WRITTEN STATEMENT OF MIKE L. BAUGHMAN

ADDRESSING FINDINGS AND RECOMMENDATIONS OF THE NEVADA LAND MANAGEMENT TASK

PREPARED FOR THE CONGRESSIONAL FEDERAL LAND ACTION GROUP FORUM

1310 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, D.C.,

OCTOBER 26, 2015

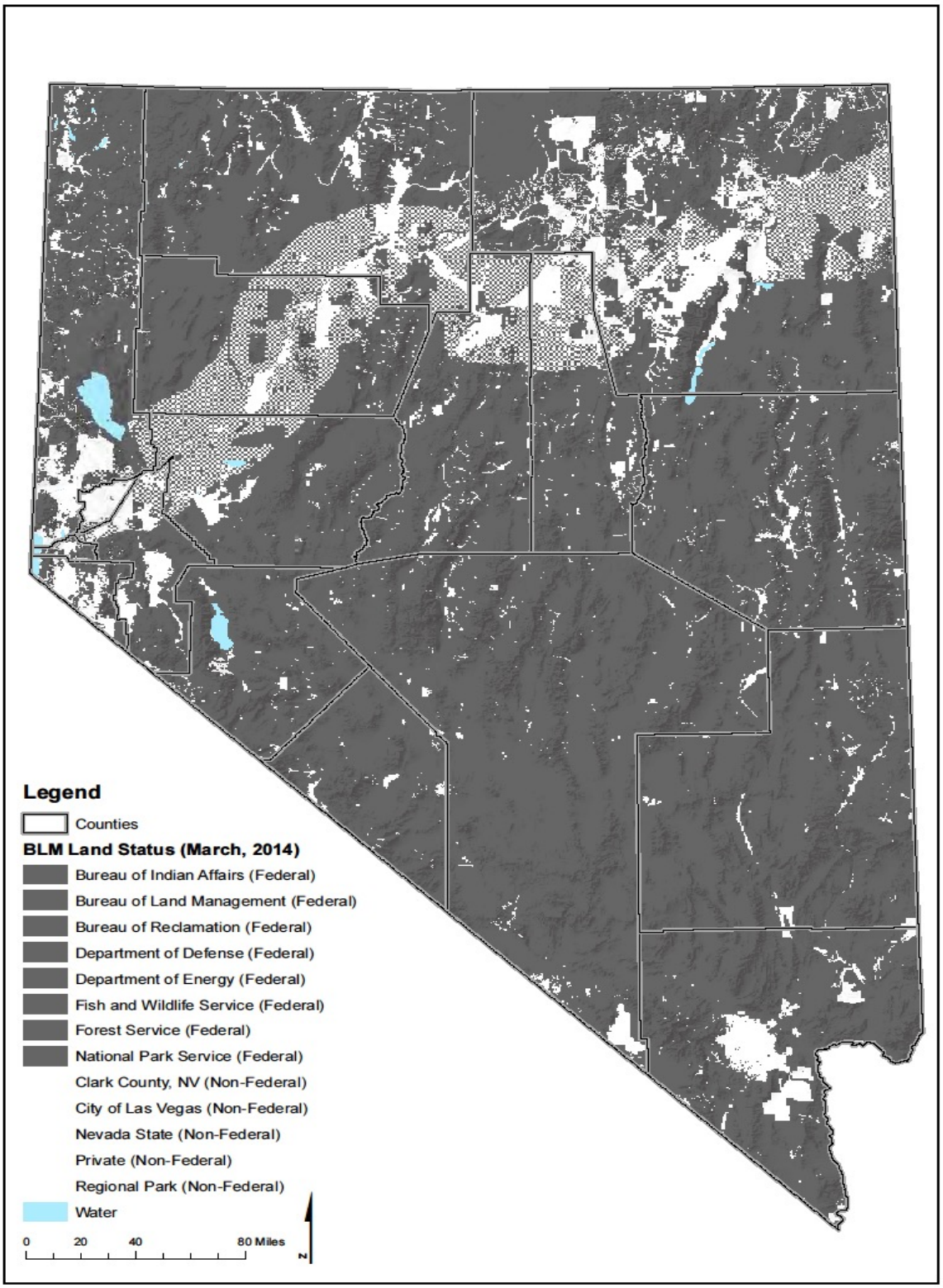
Chairman Stewart, Chairman Bishop and members of the Federal Land Action Group, thank you for inviting my remarks today regarding "More Local Control of Public Lands: Efforts at the State and Local Level". My name is Mike Baughman and I am President of Intertech Services Corporation, a Carson City, Nevada based consulting firm, a position I have held for nearly 30 years. Over the years, I have served as a contract project manager for the Bureau of Land Management in the permitting of numerous major energy and water related projects on public land in Nevada. Since the mid-1990's, I have been the contract Executive Director for the five-county Humboldt River Basin Water Authority and the contract Executive Director for the Lincoln County Regional Development Authority, positions I continue in today. I have also recently served as a consultant to the Nevada Land Management Task Force and it this work for the Task Force to which my remarks today will be primarily focused.

Nevada covers 110,567 square miles, making it the 7th largest of the 50 states. Eighty-one percent of Nevada's land area is administered by various agencies of the federal government, the highest percentage of federal land among all 50 states. As evidenced by Figure 1, some counties in Nevada such as Esmeralda, Lander, Lincoln, Nye, and White Pine have over 90 percent of total county acreage being administered by the federal government. The majority of federally controlled land in Nevada is administered by the Bureau of Land Management (BLM). In Nevada, BLM administers nearly 47.8 million acres, or 67.5 percent of Nevada's land area. The high percentage of federally administered land in Nevada necessarily results in the state having a paucity of state and private land, ranking last among all 50 states. The extent of federally administered land in Nevada has been viewed by many as a constraint to expansion and diversification of the State's economy and tax base as well as conservation of key components of its flora and fauna. Many important decisions regarding authorization of land uses and environmental management face institutional and temporal uncertainty as decision-making is subjected to myriad of federal statutes, regulations and policies and decision-making is often relegated from local to state offices then on to agency leadership in Washington, D.C.

In response to these concerns, Assembly Bill 227 was introduced and debated during the 77th session of the Nevada Legislature, was passed and signed into law by Nevada Governor Brian Sandoval becoming effective on June 1, 2013. A.B. 227 (Chapter 299, *Statutes of Nevada 2013*) established the Nevada Land Management Task Force (hereinafter referred to as the Task Force). A.B. 227 required that a study be produced as a result of the Task Force's work, specifically covering three main things: 1) an economic analysis including costs and revenues associated with transferring federal lands to the State; 2) a proposed plan for the administration and management of any lands transferred; and 3) an identification of the lands that Task Force determines would be included in any potential transfer. The Task Force was required to present its findings in one report to the Nevada Legislative Committee on Public Lands on or before September 1, 2014.

The Task Force was made up of one representative from each of Nevada's 17 counties. For sixteen of the seventeen counties the Task Force members were county commissioners and the 17th, an appointee of the county commission.

Figure 1. Nevada Land Status



Funding of Task Force expenses was borne by Nevada's counties. The Nevada Association of Counties (NACO) provided financial management and administrative support to the Task Force. Upon recommendation of the Task Force members, NACO contracted with Intertech Services Corporation to assist in gathering data, analysis and preparation of the Task Force report. Task Force meeting minutes, meeting exhibits and the Final Task Force Report can be found on the NACO website.

The Task Force met 12 times over a 14 month period at which over a dozen formal presentations were provided from persons representing Nevada State land management, environmental regulation and economic development agencies; local government economic developers; large private land holders; non-governmental conservation and sportsmen's organizations; the Bureau of Land Management and public land legal scholars. During its July 18, 2014 meeting, the Task Force reviewed and those members of the Task Force present voted unanimously to approve a final report entitled, "*A Report of the Nevada Land Management Task Force to the Nevada Interim Legislative Committee on Public Lands: Congressional Transfer of Public Lands to the State of Nevada*" for submission to the Nevada Interim Legislative Committee on Public Lands.

The Task Force further recommended that the Nevada Interim Legislative Public Lands Committee submit a bill draft request to introduce a joint resolution calling upon the Congress to transfer 7.2 million acres of public land to the State of Nevada in an initial phase; other federally administered lands in subsequent phases and other matters pertaining thereto. Although the Chairman of the Nevada Interim Legislative Committee on Public Lands elected to not bring up for a vote the recommendation to request a bill draft request, several Nevada legislators serving on the Committee requested that the recommended Joint Resolution be drafted and introduced into the Nevada Legislature. The resulting Senate Joint Resolution 1, which Urges Congress to enact legislation transferring title to certain public lands to the State of Nevada in accordance with the report prepared by the Nevada Land Management Task Force, passed both houses of the Nevada Legislature and became effective May 21, 2015.

Major findings and conclusions resulting from the 14-month long deliberations of the Nevada Land Management Task Force and contained within the Task Force Final Report include:

1) The Task Force recognized the need to maintain the integrity of environmentally sensitive and culturally important areas designated by Congress for special management such as wilderness, national parks, national monuments, national recreation areas, national wildlife refuges, national conservation areas, federally recognized Indian reservations and other lands administered by the Bureau of Indian Affairs and land designated by the Bureau of Land Management (BLM) as Areas of Critical Environmental Concern to protect the Desert Tortoise. These lands were recommended by the Task Force for exclusion from any congressional transfer of land to the State of Nevada.

2) The Task Force determined that the State of Nevada would likely be able to generate significant net revenues from the management of an expanded state land base. The Task Force concluded that conditions which attended state trust land management in the states

of Arizona, Idaho, New Mexico and Utah during the years of 2008 through 2012 are sufficiently similar to those in Nevada to support the assumption that were the Congress to transfer an amount of land commensurate with state trust land holdings in those states that Nevada could achieve net land management revenues ranging between $7.78 and $28.59 per acre. Table 1 provides estimates of net revenues which might be derived through management of an expanded land base by the State of Nevada.

3) The concept of self-funding of an expanded state land management function was embraced by the Task Force as a goal. Consequently, two key objectives were identified including 1) phasing of a federal to state land transfer to enable absorption of an expanded land management function in a fiscally neutral and sustainable manner and 2) selection of lands for transfer during Phase I having immediate potential for collateralization, minimal management costs and generation of net revenues in a short term.

Table 1. Estimated Net Revenue from Expanded State Land Ownership in Nevada Using Four State Net Revenue Models

	Net Revenue Per Acre Value Applied[1]	Total Net Revenue Assuming 7.2 Million Acres of BLM Land Transferred to Nevada	Total Net Revenue Assuming 45,000,000 Acres of BLM Land Transferred to Nevada[2]
Four State Average Net Revenue/Acre Model	$28.59	$205,848,000	$1,286,550,000
Four State Low Observed Net Revenue and High Observed Expense/Acre Model	$7.78	$56,016,000	$350,100,000

1/ Four State Average from Table 10; Four State Low Observed Net Revenue and High Observed Expense is the difference between Low Observed Revenue of $16.78 per acre and High Observed Expense of $9.00 per acre as shown in Table 10.
2/ BLM administers approximately 48 million acres in Nevada, assumed 45 million acre transfer excludes estimated acreages for designated wilderness, National Conservation Areas, National Monuments and other Congressionally designated areas.

Source: Intertech Services Corporation, *Comparative Analysis of Revenues and Expenses for State Trust Land Management and Bureau of Land Management in Select States: Implications for an Expanded State Land Base in Nevada*, prepared for the Nevada Association of Counties on behalf of Nevada Public Land Management Task Force, in consultation with Resource Concepts, Incorporated, May 30, 2014.

The Task Force identified the following public lands in Nevada for inclusion in a proposed Phase I land transfer:

- BLM administered parcels of land remaining within the original Central Pacific Railroad corridor along Interstate 80 in Northern Nevada (BLM Checkerboard; 4.2 million acres)
- Lands identified by BLM as suitable for disposal or currently moving forward in planning documents for federal land use plans that have not yet been disposed of (Identified by BLM as Suitable for Disposal; 1 million acres)
- BLM lands under existing Recreation & Public Purposes (R&PP) Act lease (Existing BLM R&PP Leases; 200,000 acres)
- BLM lands authorized under Rights-of-Way granted to the State and local governments and non-linear Rights-of-Way granted to private parties (Existing BLM ROW Grants; 255,000 acres)
- BLM held subsurface estate where the surface estate is privately held (BLM Split Estate; 300,000 acres)
- BLM lands designated by the Secretary of the Interior as Solar Energy Zones (BLM Designated Solar Energy Zones; 65,000 acres)
- BLM lands leased for geothermal exploration and utilization (BLM Geothermal Leases; 1,045,079 acres)
- BLM lands authorized for disposal within enacted and introduced federal legislation (Enacted and Proposed Congressional Transfers of BLM Land; 250,000 acres)

Collectively, these Phase I lands would total an estimated 7,281,074 acres.

The Task Force observed the important role that the dedication of net revenues to select beneficiaries has seemingly played in other states' success in generating net revenues. The Task Force recommends that 1) the transferred lands will be held by the State of Nevada in trust for select beneficiaries; 2) Phase I transferred lands will be managed for long-term net revenue maximization; 3) lands transferred in subsequent phases will be managed for on-going net revenue generation and environmental health, function, productivity and sustainability and 4) the transferred lands be managed by the State of Nevada in trust for the following beneficiaries:

- Public K-12 education
- Public higher education
- Public specialized education
- Public mental and medical health services
- Social, senior and veterans services
- Public programs for candidate and listed threatened or endangered species recovery plan development and implementation
- Local governments to pay for services and infrastructure required on these lands which would otherwise be financed through property tax or other revenues available to local government

Because Nevada currently only holds and manages less than 200,000 acres, of which approximately 2,900 acres are State Trust Lands, the Task Force recognized that given fiscal and staffing considerations the State of Nevada would be well served to accept transferred federal lands in phases. The Task Force further concluded that any phasing strategy must be focused in the beginning on lands which offer immediate revenue generating potential so as to enable the

State of Nevada early access to monies from which an expanded State Trust land management capacity could be established with minimal impact upon the State General Fund.

The Task Force considered alternatives for administration and management of an expanded State land base and determined that land to be transferred by the Congress should be transferred to, and administered by, the State of Nevada, Division of State Lands. Were the Congress to transfer 7.2 million acres during Phase I to the State of Nevada, the Task Force estimated management of this added land base would require a staffing level at the Nevada Division of State Lands of between 96 and 162 persons.

Given existing statutory and regulatory environmental and land use review, oversight and approval/denial authority vested with State of Nevada agencies and local government, the Task Force found that proposed development and use of transferred lands in an environmentally responsible manner is likely and that extra-regulatory procedures such as a state-level National Environmental Policy Act (NEPA) like process is unnecessary. Table 2 lists the various statutory and regulatory environmental and land use review, oversight and approval/denial authority vested with State of Nevada agencies and local government

Table 2. Nevada State and Local Government Environmental Permitting Capacity

Permits and Approvals Required for Major Development Project With and Without Federal Nexus		
Permit/Approval	**Granting Agency/ With Federal Nexus**	**Granting Agency/ Without Federal Nexus**
Right of Way Grant	BLM	State or Private Property Owner
Change of Zoning/Conditional Use Permit	County	County
Endangered Species Act Incidental Take Permit	U.S. Fish and Wildlife Service (ESA Section 7)	U.S. Fish and Wildlife Service (ESA Section 10)
Explosives Permit (Blasting)	U.S. Bureau of Alcohol, Tobacco and Firearms	U.S. Bureau of Alcohol, Tobacco and Firearms
Section 106 National Historic Preservation Act agreement document(s)	BLM State of Nevada Historic Preservation Office	State of Nevada Historic Preservation Office
National Pollutant Discharge Elimination System Storm Water General Permit	Nevada Division of Environmental Protection Bureau of Water Pollution Control	Nevada Division of Environmental Protection Bureau of Water Pollution Control
Water Pollution Control Permit Reclamation Permit	Nevada Division of Environmental Protection Bureau Mine Regulation and Reclamation	Nevada Division of Environmental Protection Bureau Mine Regulation and Reclamation
Permit to Appropriate Water – Change in Point of Use and Diversion	Nevada Division of Water Resources	Nevada Division of Water Resources
Nevada State Dam Permit (storm water ponds)	Nevada Division of Water Resources	Nevada Division of Water Resources
Industrial Artificial Pond Permit	Nevada Department of Wildlife	Nevada Department of Wildlife
Approval to Operate Sanitary Landfill/Solid Waste System	Nevada Division of Environmental Protection Bureau of Waste Management	Nevada Division of Environmental Protection Bureau of Waste Management
Hazardous Waste Permit	Nevada Division of Environmental Protection Bureau of Waste Management	Nevada Division of Environmental Protection Bureau of Waste Management
Air-Surface Disturbance Permit	Nevada Division of Environmental Protection Bureau of Air Pollution Control	Nevada Division of Environmental Protection Bureau of Air Pollution Control
Air-Permit to Construct Permit	Nevada Division of Environmental Protection Bureau of Air Pollution Control	Nevada Division of Environmental Protection Bureau of Air Pollution Control
Air- Permit to Operate Permit	Nevada Division of Environmental Protection Bureau of Air Pollution Control	Nevada Division of Environmental Protection Bureau of Air Pollution Control
Hazardous Materials Permit	State of Nevada; Fire Marshal Division	State of Nevada; Fire Marshal Division
Radioactive Material License	Nevada State Health Division – Radiological Health Section	Nevada State Health Division – Radiological Health Section
Road Construction and Building Permit	County	County
Potable Water System Approval	Nevada Division of Environmental Protection Bureau of Safe Drinking Water	Nevada Division of Environmental Protection Bureau of Safe Drinking Water
Septic System Approval	Nevada Division of Environmental Protection Bureau of Water Pollution Control	Nevada Division of Environmental Protection Bureau of Water Pollution Control

As a means to minimize any need for limited Nevada State General Fund monies, the Task Force came up with the following plan for financing start-up transferred land management costs. Elements of the plan include:

- No Nevada State General Fund expenditures to manage 7.2 million acres of Phase I transferred lands
- A portion of the 7.2 million acres of land transferred to the State of Nevada to be collateralized
- Short to intermediate term debt to be incurred by State of Nevada for land management start-up capital
- The observed four-state Arizona, Idaho, New Mexico, Utah), five-year average state trust land management expense per acre of $3.73 can be assumed as the Year 1 land management cost per acre for lands transferred to the State of Nevada
- Estimated first year State of Nevada expense for management of 7.2 million acres is estimated at $26,856,000
- As soon as possible after patenting and recordation of the Phase I transferred land, the sale of select parcels to generate start-up capital and repay debt would occur
- A first year sale of up to 30,000 acres from among those lands previously identified for disposal by BLM at an assumed $1,000/acre would yield $30 million plus other on-going revenues (rents, royalties, fees, etc.) from the management of 7.2 million acres of transferred land
- Land sales in the Las Vegas Valley and Reno-Sparks areas would likely result in higher values per acre

The Task Force concluded that implementation of the aforementioned steps would result in the availability of sufficient capital to cover Year 1 management costs of the 7.2 million acres transferred during Phase 1 and that no Nevada State General Funds would be required to cover said management costs. The Task Force further concluded that after Year 1 the management of the 7.2 million acres of Phase I transferred lands would be self-supporting.

In anticipation of passage of Senate Joint Resolution 1 by the Nevada Legislature, Nevada Congressman Mark Amodei requested introduction of H.R. 1484, *Honor the Nevada Enabling Act of 1864 Act* on March 19, 2015. The bill was rreferred to the House Subcommittee on Energy and Mineral Resources where it remains to be scheduled for a hearing.

Since presenting its Final Report to the Nevada Legislature; securing passage of Senate Joint Resolution 1 and seeing introduction of H.R. 1484 into the Congress, the 17-member counties which comprised the Nevada Land Management Task Force have continued to experience firsthand the chilling effects of federal land management policies upon local economic and fiscal vitality. In Lincoln County, after the Secretary of Interior designated the 25,069 acre Dry Lake Valley North Solar Energy Zone (SEZ) to encourage expedited development of utility-scale solar generating projects within the area, the BLM's Ely District Office has recently proposed a $7,696.00 per acre mitigation fee for the SEZ. Solar developers which the Lincoln County Regional Development Authority has been courting to develop projects in the County have indicated this level of mitigation fee renders development within the Dry Lake Valley Solar Energy Zone infeasible. Much more troubling for Nevada as a whole is the BLM and U.S. Forest Service proposal to withdraw nearly 2.7 million acres of land determined by the agencies to be crucial to the survival of the Greater Sage Grouse from location and entry under the 1872 Mining Law, subject to valid existing rights. Along with agriculture, mining is critical to the economic and fiscal health of many of Nevada's rural counties.