by reason alone of the failure to dispose of such lands by the federal government. On appeal the case was affirmed on the basis that it was moot, thereby placing into question the lower court’s ruling.

In 1993, public officials of Nye County, Nevada took a bulldozer to roads that had been closed by the Forest Service, asserting that Nevada had title to the roads. The United States sued seeking a declaratory judgment that it owned and had the authority to manage the disputed lands. In United States v. Nye County, the court ruled that the county resolution declaring that the State of Nevada owns all public lands was invalid under the Supremacy Clause of the U.S. Constitution. Neither case was heard by the U.S. Supreme Court.

V. **Recent Supreme Court Pronouncements Regarding State Enabling Acts**

While efforts thus far challenging FLMPA and the federal land retention policies therein set forth have been unsuccessful, there are two more recent U.S. Supreme Court decisions that shed new light upon the enforceability of Enabling Acts.

In the 1980 case of Andrus v. Utah, the Supreme Court had before it Utah's in lieu selections under Section 6 of its Enabling Act. While the court ruled against Utah's selections on valuation grounds, it also characterized the contractual nature of the Enabling Act:

“As Utah correctly emphasizes, the school land grant was a “solemn agreement” which in some ways may be analogized to a contract between private parties. The United States agreed to cede some of its land to the State in exchange for a commitment by the State to use the revenues derived from the land to educate the citizenry.

The State's right to select indemnity lands may be viewed as the remedy stipulated by the parties for the Federal Government's failure to perform entirely its promise to grant the specific numbered sections. The fact that the Utah Enabling Act used the phrase “lands equivalent thereto” and described the substituted lands as “indemnity lands” implies that the purpose of these substitute selections was to provide the State with roughly the same resources with which to support its schools as it would have had had it actually received all of the granted sections in place. Thus, as is typical of private contract remedies, the purpose of the right to make indemnity selections was to give the State the benefit of the bargain.”

This case stands for the proposition that the Enabling Act, and the state constitutional provisions complying with the Act, constitute a solemn agreement, and that if the United States cannot or does not provide the State with the benefits of its bargain, the State is entitled to a remedy.

More recently in Hawaii v. Office of Hawaiian Affairs, a 2009 case, the Supreme Court dealt with the preeminence between a state's enabling act and subsequent, inconsistent congressional action. “[The] consequences of admission are instantaneous, and it ignores the

uniquely sovereign character of that event . . . to suggest that subsequent events somehow can diminish what has already been bestowed.”

This case arguably stands for the proposition that, if FLPMA is found to contravene a commitment made by the United States in Utah’s Enabling Act, the rights and benefits set forth in the Enabling Act should govern.

VI. Utah’s Continuing Struggle to Fund Education

Since statehood, Utah has struggled to adequately fund public education. Utah is presently last in the Nation in terms of per pupil funding. Per pupil spending in Utah of \$5,978.00 compares to a national average of \$10,297.00. This is in large part due to the fact that some 66% of the lands within its borders are owned and controlled by the federal government and not subject to taxation (see attached map). Lands that otherwise would be part of Utah’s tax base containing resources that would otherwise produce state revenues that would go to the funding of education, are largely locked up by the prevailing federal land policies.

At the time of statehood, Utah was led to believe, both expressly in the Enabling Act and impliedly by the then prevailing federal policy of land disposal, that the public lands would be transferred into either state or private lands. Section 9 of the Enabling Act so states: “That five per centum of the proceeds of the sales of public lands lying within said state, which shall be sold by the United States subsequent to the admission of said State into the Union . . . shall be paid to the said State, to be used as a permanent fund, the interest of which only shall be expended for the support of the common schools within said State.”

While the emphasized language can be read in more than one way, any such ambiguity is removed when it is read in the historical context in which it was promulgated. It was the prevailing intent at both the federal and state level that the public lands would be disposed of. It

was also apparent that not only would the State receive 5% of the net proceeds from such disposal, but also that the land would become part of Utah's revenue base. That was the mutually intended benefit of Utah's bargain – a benefit that Utah still awaits, and in the absence of which the education of Utah's children remains under-funded.

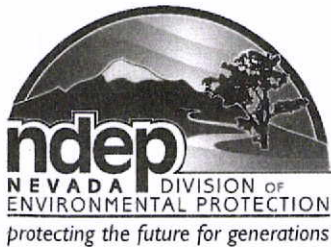
The federal government has recognized the difficulty of the revenue shortfall and has implemented several revenue-sharing programs, e.g. resource-based proceeds sharing and payments in lieu of taxes. However, the revenues resulting from these programs falls far short of the funds that would otherwise have resulted from disposal of the public lands, and the amounts needed for education needs.

VII. HB148 Seeks a Remedy for the Federal Breach of Utah's Solemn Promise

If the State of Utah is to achieve an adequate, if not necessary, level of funding for public education, it must find a way to overcome the adverse effects of the federal land policies herein described. HB148 is designed to productively readdress the failure of the United States to follow through on its statehood commitments to Utah's educational system. HB148 would establish a deadline for the federal government to cure its breach of the Enabling Act by transferring all public lands to state ownership, management and control. In the interim, the Act would charge the existing Constitutional Defense Council with the duty to:

1. Prepare legislation creating a Utah Public Lands Commission to manage the multiple use of the public lands including open space (including terms for constitutionally ceding the national parklands to the national government), access (recreating, hunting, fishing, etc.), local control, and the sustainable yield of the natural resources.

2. Prepare legislation to authorize and enable such sovereign actions by the state as may be necessary to secure the rights and enjoy the full benefits of statehood provided by Utah's Enabling Act, including the educational funding therein promised.



STATE OF NEVADA
Department of Conservation & Natural Resources
DIVISION OF ENVIRONMENTAL PROTECTION

Brian Sandoval, Governor
Leo M. Drozdoff, P.E., Director
Colleen Cripps, Ph.D., Administrator

August 13, 2012

The Estate of Martin T. Wessel
c/o Misty Wessel-Darr/Debra Jill Phillips
11359 W. Irving Lane
Boise, Idaho 83713

RECEIVED

AUG 20 2012

COUNTY COMMISSION

Subject: Second Quarter, 2012 Monitoring Report,
Former Ted's Chevron Facility, 474 West Front Street, Battle Mountain, Nevada
Facility ID Number: 5-000104
Petroleum Fund ID: 1999000052

Dear Ms. Darr:

The Nevada Division of Environmental Protection (NDEP) has reviewed your *Second Quarter 2012 Monitoring Report*, dated July 27, 2012, prepared on your behalf by Jeremy Boucher, Certified Environmental Manager for Broadbent & Associates, Inc. (BAI).

The site wells were monitored and sampled on June 11 and 12, 2012. Sixteen monitoring wells were monitored this quarter for MTBE and BTEX compounds along with analysis for bio-parameters. Three wells contained benzene above the 5 microgram per liter (ug/l) maximum contaminant level at 43 ug/l (MW-4), 48 ug/l (MW-12) and 19 ug/l (MW-15). Slight variations in benzene concentrations continue with minor changes estimated due to water table fluctuations. None of the other analytes exceeded their respective MCL's. BAI also noted that the indicators of biodegradation parameters measured in wells MW-11 and MW-15 indicate that intrinsic biodegradation of petroleum hydrocarbon constituents in groundwater is on-going at the site.

Depth to groundwater ranged between 5.12 (MW-8) to 8.10 (MW-14) feet to water and the gradient direction was north-northwest or northwest at 0.001ft/ft. Average groundwater elevation change for this quarter increased 0.06 feet.

Recommendations by Broadbent for the third quarter include;

- Surveying the 5 wells not tied in to the existing base map;
- Third Quarter monitoring/sampling;
- Attempt to locate the remaining two wells (MW-1 and MW-9) and add to the survey and sampling; and
- Set up a meeting with NDEP to discuss the June 18, 2012 Additional Characterization and Remedial Feasibility Pilot Test work Plan and Site clean-up goals.



The NDEP concurs with the *Second Quarter 2012 Monitoring Report* and requests a meeting be arranged within the next month with NDEP

If you have any questions or require additional information please contact me at 775-687-9376 or kevins@ndep.nv.gov.

Sincerely,



Kevin E. Sullivan
UST/LUST Supervisor
Bureau of Corrective Actions

cc: Todd Croft, NDEP, Bureau of Corrective Actions
Hayden Bridwell, NDEP, Petroleum Fund
Jeremy Boucher, C.E.M., jboucher@broadbentinc.com

cc: Chuck Chapin, Chairman, Lander County Board of Commissioners, 315 South Humboldt Street, Battle Mountain, NV 89820
Jacob Edgar, Public Works Foreman, 315 South Humboldt Street, Battle Mountain, NV 89820
J.P. Marden, Nevada Department of Transportation, 725 W. 4th Street, Winnemucca, NV 89445



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Nevada State Office
1340 Financial Boulevard
Reno, Nevada 89502-7147
<http://www.blm.gov/nv>

Correspondence #13
8/23/2012



In Reply Refer To:
2800 (NV910)
N-78803

August 2012

Dear Reader:

Enclosed is an errata sheet for the *Clark, Lincoln, and White Pine Counties Groundwater Development Project Final Environmental Impact Statement* (Final EIS), which was issued on August 3, 2012. Please review the errata as you read the EIS.

The *Clark, Lincoln, and White Pine Counties Groundwater Development Project Final Environmental Impact Statement* will be available for 60 days from the date of the original distribution. The final day to submit descriptions of new or missed information would be October 1, 2012. A hard copy of the document (or additional copies of the executive summary) will be provided on request while supplies last.

Penny Woods, Project Manager
Bureau of Land Management
Nevada Groundwater Projects Office
Nevada State Office (NV-910.2)
1340 Financial Blvd
Reno, NV 89502
FAX: 775.861.6689
Email: nvgwprojects@blm.gov

RECEIVED
AUG 20 2012
COUNTY COMMISSION

Errata for the Clark, Lincoln, and White Pine Counties Groundwater Development Final Environmental Impact Statement (EIS) (August 2012) FES 12-33

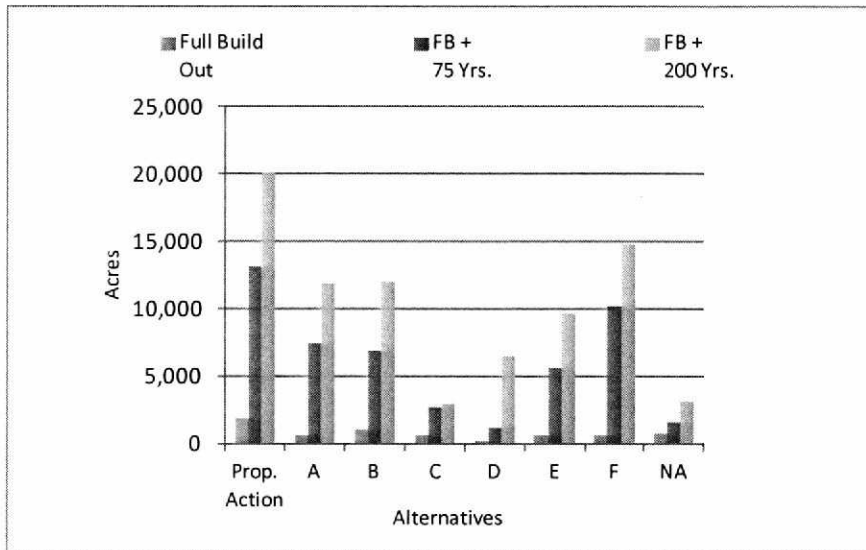
Abstract

Third and Fourth Pages of the Final EIS (unnumbered): The date the Final EIS was filed with the USEPA is July 27, 2012. The date the Abstract was signed by the State Director also is July 27, 2012.

The following corrections are provided for the Executive Summary and Final EIS regarding potential groundwater pumping effects on hydric soils:

Executive Summary

Page ES-62, Figure ES-31: Acres of Hydric Soils at Risk from Drawdown (≥ 10 feet) for Alternative F were revised as follows: Full build out (532 acres); Full build out +75 years (10,209 acres); Full build out +200 years (14,765 acres). Replace **Figure ES-31** with the following:



Page ES-79, Table ES-10: Soils, Acres of hydric soils within high or moderate risk zones within drawdown areas, Alternative F - Replace 4,949 acres with **10,209** acres and Cumulative with Alternative F – Replace 14,727 acres with **22,123** acres.

Final EIS

Chapter 2. Page 2-133, Table 2.10-3: Soils, Acres of Hydric Soils Within Drawdown Area (>10 feet) – Alternative F. Replace 4,949 acres with **10,209** acres.

Chapter 2. Page 2-138, Table 2.10-4: Soils, Acres of Hydric Soils Within Drawdown Area (>10 feet) – Alternative F. Replace 8,403 acres with **14,765** acres.

Chapter 2. Page 3.4-31, Section 3.4, Soils: Replace Table 3.4-13 with the following:

Table 3.4-13 Estimate of Impacts to Hydric Soils from Drawdown within High and Moderate Risk Zones for Alternative F

Basins with Hydric Soils Affected by Drawdown	Total Hydric Soils in Basin (acre) ¹	Hydric Soils at Risk from Drawdown (acre)		
		Full Build Out	Full Build Out Plus 75 Years	Full Build Out Plus 200 Years
Lake Valley	3,852	—	—	2,728
Spring Valley (184)	26,766	532	10,209	11,880
Pahrnagat Valley	1,178	—	—	157
Total Acres	31,796	532	10,209	14,765

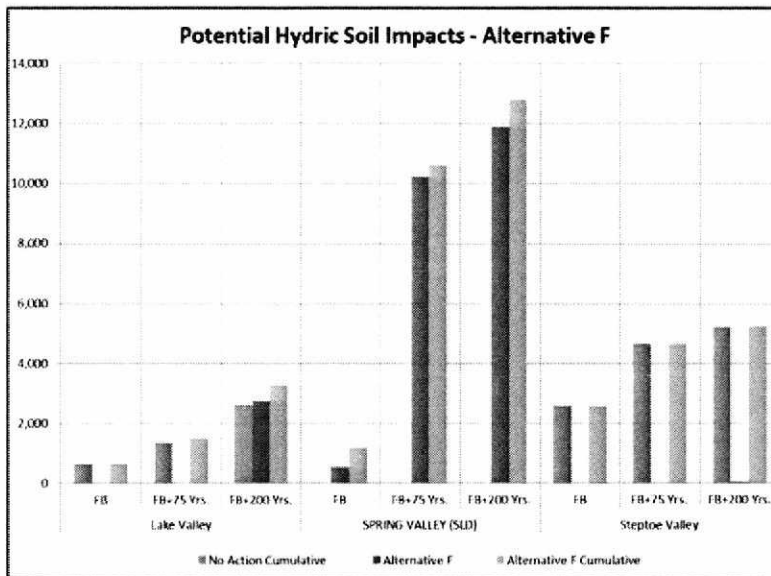
¹ Based on SSURGO map data.

Note: "At Risk" refers to hydric soils potentially affected by drawdown in High or Moderate Risk Zones. Where no hydric soils would be at risk, cell is marked with the — symbol.

Section 3.4, Soils. Page 3.4-33, Table 3.4-15: Alternative F, Maximum area (acres) of hydric soils potentially affected by 10-foot pumping drawdown within high and moderate risk zones. Replace 8,403 acres with 14,765 acres.

Section 3.4, Soils. Page 3.4-45, Paragraph 2 under Groundwater Pumping Effects, Lines 8, 10, and 11. Replace Alternative E with Alternative F.

Section 3.4, Soils Page 3.4-46. Replace Figure 3.4-11 with the following:



Section 3.4, Soils. Page 3.4-46, Table 3.4-16: Alternative F, Maximum Area (acres) of Hydric Soils Potentially Affected by 10-foot Pumping Drawdown Within High and Moderate Risk Zones. Replace 14,727 acres with 22,123 acres.