

1 The Honorable Board of Lander County Commissioners met in
2 special session in the Commission Chambers of the Lander County
3 Courthouse in Battle Mountain, Nevada, 315 S. Humboldt Street,
4 on October 13, 2015, at 9:00 a.m. Transcript produced by
5 Tiffany Elkington, C.C.R., #930.
6

7 **PRESENT: SEAN BAKKER, COMMISSIONER**
8 **ART CLARK III, COMMISSIONER**
9 **DOUG MILLS, COMMISSIONER**
10 **KEITH WESTENGARD, EXECUTIVE DIRECTOR**
11 **THEODORE HERRERA, DISTRICT ATTORNEY**
12 **LAKEN MARINE, EXECUTIVE SECRETARY CLERK'S OFFICE**
13

14 **VIA TELECONFERENCE: PATSY WAITS, COMMISSIONER**
15

16 **ABSENT: STEVEN STIENMETZ, COMMISSIONER**
17

18 Let the record reflect the presence of a quorum of four
19 commissioners.
20

21 Let the record reflect the presence of Austin via telephone
22 conference. Let the record reflect the presence of Jeff
23 Fontaine of NACO, Tori Sundheim of NACO, and Laura Granier of
24 Davis Graham & Stubbs LLP via telephone conference.
25

26 (Commissioner Bakker, acting as chair, called the meeting
27 to order.)
28

29 (Pledge of Allegiance)
30

31 ACTING CHAIRMAN BAKKER: There's no moment of silence.
32

33 COMMISSIONER CLARK: Read that.
34

35 **PUBLIC COMMENT**
36

37 ACTING CHAIRMAN BAKKER: Public comment. Public comments
38 for non-agendized items only.

39 Persons are invited to submit comments in writing and/or
40 attend and make comments on any non-agendi- -- agenda item at

1 the board meeting.
2 Any -- and discussion of those comments at the discretion
3 of the board.
4 All public comment may be limited to three minutes per
5 person, again at the discretion of the board.
6 Reasonable restrictions may be placed on public comments
7 based upon time, place, and manner.
8 But public comment based upon viewpoint may not be
9 restricted.
10 Any public comment?
11 JAMES MATTHEWS: I do.
12 Commissioners, --
13 UNIDENTIFIED PARTICIPANT: State your name.
14 JAMES MATTHEWS: -- concerned miners, ranchers, sportsmen,
15 --
16 ACTING CHAIRMAN BAKKER: State your name.
17 JAMES MATTHEWS: -- and general public.
18 COMMISSIONER CLARK: We need -- we need your name.
19 JAMES MATTHEWS: My name is James Matthews.
20 I have a prepared statement here for you. I'm currently
21 the --
22 ACTING CHAIRMAN BAKKER: Hold on.
23 JAMES MATTHEWS: Pardon me.
24 DISTRICT ATTORNEY HERRERA: Excuse me, James. Are you
25 going to be talking about the item that's agendized?
26 JAMES MATTHEWS: Yes.
27 DISTRICT ATTORNEY HERRERA: Then that's not the appropriate
28 time. This is public --
29 JAMES MATTHEWS: Okay.
30 DISTRICT ATTORNEY HERRERA: -- comment for non-agendized
31 items.
32 JAMES MATTHEWS: Okay.
33 DISTRICT ATTORNEY HERRERA: I'm sorry.
34 ACTING CHAIRMAN BAKKER: Anybody?
35 DISTRICT ATTORNEY HERRERA: You'll have an opportunity.
36 ACTING CHAIRMAN BAKKER: Okay. Moving on.
37
38
39
40

- 1) Discussion for possible action regarding Lander County's participation, to reconsider or take further action in the lawsuit regarding the non-listing of the northeastern California-Nevada sage grouse and authorization for the commission to sign a declaration of the impacts on Lander County, and other matters properly related thereto.

ACTING CHAIRMAN BAKKER: Agenda -- I -- well, 1. Discussion for possible action regarding Lander County's participation, to reconsider or take further action, in the lawsuit regarding the non-listing of the northern -- northeastern California-Nevada sage grouse, and authorization for the commission to sign declaration of impacts on Lander County, and other matters properly related thereto.

KEITH WESTENGARD: Commissioners, I'd like to just point out that today we're here to withdraw a motion that was put forth on the September 2015 commission meeting, Items 14 and 15. We need to correct that motion to join the lawsuit regarding the non-listing of the sage grouse.

And with that, I -- I believe that District Attorney Ted Herrera would like to make some comments too to you.

DISTRICT ATTORNEY HERRERA: The only comments I'd like to make is on the September 10th meeting, a motion was put -- was put in front of the commission that Lander County commissioners join in Nevada Minerals Alliance and seek an immediate injunction to bar federal agencies from implementing the Northeastern California-Nevada Sage Grouse Land Use Plan. The lawsuit is not -- is not -- the Nevada Minerals Alliance is not part of any lawsuit so we have to correct that. The lawsuit is Western Exploration, LLC., Elko County.

LAURA GRANIER: Hi, this is Laura Granier.

LAKEN MARINE: Hello.

ACTING CHAIRMAN BAKKER: Hi.

UNIDENTIFIED FEMALE PARTICIPANT: That's the attorney.

LAURA GRANIER: Hi. This is Laura Granier.

LAKEN MARINE: Hi. We're starting the meeting right now.

LAURA GRANIER: Okay.

JEFF FONTAINE: And this -- this is Jeff Fontaine and Tori Sundheim with NACO.

LAKEN MARINE: Okay. We've started the meeting. Ted is

1 just giving us an update on everything.

2 JEFF FONTAINE: Very good. Thank you.

3 ACTING CHAIRMAN BAKKER: Thank you.

4 DISTRICT ATTORNEY HERRERA: The lawsuit is -- is presently
5 includes Western Exploration LLC; Elko County, Nevada; Eureka
6 County, Nevada; Quantum Minerals LLC.

7 And -- and I'm glad -- I'm glad that Laura -- Laura's here;
8 isn't she? Is Laura on the line?

9 LAURA GRANIER: Yes, I am.

10 DISTRICT ATTORNEY HERRERA: Okay. Laura can explain that
11 in a minute.

12 But on the September 10th motion, it said that we would
13 join the Nevada Minerals Alliance. And they're not part of
14 this.

15 So I would advise that we rescind that motion at some point
16 after we hear from all the public comment on this issue. We
17 rescind that motion and if the county commissioners would want
18 to join this lawsuit, they can make a new motion showing the
19 lawsuit with these plaintiffs.

20 And you need to include whether you want to be a named
21 plaintiff or just give financial backing. That -- that's what
22 you have to say. You have to be explicit in the motion that you
23 want to be -- Lander County would be a named plaintiff in and up
24 to \$10,000.

25 And so, first, again, after we listen to public comment, we
26 need to rescind the two motions made September 10th and then
27 make any new motions you have.

28 ACTING CHAIRMAN BAKKER: Thank you, Ted.

29 Anybody want to speak?

30 DISTRICT ATTORNEY HERRERA: Okay. Who -- yeah. There's
31 people on the line that are going to speak.

32 And we should probably open it up for public comment at
33 this time.

34 And then you can address -- we have Laura here --
35 Granier -- and she sent the engagement for legal services,
36 engagement letter. And she's here to answer any question
37 because she's bringing the lawsuit. She's brought the lawsuit.
38 And she was nice enough to accommodate us by being here on the
39 phone.

40 And I would -- I would advise that you take this

1 opportunity to ask the attorney that's bringing the litigation
2 any questions you have so you can have a firm understanding of
3 what they're doing for Lander County and what Lander County's
4 obligation is in return.

5 That's the most important part of today. We need
6 transparency on what we're doing. And we need to have a good
7 general understanding on both sides.

8 ACTING CHAIRMAN BAKKER: Right. Hey, Laura?

9 LAURA GRANIER: Yes.

10 ACTING CHAIRMAN BAKKER: This is Sean Bakker, Lander County
11 commissioner.

12 How many other counties have gotten your letter -- your
13 engagement letter? And how many other counties have joined up?

14 LAURA GRANIER: I will defer to NACO with respect to how
15 many other counties have -- have joined up.

16 You actually are the -- the first to get the engagement
17 letter, because I -- I just got it drafted.

18 But Elko County has voted to join and, obviously, as a
19 plaintiff, as has Eureka County. And I understand, today,
20 Washoe County also joined. But I would defer to Jeff or Tori
21 who could identify the other counties.

22 ACTING CHAIRMAN BAKKER: Okay.

23 COMMISSIONER CLARK: Laura, this is Art Clark. I'm a
24 county commissioner.

25 Is there a difference between the Northeastern
26 California-Nevada Sage Grouse Plan and the Greater Sage Grouse
27 Plan?

28 LAURA GRANIER: No, I believe they're one and the same.
29 There's one land use plan that covers northern -- well, that
30 covers the Nevada counties that we're representing.

31 COMMISSIONER CLARK: Okay.

32 COMMISSIONER MILLS: Okay, well --

33 JEFF FONTAINE: Commissioner Bakker, this is Jeff Fontaine.
34 And today we have commitments from Washoe, who voted unanimously
35 this morning to join the lawsuit, Humboldt County, Elko County,
36 Eureka County, White Pine County, Churchill County, and Lincoln
37 County.

38 ACTING CHAIRMAN BAKKER: Okay.

39 JEFF FONTAINE: And, of course, not every county is
40 affected by the land use management plan. So we are hoping to

1 have every county that does have habitat and would be affected
2 by the plan to -- to be part of the lawsuit.
3 COMMISSIONER CLARK: Jeff, this is Art --
4 TORI SUNDHEIM: I would add --
5 COMMISSIONER CLARK: -- Clark.
6 TORI SUNDHEIM: -- that Pershing County has a line item on
7 their agenda. They just haven't voted yet.
8 COMMISSIONER CLARK: Jeff, this is Art Clark.
9 How much did the counties commit to financially?
10 LAURA GRANIER: Elko County has committed to up to 10,000,
11 like the let- -- they'll get the same letter you received. And
12 I understand Eureka County has as well. And Tori or Jack, could
13 you speak to the other counties?
14 TORI SUNDHEIM: Yeah. Humboldt Cou- -- well, Churchill
15 dedicated 6,000. White Pine dedicated 1,000. Everybody else
16 dedicated 10,000, including NACO.
17 We don't know yet for Washoe County. Their financial
18 dedication will be voted on in a different meeting.
19 DISTRICT ATTORNEY HERRERA: This is Ted Herrera.
20 How many of those counties want to be named plaintiffs?
21 TORI SUNDHEIM: I believe all of them.
22 DISTRICT ATTORNEY HERRERA: That's fine.
23 COMMISSIONER CLARK: What -- how much did NACO commit?
24 1,000?
25 ACTING CHAIRMAN BAKKER: Ten.
26 UNIDENTIFIED PARTICIPANT: No.
27 DISTRICT ATTORNEY HERRERA: Ten.
28 COMMISSIONER CLARK: Ten thousand.
29 ACTING CHAIRMAN BAKKER: White Pine --
30 COMMISSIONER CLARK: Everybody committed 10,000.
31 DISTRICT ATTORNEY HERRERA: No, not --
32 ACTING CHAIRMAN BAKKER: White Pine committed a thousand.
33 COMMISSIONER CLARK: White Pine, a thousand?
34 DISTRICT ATTORNEY HERRERA: And then Churchill's --
35 ACTING CHAIRMAN BAKKER: Churchill's six.
36 DISTRICT ATTORNEY HERRERA: -- 6,000. Churchill.
37 COMMISSIONER CLARK: And Churchill, six. Okay.
38 And this is just for the injunction?
39 DISTRICT ATTORNEY HERRERA: This -- this is for the ongoing
40 lawsuit.

1 LAURA GRANIER: Now, --

2 DISTRICT ATTORNEY HERRERA: She can explain it to you.

3 COMMISSIONER CLARK: Okay.

4 LAURA GRANIER: Sure. That -- that's for everything to get
5 us through the hearing on the motion for preliminary injunction,
6 which is currently scheduled for November 12th.

7 And it does appear that it's very likely because we have a
8 lot more counties join, and the more counties that join, you
9 know, makes it more likely that money will carry over some into,
10 you know, further work -- cover further work than just the
11 hearing.

12 ACTING CHAIRMAN BAKKER: Okay.

13 DISTRICT ATTORNEY HERRERA: But at some point in time --
14 this is Ted Herrera again -- do you anticipate going back to the
15 parties for more money?

16 LAURA GRANIER: Potentially, yes. After the motion for
17 preliminary injunction is heard, what will happen is that the
18 government will be a scheduled set, the parties will propose and
19 the court will issue an order to set a briefing schedule.

20 The government will have to lodge the administrative
21 record. And we will get a chance to review the record, lodge
22 any objections to the record, and then there'll be briefing on
23 the merits of the case, and then either a hearing on those
24 briefs or the judge will simply decide it based on the briefs.

25 And so we do anticipate during the course of that work to
26 get through to the end of the case will require some additional
27 money.

28 We don't have a budget together. And it does depend on
29 whether we face any kind of venue fight or motion to dismiss.
30 But if we don't face either of those and we, you know -- end up
31 with a significant number of counties, which it looks like we
32 will, I would anticipate that has to be very close to the one,
33 you know, we're making right now.

34 I think it may be another 10,000, maybe six months from now
35 or so.

36 DISTRICT ATTORNEY HERRERA: So -- so is it your
37 understanding, Laura, because it's my understanding -- this is
38 Ted Herrera again -- that if you need more money from any
39 particular county or all the counties that you would be having
40 to go to them, their county commission, to get more funds?

1 LAURA GRANIER: Yes, that would be my understanding. And
2 that's how we've written -- we've written the engagement letter
3 --

4 DISTRICT ATTORNEY HERRERA: Right.

5 LAURA GRANIER: -- to be clear what the work will cover.
6 And then, you know, if -- if you want to continue participating
7 and we continue doing the work, then we will prepare another
8 budget to get us through the rest of the case once we talk about
9 our understanding if the government's going to try to move the
10 case or seek dismissal and be in a better position to, you know,
11 keep -- keep you up to speed on all of that at all times.

12 DISTRICT ATTORNEY HERRERA: That's my understanding too,
13 Laura. And I just wanted to make sure everybody here in the
14 audience and the county commissioners knew that that was our
15 interpretation of the engagement letter. And thank you for
16 that, by the way.

17 COMMISSIONER WAITS: This is Commissioner Waits. And I
18 have a question.

19 Hi. Mr. Chairman?

20 COMMISSIONER CLARK: Yep. Go ahead, Patsy.

21 COMMISSIONER MILLS: Thank you. You know, my question is
22 on the private parties, on their amounts and their pledges. And
23 would they be equal to exactly the same payments as the
24 counties?

25 And Jeff, has anybody expressed any interest coming in, after
26 the fact, to help us financially, like perhaps the cattlemen's or
27 some of those associations?

28 ACTING CHAIRMAN BAKKER: Jeff?

29 JEFF FONTAINE: Commissioner Waits, we have talked to
30 several folks.

31 And I think the cattlemen are certainly aware of it and the
32 farm bureau and others. And I think they're -- you know, it's
33 still under consideration with those groups.

34 As far as other potential parties, I mean, Laura can
35 probably better speak to -- there are two -- to that. There are
36 two mining companies that are plaintiffs. I -- I assume that
37 they have contributed as well. And there -- I think there's
38 some other private interest, but I'm not -- I don't have that
39 information.

40 LAURA GRANIER: Yes. This is Laura Granier, for the

1 record.

2 The Western Exploration is one of the private parties. And
3 they are contribut- -- both private parties are contributing.
4 Western Exploration will contribute at least as much as the
5 counties and, frankly, may end up contributing more.

6 The Nevada Mineral Resources Alliance has contributed
7 10,000 to date and may also contribute more, even though they
8 are not a named plaintiff. And -- and Jeff's mentioned NACO has
9 as well.

10 ACTING CHAIRMAN BAKKER: Thank you.

11 COMMISSIONER MILLS: Laura, this is Doug Mills, Lander
12 County commissioner.

13 I have a question pertaining to a couple of points in the
14 lawsuit. I read through most of it. Most of it kind of makes
15 sense. But there's a couple of points I wasn't real clear on.

16 One is I'm not sure what the travel restrictions are that
17 they get referred to often. What -- I don't -- what are the
18 travel restrictions that BLM is trying to impose?

19 And the other is -- is the withdrawal process. I saw that
20 mentioned a lot. And I'm not sure what that is. Could you speak
21 to those two things, quickly?

22 LAURA GRANIER: Absolutely. Again Laura Granier, for the
23 record.

24 There are travel restrictions included in the land use plan
25 amendment that cover, I think, about 16 million acres.

26 And so in some instances -- and we can certainly provide
27 you -- Tori and Jeff have -- have worked with Debbie Struhsacker
28 and PGIS Consultants to create some very useful maps that --
29 that give an overlay of where those travel restrictions occur.
30 But in some instances, they will potentially prohibit access on
31 some roads that are currently either designated or are
32 potentially 2477 roads. So that is significant.

33 The withdrawal process is -- within the land use plan
34 amendment, in Nevada, there were two point -- at the final phase
35 of the EIS -- over 2.8 million acres identified by the Fish and
36 Wildlife Service based on maps provided by conservation -- the
37 conservation community, identifying what they said were
38 strongholds, which had to have the highest level of protection
39 for sage grouse habitat.

40 And based on the, you know, the memo from Fish and Wildlife

1 Service that was sent to Director Kornze in October 2014, the
2 BLM identified those areas as sage grouse focal areas and
3 proposed that they be withdrawn from mineral entry.

4 On September -- in the final record of decision that was
5 exactly the recommendation that was made.

6 And on September 24th, the secretary proposed and published
7 in the federal register withdrawal of the land. But in addition
8 to the 2.8 million, a map provided in that federal register
9 publication outlines the area by township. And it amounts to
10 actually about 4.6 million acres. So obviously, almost double
11 what would be identified in the NEPA process.

12 COMMISSIONER MILLS: Are those -- are those travel
13 restrictions seasonal? Or are they, like, year-round
14 restrictions?

15 LAURA GRANIER: Some travel restrictions are seasonal, but
16 others are year round, depending --

17 COMMISSIONER MILLS: Wow.

18 LAURA GRANIER: -- on the distance from a lek or priority
19 habitat.

20 COMMISSIONER CLARK: Laura, this is Commissioner Art Clark.
21 When you talk about travel restrictions, are we talking about
22 the RS 2477 roads and roads like them?

23 LAURA GRANIER: In some instances, yes. Where they have
24 identified roads they believe are in sensitive habitat areas,
25 they are saying the roads -- you can't -- you can't maintain the
26 roads. So if the road washes out, even if it's a county road,
27 you know, the BLM or the federal government may take the
28 position if it washes out, that's it. You can't -- you can't
29 repair or maintain it. You cannot improve it.

30 And so in some instances, yes, we believe there is overlap
31 between the identified roads for travel restriction and
32 potential 2477 roads, which is a significant -- we've
33 identified -- and NACO has helped tremendously -- identify,
34 working with some of the counties already, with significant
35 overlap and potential interference with 2477 roads.

36 COMMISSIONER CLARK: Okay.

37 JEFF FONTAINE: This -- this is Jeff Fontaine.

38 And I just want to add, I know that you've all seen the
39 maps, but the 2.8 million acres or 4 million, depending on how
40 you sort of calculate, this is -- what Laura was describing, of

1 course, occurs in Elko, Lander, Pershing, Humboldt, and Washoe
2 Counties. Those are the only county roads that they are
3 located.

4 And so, you know, the northern Nevada count- -- the
5 northern Nevada counties are -- are, you know, probably more
6 impacted than others, in terms of the restrictions that will be
7 placed on those SFAs.

8 COMMISSIONER CLARK: Okay. This is Commissioner Clark.
9 Art Clark again.

10 So potentially, the largest track of land between Battle
11 Mountain all the way to White Pine County that you can travel on
12 RS 2477 roads can be shut down by this plan?

13 Jeff?

14 JEFF FONTAINE: I -- I believe that's a fair statement.
15 Laura, do you -- do you agree with that?

16 LAURA GRANIER: That's certainly a potential -- because
17 there's overlap, again, revealed by the overlay. And, of
18 course, part of the relief we're seeking in this lawsuit is to
19 prevent -- an injunction to prevent any interference with 2477
20 roads.

21 COMMISSIONER CLARK: Okay.

22 LAURA GRANIER: And that would include -- what we have
23 included is even set at 2477 roads that have not yet been
24 adjudicated. Because as you all are well aware, that process
25 takes years and can be extraordinarily expensive.

26 ACTING CHAIRMAN BAKKER: Do you guys have any more
27 questions? Any questions?

28 COMMISSIONER MILLS: This is Doug Mills again. One more
29 question. What -- what are we hoping for a -- outcome through
30 this process?

31 LAURA GRANIER: Well, with respect to the motion for
32 preliminary injunction that will be heard on November 12th, we
33 have asked for a stay of some of the most onerous restrictions
34 including the travel restrictions and the withdrawal process to
35 prevent the government from interfering with any access to
36 the -- the lands that are cur- -- that were open to mineral
37 entry prior to the publication of that aggregation notice.

38 We -- we kept it narrow, but tried to address the -- the
39 issues that would interfere most with the counties' sovereign
40 powers, maintenance of access, grazing, and -- and then the

1 mineral withdrawal.

2 At the end of the case, if we are successful, what we
3 would -- what we would get is a remand.

4 They would be -- the court would remand the document, the
5 decision to the BLM.

6 We've asked that a supplemental EIS be prepared. We've
7 asked that the counties' comments and protest letters that
8 identified inconsistencies that must be resolved under FLPMA to
9 the extent they're consistent with federal law, be given, you
10 know, the fair chance and the -- the full comprehensive review
11 to which the law entitles us.

12 So basically, it would all get sent back to the agency
13 to -- to start over, go through another process, and kind of
14 doing a more thorough job as the law requires, this time with
15 appropriate (indiscernible), notice, and comments.

16 DISTRICT ATTORNEY HERRERA: Laura, this is Ted Herrera
17 again.

18 Could you explain to the commissioners what it entails
19 to -- to list Lander County as a -- a plaintiff?

20 Do we have time?

21 LAURA GRANIER: Yes. We absolutely have time.

22 Again, NACO has done a really fabulous job of -- of working
23 with all of the counties. And I know they've worked with Lander
24 County to gather a lot of facts and information about, you know,
25 how the plan interferes with your county land use plan, with
26 your conservation efforts, with access roads and county roads
27 and potential 2477 issues. So we've got a great start on that.

28 And thanks to that work that Jeff and Tori did, you know,
29 we're in a very good position to include Lander as a -- as a
30 co-plaintiff when we amend the complaint.

31 In addition to that, of course, we would take the time we
32 have, which is a few days, to gather any other helpful
33 information about how the county and/or your con- -- you know,
34 county residents and industry are -- are affected so that we can
35 incorporate those facts in the complaint.

36 And, you know, so that it doesn't sound too overwhelming,
37 it is a notice pleading standard. So what we're trying to do is
38 a catch the highlights and -- and hopefully identify all of the
39 different potential ways you are harmed and general issues, most
40 of which probably may have been captured in your comments or

1 protests that were filed.

2 And then when we get to the briefing on the merits of the
3 case, we'll have a chance to really -- really vet every one of
4 those issues and provide a full argument.

5 DISTRICT ATTORNEY HERRERA: Are you going to need a -- a
6 declaration?

7 It's my understanding that -- that Keith Westengard, our
8 executive director, has provided a declaration. Are you go- --
9 would you need another one? Or that one signed by the commission?

10 LAURA GRANIER: We don't need it signed by the commission.
11 I think, you know, it certainly would be helpful if you -- if
12 you could identify immediate, irreparable harm. And, you know,
13 we certainly will look at them. And I know, again, Tori has
14 worked with your county folks to -- to prepare a declaration so
15 we do have that. So that's a possibility. It's not a
16 necessity.

17 If we get that declaration, we will absolutely use those
18 facts in the complaint. And in addition, we'll -- we'll
19 consider -- if we can get it together and get it signed quickly
20 enough -- possibly supplementing the motion for preliminary
21 injunction. But we're -- we're really being very conservative
22 about what kind of supplement because we don't want to risk
23 delaying our hearing date. So depending on the planning, we
24 might, but it's not an absolute necessity.

25 DISTRICT ATTORNEY HERRERA: Okay. But it should be part of
26 our -- of our motion to adopt the declaration that Keith
27 presented?

28 LAURA GRANIER: You know, one -- one way you could -- one
29 thing you could add in the motion potentially would be
30 authorization for your dir- -- for your executive director to
31 work with us and continue working with NACO to prepare a
32 declaration.

33 DISTRICT ATTORNEY HERRERA: Sounds good. Sounds good,
34 Laura. Thank you.

35 LAURA GRANIER: Thank you.

36 COMMISSIONER CLARK: This is Commissioner Art Clark.

37 I have one more question. How can -- how can the
38 Department of Interior, the BLM, the Forest Service completely
39 disregard the safety of the habitat by excluding grazing and
40 access to areas that are prone to fires and you won't be able to

1 go into those areas?

2 I mean, aside from unprecedented economic hardship, there's
3 no respect for the habitat. If -- if you cannot graze this
4 habitat, it will burn. And we'll -- we've lost more through
5 fires than ever imagined by grazing. What -- what could there
6 possibly -- how can they defend their position?

7 LAURA GRANIER: Well, that's very well stated. To be
8 honest with you, I don't know. We'll see in their response on
9 October 23rd because we've raised -- we've absolutely raised
10 that argument that -- and they set us up nicely because, you
11 know, oftentimes it's difficult to get an injunction in these
12 cases because under NEPA in the Ninth Circuit, you have to
13 demonstrate an environmental harm.

14 And you just described precisely the environmental harm
15 that we have argued their decision has created.

16 So you are -- you're spot on. We'll see what they have to
17 say.

18 If we -- some of the declarations that we've provided from
19 Eureka and Elko County already identify exactly that, that the
20 counties have, based on their local experience and years,
21 decades of expertise working with the land, have managed grazing
22 in place. And that is a very useful fire tool. And in fact,
23 you know, everyone, including the Fish and Wildlife Service,
24 acknowledged that fire is, you know, the primary threat. So
25 they -- they've just increased the potential harm.

26 COMMISSIONER MILLS: So Laura, this is Doug again. I know
27 there's -- we've talked about a lot of the counties that are
28 getting involved in this. Is -- is the state getting involved?

29 LAURA GRANIER: So far the state has not gotten involved.
30 We certainly remain hopeful that they will and they certainly
31 still have time.

32 COMMISSIONER MILLS: Okay.

33 ACTING CHAIRMAN BAKKER: Has NACO reached out to them or --

34 LAURA GRANIER: Yes. I believe there have been -- I
35 believe there -- there are many discussions ongoing. But --

36 ACTING CHAIRMAN BAKKER: Okay.

37 UNIDENTIFIED PARTICIPANT: -- I'll let Jeff and Tori speak
38 for themselves.

39 JEFF FONTAINE: So this is -- this is Jeff Fontaine.

40 We -- we have reached out. And we are continuing to give

1 information to the state.

2 And now that the motion for preliminary injunction was
3 filed with the exhibits, we have more information and some more
4 specific examples.

5 And so as we go to these counties and as Tori's been
6 working with individuals within the counties, coming up with
7 very specific examples of the harm, you know, we're trying to
8 get the state to take a, you know, a strong interest in this.
9 And -- and, you know, hopefully they will join. But, you know,
10 we don't know, but we are -- we are doing our due diligence to
11 reach out to the state to -- to let them know what the impacts
12 are that -- that we know about and what we're hearing about.

13 ACTING CHAIRMAN BAKKER: What's their biggest holdup?

14 UNIDENTIFIED MALE PARTICIPANT: Politics.

15 JEFF FONTAINE: Well, I -- this is Jeff Fontaine again. I
16 can't -- I can't speak to that, you know.

17 This is a very serious matter. It's -- it's a very complex
18 legal issue. You know, it's a political issue to some extent.

19 But they -- they are listening to us. I will tell you
20 that -- that we have talked to a number of people. It's not
21 like we can't get through and talk to folks. They are -- they
22 are listening to us.

23 At the end of the day what they decide to do is what they
24 decide to do. And I -- I can't -- I can't really tell you what
25 the discussions, you know, internally have been with the state.
26 But they have an open door with respect to this issue.

27 ACTING CHAIRMAN BAKKER: Thank you, Jeff.

28 COMMISSIONER MILLS: Can -- can you tell us a little bit
29 about the time frames involved here? When does BLM want to
30 start these restrictions? Is this hearing before that or after
31 that? What kind of things are we looking at timewise?

32 UNIDENTIFIED MALE PARTICIPANT: (Indiscernible.)

33 TORI SUNDHEIM: My understanding from work I am doing on a
34 project level is they are currently training their staff and
35 working with their local offices on the implementation. And --
36 and they have already started the withdrawal process. The
37 lands -- the 4.6 million acres of land have been segregated. So
38 they are already, right now, off limits and impacted by the --
39 the segregation.

40 ACTING CHAIRMAN BAKKER: Damn.

1 COMMISSIONER MILLS: Man, they move fast.

2 ACTING CHAIRMAN BAKKER: Want to open it up to the public?

3 Yeah.

4 Anybody that wants to speak from the public, please come
5 up, state your name, if you have any questions.

6 JAMES MATTHEWS: My name is James Matthews.

7 I am currently the chairman of the Lander County board of
8 (indiscernible) wildlife. I'm here representing most of the
9 sportsmen in Lander County's concerns over the listing of the
10 sage grouse as an endangered species.

11 BLM has been attacked by special interest groups: Western
12 Watershed, Friends of the Earth, wild horse advocates, and
13 Native Americans, et cetera, all wanting the greater sage grouse
14 listed as an endangered species.

15 If the bird is indeed listed, they are accomplished what
16 the agenda item for eliminating economic value of the land
17 managed by the BLM and the forest service: mining, oil, steam,
18 logging, ranching, sportsmen, just general public.

19 The sage grouse has become the spotted owl of the Great
20 Basin. Even after Western Association, Fish and Wildlife,
21 agencies determined the sage grouse population has been
22 rebounding. The number of males counted on the leks has
23 increased 63 percent since 2013, stated the agency.

24 The number of male grouse exfoliates to a spring breeding
25 population of 424,645 on known leks.

26 The BLM's not listed this bird, but has started a two-year
27 evaluation period that started the 24th of September, which may
28 extend indefinitely. This is open ended. This is the same
29 action that they have with a wilderness study area.

30 The study encompasses an area of roughly a million acres in
31 the western United States. Of that million acres, 2.8 million
32 are in the state of Nevada. That does not include in Nevada
33 2.5 million acres of wilderness study areas.

34 Already removed from public land, in which there are 17
35 areas in Lander County, 722,457 acres in Lander County alone
36 that have been removed already from public access. And this is
37 in the Battle Mountain BLM field office jurisdiction.

38 Under the study area -- it may overlap, but I'm not sure --
39 they may be in addition to the 2.8 million under the sage grouse
40 study area in northeastern Nevada. Lander County has 84 percent

1 of the five hundred and -- 5,621 square miles managed by the
2 federal government.

3 They're limiting this to general habitat management areas
4 offer greater flexibility for land use and other habitat
5 management areas.

6 OHF, other habitat management areas, are meant to protect
7 seasonal and connective areas.

8 These sage grouse habitats are covered most of the
9 northern, half of Elko County, and make up about half the
10 county's acreage.

11 The chance respect valid existing rights in the SFA, new
12 mining claims for locatable minerals, such as gold and silver,
13 are prohibited for the next two years.

14 In the future, the secretary of interior will make a
15 decision on whether to withdraw these lands of locatable
16 minerals increa- -- up to 20 years. Any valid existing mining
17 claims and any new claims and other habitat designations are not
18 affected.

19 Fluid minerals, including oil, gas, geothermal, are open
20 for leasing in the SFA and the PHMA, but the companies have no
21 surface occupancy. Directional drilling must start from private
22 property or outside the habitat designation, reach beneath
23 BLM-managed lands.

24 Leasing on GHMA is open with some restrictions on time of
25 year, et cetera. Leasing on OHMA is open. Certain requirements
26 designate design features in best management practices. Rules
27 are in place.

28 Well-managed livestock grazing is compatible with sage
29 grouse conservation. The plan amended did not close any grazing
30 allotments or reduce any AUMs during the ten-year grazing permit
31 renewal.

32 Management objectives will be put in place to protect
33 habitat, rangeland health standards. These may include changes
34 to seasonal use, time of use, number of livestock, among others.
35 All grazing decisions will be made from the district office in
36 Elko.

37 Solar energy projects are banned in designated sage grouse
38 habitat.

39 Wind projects are excluded from the PHMA and are voided in
40 GHMA, which means they might be considered.

1 Right-of-way, such as transmission lines, pipelines, will
2 void across PHMAs.

3 They will be considered to be of no other path possible.

4 A large change is coming to travel management within the
5 PHMAs and GHMAs. Up until now the BLM land has multiply opened
6 to cross country travel. It will now be restricted to existed
7 loads.

8 No roads were closed in the new plan, but road designations
9 could change in the future and complete for travel management
10 plan, which includes the opportunity for public input from the
11 NEPA process, which should be not necessary if we have SR 2477
12 roads already in existence. They belong to the county.

13 The BLM will retain ownership of all lands inside these
14 habitats. Land sales, exchanges will not typically be done.

15 So basically, gentlemen and madam, what I'm -- sportsmen
16 reaction is to pursue this with every diligence. This is
17 important.

18 The socioeconomic value in itself is very detrimental to
19 Lander County. As you can see, the size of this, even in the
20 state of Nevada, is tremendous. It eliminates all travel off
21 road or on road in certain areas to the sportsmen, to ranchers,
22 miners. And this needs to be addressed first haste.

23 And if it takes a hundred thousand dollars of taxpayers'
24 money, we need to invest in this wholeheartedly.

25 Thank you.

26 ACTING CHAIRMAN BAKKER: Thank you.

27 COMMISSIONER CLARK: Thanks, Trapper.

28 ACTING CHAIRMAN BAKKER: Anybody else?

29 MARTIN PARIS: Martin Paris, Synergy Resource Solutions.

30 So I have some information kind of specific to the county.

31 He did a really good job of explaining it.

32 It starts out with sagebrush focal areas. That's number
33 one.

34 And then as you go down, you have priority habitat
35 management areas, general habitat management areas, and other
36 habitat management areas.

37 And as you step down the ladder, the restrictions go down
38 with that.

39 Luckily for Lander County, there is no sagebrush focal
40 areas where -- from what I've seen. If you're in a sagebrush

1 focal area, everything is excluded: mining, ranching, anything.
2 SHAWN MARILUCH: What about Callahan, Martin?
3 MARTIN PARIS: Callahan?
4 SHAWN MARILUCH: In Austin? Wasn't it one of the sagebrush
5 focal areas?
6 MARTIN PARIS: No, we don't have any.
7 ACTING CHAIRMAN BAKKER: Shawn, state your name.
8 SHAWN MARILUCH: I was just asking.
9 MARTIN PARIS: No.
10 SHAWN MARILUCH: I thought that was on the map.
11 MARTIN PARIS: No, we don't. What we do have a lot of,
12 though, is priority habitat. And I have some numbers here. In
13 Lander County, there is 820,544 priority habitat acres.
14 There is general habitat: 694,576 acres.
15 And other habitat, 660,430 acres.
16 And this accounts for 61.6 percent of the county. And it's
17 84.6 of the county is BLM-managed land.
18 And just when you read through --
19 COMMISSIONER MILLS: Could you -- could you say that again?
20 How much is BLM?
21 MARTIN PARIS: BLM-managed land in the cou- -- in the
22 county is 84.6.
23 COMMISSIONER MILLS: Oh, 84.
24 MARTIN PARIS: Yep. Yep.
25 COMMISSIONER MILLS: So there's a difference of about
26 19 percent?
27 MARTIN PARIS: But as you read through these land use
28 amendments, one -- all you have to do is read the major threats
29 to sage grouse habitat in Nevada and northeastern California.
30 We have wildfire, invasive species, grazing, hard rock mining,
31 human uses, fluid mineral development. These are the major
32 threats to the sage grouse habitat as listed in the land use
33 amendment.
34 It -- kind of their summary of allocation decisions, we
35 have non-energy leasables, which would be phosphate, sodium,
36 potassium, sulfur. That would be closed in priority habitat,
37 open in general.
38 Salable minerals: Sandstone, gravel, pumice, cinders --
39 that is closed in priority habitat, open in general.
40 Right-of-ways are to be avoided.

1 Solar is to be excluded.

2 Locatable minerals, that's -- we've spoken about that
3 before. In the SFAs, there is no more locatable minerals.

4 Travel management is limited.

5 And livestock grazing, they have open. I'd like to talk a
6 little bit about what open and limited and some of these things
7 mean..

8 For livestock grazing, to say open is -- is not the case.
9 Any permittees in private priority habitat or general habitat
10 will have to incorporate the terms and conditions of the sage
11 grouse objectives into their permits. If it is found that
12 they're not abiding by the objectives of the sage grouse
13 habitat, they will be season of -- season or timing of use will
14 be changed, periods of rest, kinds of livestock may be changed.
15 Grazing schedules could be changed. So it's very questionable
16 and unfeasible.

17 A lot of this will be like these Argenta permittees. It's
18 going to be that and worse. The stuff they're dealing with, the
19 stockmanship, just a lot of unfeasible thing is -- they're not
20 going to work.

21 One thing that caught my eye in the sage grouse objectives
22 was a seven-inch stubble height on uplands, meaning that cows
23 have come and gone. There needs to be seven inches of grass
24 left in the uplands. And as we know, a lot of the -- it won't
25 ever get that tall to start with. So that -- that's a huge
26 concern.

27 Another thing, a lot of this stuff is up to interpretation,
28 and the Battle Mountain BLM district will be the ones
29 interpreting. And I think that's --

30 ACTING CHAIRMAN BAKKER: (Indiscernible) the
31 interpretation.

32 MARTIN PARIS: Yeah, I think that's -- I'll just leave it
33 at that. So...

34 I talked about travel. I heard a lot about travel and
35 transportation. I just picked some excerpts from the land use
36 plan. Some of them -- I'll read some of them.

37 One was, consider the need for restricting motorized
38 vehicles, including their sound levels, speed, and design.
39 Consider the in -- primary habitat and general habitat. Closed
40 to motorized travel, those roads, primitive roads, and trails

1 not designed in the travel management plans.

2 So that was another thing is that they're going to create a
3 committee -- I think they already have one -- that's going to go
4 through and pick which roads they will close or leave open. And
5 that's up to their interpretation of which ones they choose to
6 do that.

7 COMMISSIONER MILLS: How are they going to close those
8 roads? Are they going to put physical barriers up or is it...

9 MARTIN PARIS: It said, they're going to work on seeding
10 and -- and bring them back to nature, pretty much.

11 COMMISSIONER MILLS: Oh.

12 JAMES MATTHEWS: Doug? James Matthews.

13 In southern Utah, the Forest Service has closed a lot of
14 roads down there. And what they've done is basically put tank
15 traps in the roads to keep people from going on them, reseeded
16 them and taken rippers and ripped them all up and everything
17 like that.

18 In one of the directives on this is, I think, is as they
19 close these roads and they pick out which roads, they're going
20 to take the roads that are viaducts to other roads and stuff
21 and they're going to close those roads. So basically they can
22 close one road that closes off ten or fifteen other roads.

23 COMMISSIONER CLARK: Yeah.

24 JAMES MATTHEWS: And this is the objective of this whole
25 project. It's -- it isn't just to save the sage hen.

26 MARTIN PARIS: Just the main objective, it's -- this is
27 word for word -- avoid, minimize, and compensatory mitigation
28 for all human disturbance in areas not already excluded or
29 closed.

30 I mean, that's a pretty good -- that caught my eye.

31 There's even st- -- authorizations and permits will limit
32 noise from discretionary activities.

33 During construction, operation, maintenance to not exceed
34 10 decibels --

35 COMMISSIONER MILLS: Holy cow.

36 MARTIN PARIS: -- above ambient sound levels at least a
37 quarter of a mile from active and pending leks from two hours
38 before to two hours after sunrise and sunset.

39 So I just picked out a few things that -- that really
40 caught my eye in this.

1 COMMISSIONER MILLS: And you wonder who thinks this stuff
2 up.
3 COMMISSIONER CLARK: So are they going to limit the travel
4 on the interstate?
5 UNIDENTIFIED MALE PARTICIPANT: Yes.
6 COMMISSIONER CLARK: Because you're going to have --
7 COMMISSIONER MILLS: Yeah, 305 goes right through this.
8 COMMISSIONER CLARK: You're going to sage hen habitat along
9 the interstate, 305, Old 8A. They're going to limit -- it's --
10 MARTIN PARIS: I -- I would hope not. It could be.
11 Another concern I had was, we aren't sure how they came up
12 with these borders. Nobody really knows how these were made.
13 A lot of this has had fires in the last couple decades.
14 And so I can't see how that would be sage grouse habitat
15 anymore.
16 A lot of this will have been burned previously, recently.
17 COMMISSIONER CLARK: If roads are closed, how are you going
18 to get there to fight fires?
19 MARTIN PARIS: I -- that's a good question.
20 COMMISSIONER MILLS: I'm just trying to make some
21 connections here. Or if -- first -- wonder if there are any.
22 Does water fit into this? We're having issues with water
23 already from some other avenues.
24 MARTIN PARIS: Uh-huh.
25 COMMISSIONER MILLS: Does -- does -- do water issues fit
26 into this plan?
27 MARTIN PARIS: Yes. Yeah. I'm sure at least --
28 COMMISSIONER MILLS: In -- in what ways?
29 JAMES MATTHEWS: Yes. Yes. It stated right there in the
30 ownership of the property. And I'm not too sure. Any -- any
31 water improvement to it, I think that they have to issue -- can
32 you help me on this, Shawn. Fifteen percent? How much does it
33 -- how --
34 SHAWN MARILUCH: I put in a --
35 JAMES MATTHEWS: -- a spring box or anything like that. To
36 justify the money spent on a spring box, the rancher or the
37 permittee has to relinquish a certain percentage of their water
38 right.
39 SHAWN MARILUCH: That's what they'd like.
40 COMMISSIONER MILLS: Oh, my God.

1 JAMES MATTHEWS: In fact, the waters of the state belong to
2 the State of Nevada. And the permittees are the -- the owner.
3 And this is -- this is part of what the battle is, is that they
4 keep us off the land, then you can't do this.

5 SHAWN MARILUCH: That's a -- but that's a different suit
6 that's going on right now --

7 JAMES MATTHEWS: Correct.

8 SHAWN MARILUCH: -- that the federal government can't own
9 the state's water.

10 ACTING CHAIRMAN BAKKER: Hey, Shawn, state your name for
11 the record.

12 SHAWN MARILUCH: Shawn Mariluch.

13 ACTING CHAIRMAN BAKKER: Okay. Thank you.

14 JAMES MATTHEWS: This is -- this is what I'm saying. This
15 is -- this is very detrimental to the socioeconomic value of
16 Lander County, not only Lander County, the Great Basin.

17 Western watershed tried this -- see, I can't remember the
18 years quite well -- the first years of the RAC, Resource
19 Advisory Councils, of eliminating all the dams and allowing the
20 waters to flow into the Columbia River to be free.

21 And the -- the only reason that it got shut down by -- was
22 because of the socioeconomic value. It would eliminate about
23 1500 small towns along any of the rivers that go into the
24 Columbia drainage.

25 COMMISSIONER MILLS: Wow.

26 JAMES MATTHEWS: This is the same situation that we're
27 running in with this thing here is -- so consequently was just
28 in effect September 24th.

29 The extension of the Rossi, the extension to the -- the
30 Phoenix project, were come under real strong scrutiny.

31 Any further exploration for natural gas, oil, minerals,
32 under this (indiscernible) of extrusion, the steam plant in
33 Dixie Valley would have been eliminated. Any other geothermal
34 activities would be eliminated.

35 This is -- this is -- so if you put dollars to this, you
36 can see where this is going.

37 SHAWN MARILUCH: Shawn Mariluch, again.

38 I have a question for the people on the phone.

39 ACTING CHAIRMAN BAKKER: Come on up here, Shawn.

40 COMMISSIONER CLARK: Come on up.

1 LAKEN MARINE: (Indiscernible.)

2 SHAWN MARILUCH: I have a question for the people on the
3 phone.

4 If -- if included in part of the lawsuit is -- is -- are we
5 trying to find out if the maps have been updated since, say,
6 even the '99 fire started?

7 Because I know in the Battle Mountain district, ours haven't
8 been.

9 And there's -- they're claiming sage grouse habitat in
10 areas that are -- are strictly cheat grass burns, not reseeded
11 or anything.

12 LAURA GRANIER: This is Laura Granier, for the record.
13 We absolutely are.

14 One of the -- one of the arguments we have raised is that
15 the maps are spatially erroneous. The data relied upon some of
16 the amounts is spatially erroneous.

17 We have some excellent examples in other counties. And you
18 are, of course, welcome -- sites you know county-specific sites,
19 specific information from Lander, as well, to include.

20 It -- it supports that they did not rely on the best
21 available science, on up-to-date information, and therefore goes
22 to the argument that their decision is arbitrary and capricious
23 and wrong and should be ~~rehearsed~~ *reversed*.

24 COMMISSIONER CLARK: Okay. This is Commissioner Clark
25 again. This -- this is just one county in eleven states that
26 are going to be affected by this; right?

27 LAURA GRANIER: That is correct. We are challenging only
28 the Nevada plan.

29 COMMISSIONER CLARK: Right.

30 LAURA GRANIER: And that is very strategic because we want
31 our case decided in Nevada.

32 What you -- what you see recently with the waters of the
33 U.S. cases and other cases against the federal government, is
34 the federal government tries to consolidate and get into
35 sometimes the District of Columbia or a venue they think might
36 be better for them.

37 We were very strategic in focusing just on Nevada and
38 keeping this very Nevada-centric to try to have the best shot at
39 keeping our case here and alone and not be consolidated into the
40 other challenges that are being raised by other states.

1 COMMISSIONER CLARK: This is -- my opinion is that this is
2 the end of life as we know it in Lander County.

3 JAMES MATTHEWS: Correct.

4 COMMISSIONER CLARK: It's the end.

5 The reason why we live here is going to be taken away.

6 EDDYANN FILIPPINI: Eddyann Filippini.

7 From where I'm sitting, this is probably one of the biggest
8 land grabs ever -- ever, ever initiated.

9 And you -- it has nothing to do about the bird. The bird,
10 they could give a pinch of shit about the sage grouse. Excuse
11 my language. But that's -- I mean, --

12 ACTING CHAIRMAN BAKKER: You're good.

13 EDDYANN FILIPPINI: -- they let them burn -- they let them
14 burn up.

15 There's still a hunting season on them.

16 And the rules and regulations that are coming out of
17 Washington, D.C., to protect the sage grouse are running people
18 out of business.

19 But this has -- this has got to be fought tooth and nail
20 because this -- you're -- our way of life is gone.

21 COMMISSIONER CLARK: It's over.

22 JAMES MATTHEWS: Spotted owl.

23 EDDYANN FILIPPINI: And they can let millions and millions
24 of acres burn. People's homes burn. Well, they're also burning
25 up the sage grouse's home and wildlife home. And they're not
26 held accountable.

27 But they -- this is -- this is criminal. So I would
28 encourage you to fight it with every dollar you have. Thank
29 you.

30 ACTING CHAIRMAN BAKKER: Thanks, Eddyann.

31 MARTIN PARIS: This is Martin Paris again. I guess what I
32 would add is -- is they decided not to list it so, meaning the
33 populations are where they're supposed to be. They're
34 functioning properly.

35 And I see no -- I -- I can't figure out why we have these
36 land use amendment plans.

37 I mean, it was found to be not warranted for a listing. So
38 I -- I'm really confused on where these came from or why.

39 COMMISSIONER CLARK: When I went to the N6 meeting, I came
40 away with the feeling that the federal government is trying to

1 force people off the public lands in the west, not only for a
2 land grab, but in Nevada, to get the water and to pipe it down
3 to Las Vegas.

4 Las Vegas is out of water. They're going to put in the
5 high speed rail from Lo- -- from Los Angeles to Las Vegas.

6 If anybody thinks that they don't have big plans to expand
7 Las Vegas, a ten-foot diameter underground water system, water
8 pipe from Lake Mead to Las Vegas. They're out of water and they
9 want ours. They want all of northern Nevada's water.

10 MARTIN PARIS: Do you have any questions I can answer?

11 ACTING CHAIRMAN BAKKER: You've answered all mine.

12 COMMISSIONER MILLS: What questions should we be asking at
13 this point? I mean, I've thought of all the ones I can think
14 of.

15 DISTRICT ATTORNEY HERRERA: I think we have all the --

16 JEFF FONTAINE: Chairman?

17 DISTRICT ATTORNEY HERRERA: -- information. I think we
18 have all the information we need.

19 SHERIFF RON UNGER: I've got one question. Ron Unger, for
20 the record.

21 This involves the road closures, Martin.

22 I've been to several meetings with the western states. And
23 they had this issue down in Arizona and New Mexico to where the
24 forest service was coming in and closing these RS 2477 roads.
25 And the number two lady from the US Forest Service, out of
26 Washington, D.C., she was at that meeting. And she explained to
27 everybody there that they cannot close these roads, like this,
28 without first putting out a map and having a public comment
29 period, that they do that.

30 Now, does that hold true for the BLM if they want to come
31 in and close our RS 2477 roads, just go up with a dozer, which
32 they were doing in Arizona and New Mexico and just dozing these
33 roads closed?

34 Don't -- does the BLM, they have to go through this public
35 hearing comment period?

36 UNIDENTIFIED MALE PARTICIPANT: Correct.

37 SHERIFF RON UNGER: -- before they close them. Am I
38 correct?

39 UNIDENTIFIED MALE PARTICIPANT: Correct.

40 MARTIN PARIS: Yes.

1 UNIDENTIFIED MALE PARTICIPANT: But they did that in --
2 MARTIN PARIS: But the RS, it's already passed.
3 UNIDENTIFIED MALE PARTICIPANT: They did that in the land
4 use amendment.
5 MARTIN PARIS: These have been a working document for quite
6 a while now. And that's what half these lawsuits are -- is
7 about is there was no collaboration. They did not take into
8 account any states' opinions, plans.
9 Governor Butch Otter has a really good lawsuit. They
10 just -- they shut him out of the planning and decision process.
11 And I think that's where, in my opinion, that -- that passed.
12 SHERIFF RON UNGER: To where they have to go through the
13 public --
14 MARTIN PARIS: Yeah.
15 SHERIFF RON UNGER: -- comment period?
16 So they go out and they start closing these roads, what's
17 to stop us from reopening the roads because it didn't go through
18 the public comment period?
19 UNIDENTIFIED PARTICIPANT: Jarbridge. We've been there.
20 SHERIFF RON UNGER: Who's at -- who's at fault here? I
21 mean --
22 JAMES MATTHEWS: James Matthews, --
23 DISTRICT ATTORNEY HERRERA: A federal -- a federal judge's
24 order is what stops us.
25 SHERIFF RON UNGER: Even though they --
26 MARTIN PARIS: The county --
27 SHERIFF RON UNGER: -- did it illegally?
28 DISTRICT ATTORNEY HERRERA: That's why you have to file a
29 lawsuit.
30 MARTIN PARIS: The -- the county law enforcement has
31 precedent in your --
32 EDDYANN FILIPPINI: Yes.
33 MARTIN PARIS: -- county.
34 JAMES MATTHEWS: Yes.
35 SHERIFF RON UNGER: No, I understand that.
36 MARTIN PARIS: So --
37 SHERIFF RON UNGER: No, and that --
38 UNIDENTIFIED FEMALE PARTICIPANT: You're the man, --
39 SHERIFF RON UNGER: Keep it shut --
40 UNIDENTIFIED FEMALE PARTICIPANT: -- Ron.

1 SHERIFF RON UNGER: -- about that.
2 Like these road closures, they tell you they're going to do
3 -- who's going to enforce that? They already don't have enough
4 people. And they don't have the authority to enforce it.
5 COMMISSIONER CLARK: But if they take a dozer and they put
6 a rake or whatever it is behind that dozer, they start ripping
7 up that road, that road's done. Who's going to go back in there
8 and motor grade it down and pack it?
9 SHERIFF RON UNGER: Ford -- Ford owners.
10 MARTIN PARIS: Well, we'll see how this -- I know they
11 already have way too much work. They gave themselves a lot more
12 work. I don't know what -- I don't know.
13 COMMISSIONER CLARK: But they're limited on the hours that
14 they can work because you can't have more than 10 decibels.
15 SHAWN MARILUCH: Well, they don't have to follow their own
16 rules.
17 EDDYANN FILIPPINI: I have -- this is Eddyann Filippini
18 again.
19 I have one question is: We have an attorney general, a
20 state attorney general, that is user-friendly now, Attorney
21 General Laxalt. Is -- is he in -- I mean, where is he sitting
22 in on all of this?
23 ACTING CHAIRMAN BAKKER: Laura, do you have that answer?
24 Or Jeff?
25 LAURA GRANIER: Yes. He is gathering information. I
26 understand they're staying very well informed. And he is
27 considering what action to take.
28 EDDYANN FILIPPINI: So --
29 LAURA GRANIER: He has an open-door policy and
30 (indiscernible) --
31 EDDYANN FILIPPINI: Okay. So he's in the loop and he's --
32 LAURA GRANIER: He's done a very good job on this for me.
33 EDDYANN FILIPPINI: Oh, yeah. He's -- he's a good man.
34 Okay. Thank you.
35 MARTIN PARIS: As far as the state goes, --
36 LAURA GRANIER: And I apologize. I -- I actually have to
37 drop off the call now. If there's anything I can answer quickly
38 before I have to get to my 2:30 that I'm pretty much late for --
39 DISTRICT ATTORNEY HERRERA: Laura, after what you've heard
40 here today, do you have any comments before you leave?

1 LAURA GRANIER: Just that I -- I really appreciate your
2 time and all the effort that -- that your county staff and
3 commissioners have already put into working with me. You've
4 developed some really good facts.

5 I do think it's critical to get as much participation by as
6 many counties affected by this as possible. It will really help
7 weigh in and impress upon the judge how important this is and
8 how widespread the average impacts are.

9 DISTRICT ATTORNEY HERRERA: Okay, Laura, one last thing
10 before you leave. If the county commissioners, by motion, agree
11 to this -- joining the lawsuit and to the signing of this
12 engagement letter, once the chairman or co-chairman sign it,
13 we'll just send it to you and you'll sign it and you'll send us
14 a copy?

15 LAURA GRANIER: Yes, absolutely.

16 DISTRICT ATTORNEY HERRERA: Perfect. Thank you, Laura.

17 LAURA GRANIER: Thank you.

18 ACTING CHAIRMAN BAKKER: Thank you.

19 COMMISSIONER MILLS: Thank you.

20 JEFF FONTAINE: Commissioners, this is Jeff Fontaine. Mr.
21 Chairman?

22 ACTING CHAIRMAN BAKKER: Go ahead, Jeff.

23 JEFF FONTAINE: Yeah, I just -- I just want to correct a
24 statement or misstatement that I made earlier in my description
25 of the sage -- sagebrush focal areas. I think I said that there
26 were SFAs in your county. There are not. But there obviously
27 is a lot of prime sage grouse habitat, which may not have as
28 onerous of restrictions as the SFAs. Nonetheless, it's pretty
29 prevalent in your county. So I just wanted to clarify that
30 misstatement.

31 ACTING CHAIRMAN BAKKER: Thanks, Jeff.

32 FRANK WHITMAN: Austin here.

33 ACTING CHAIRMAN BAKKER: Go ahead, Austin. Frank.

34 FRANK WHITMAN: Frank Whitman, the public lands
35 coordinator.

36 At our last meeting, we voted to recommend to the
37 commissioners to support this.

38 And we -- we were told that it had been voted in and the
39 commissioners were going to support this to the tune of \$10,000.

40 And so I was not there to speak last Thursday. But I would

1 like to just affirm that -- I think I speak for most everybody
2 in southern Lander County as well with the public land board
3 that we would like the commissioners to commit \$10,000, see
4 where it goes, and then perhaps commit another 10,000.

5 But I -- I think this is far too important to not commit
6 the money and -- and just roll over on this.

7 And everything else has been well said already. So that's
8 it for here. Thank you.

9 ACTING CHAIRMAN BAKKER: Thanks, Frank.

10 COMMISSIONER CLARK: Any more public comment?

11 ACTING CHAIRMAN BAKKER: Anybody else got anything?

12 SHAWN MARILUCH: Yeah, I'd like to add a little. Shawn
13 Mariluch, again.

14 I think that it's important for the county to stay as up on
15 all the issues that are going on with -- with this as possible,
16 whether it's through NACO or whether you contract Synergy to
17 keep you guys apprised of everything monthly or whatever,
18 whenever anything comes up. I think we need to know and we need
19 to be ahead of all this.

20 COMMISSIONER CLARK: That's why we got the natural resource
21 thing going in the county this -- this term. We -- we needed to
22 maintain it. I think it's the most important resource we have
23 is our natural resources. We don't have any other base. We
24 don't have a seaport. We don't have an airport.

25 SHAWN MARILUCH: And that's why I'm saying what I'm saying
26 is because they're on a contract basis. And so I think you guys
27 might need to direct them to keep us apprised of everything
28 that's going on and --

29 COMMISSIONER CLARK: You have my phone number.

30 TORI SUNDHEIM: And -- and this is -- this is Tori Sundheim
31 here with NACO. Just so that you're all aware, my position is
32 relatively new and the whole purpose is public lands and natural
33 resources issues.

34 You can always contact me as well. And we're paying
35 attention to these more closely, especially in light of what's
36 happening now.

37 ACTING CHAIRMAN BAKKER: Thank you.

38 DISTRICT ATTORNEY HERRERA: Thank you, Tori.

39 ACTING CHAIRMAN BAKKER: Anybody else want to say anything?

40 DAN TOMERA: I'm Dan Tomera, for the record, Tomera

1 Ranches.

2 I think everybody has pretty much said everything that
3 needs to be said.

4 It's -- it's clear to me that this entire thing was
5 orchestrated from the beginning. When it first came up to list
6 the sage grouse, it was evident that the numbers were a little
7 iffy from the maps, from the counts, from everything.

8 And then to have the non-listing and the management plan
9 all come out on the same day. The bird is irrelevant. It's
10 the -- the take that is the main thing.

11 I think the 10,000 to get this started is a -- is a good
12 thing.

13 I don't feel that there's any amount of money that should
14 not be put towards this. Ten thousand is a drop in the bucket
15 for a legal battle -- I -- a hundred thousand? Whatever it
16 takes, as far as I'm concerned.

17 I know how expensive this is. Our family, as well as other
18 permittees in the Argenta Allotment, have been in legal battles
19 for two years now.

20 I know what the restrictions are. When they say all these
21 fluffy little things come out and all of their -- everything
22 that come out after this release of the land plan, was
23 everybody's cooperating and coordinating and that's how come it
24 didn't get listed. That's all crap.

25 And that's the type of wordage that they're going to use to
26 get the city people to think that everything's good. And it's
27 not good.

28 The -- the restrictions that they place on people are --
29 are so onerous that you can't make a living with those in place.

30 This needs to be stopped. And it needs to be stopped with
31 whatever it takes to stop it, in my opinion.

32 ACTING CHAIRMAN BAKKER: Thanks, Dan.

33 DAN TOMERA: And Martin's doing a fine job.

34 ACTING CHAIRMAN BAKKER: Yes, he is.

35 COMMISSIONER MILLS: I think you brought up a -- a good
36 point. Can you tell us, what are -- what are some of the
37 buzzwords that we need to be watching for? Because you just
38 mentioned earlier that the word "open" doesn't really mean open.

39 MARTIN PARIS: So yeah, they have this --

40 COMMISSIONER MILLS: What other kinds of things are they

1 saying?
2 SHAWN MARILUCH: Limited.
3 MARTIN PARIS: "Limited" is another one. Yeah. Anywhere
4 it says "open," I would definitely double-check that.
5 UNIDENTIFIED FEMALE PARTICIPANT: (Indiscernible.)
6 TORI SUNDHEIM: This is Tori again.
7 I'll add to that list: "valid existing rights" is
8 something you need to pay attention to.
9 MARTIN PARIS: Yeah. That's a good one. "Open with major
10 stipulations."
11 COMMISSIONER CLARK: Isn't that an oxymoron?
12 MARTIN PARIS: Yeah. That's a good one too.
13 COMMISSIONER CLARK: I think I have a motion.
14 ACTING CHAIRMAN BAKKER: Hold on. We got to -- we got to
15 do the first one.
16 COMMISSIONER MILLS: We've got to rescind our first one --
17 COMMISSIONER CLARK: Oh, yeah.
18 COMMISSIONER MILLS: -- and then make a -- make the real
19 one.
20 COMMISSIONER CLARK: Yeah.
21 ACTING CHAIRMAN BAKKER: You want to do it?
22 Hey, can I make the motion?
23 DISTRICT ATTORNEY HERRERA: Yes.
24 COMMISSIONER CLARK: Why not?
25 ACTING CHAIRMAN BAKKER: Because you called me chair.
26 I move that -- or I make a motion to move that the votes
27 taken on Number 14 and Number 15 agenda item on the
28 September 10th, 2015, commissioner meeting be rescinded because
29 those actions contemplated that we join the Nevada Mineral
30 Alliance and new mineral alliances are not named in the lawsuit.
31 COMMISSIONER MILLS: Second.
32 COMMISSIONER WAITS: This is Commissioner Waits. I'm
33 sorry. I could not hear the motion.
34 Are you reaffirming our stand? That we remain a plaintiff?
35 COMMISSIONER CLARK: No, we're rescinding --
36 ACTING CHAIRMAN BAKKER: We're rescinding our last motion,
37 Patsy. And so we can make a new motion.
38 COMMISSIONER WAITS: No, no. I'm asking a question. I
39 couldn't hear your motion.
40 COMMISSIONER CLARK: Read it again.

1 ACTING CHAIRMAN BAKKER: Hold on. I make a motion to move
2 the votes taken on Number 14 and Number 15 agenda on the
3 September 10th, 2015, commissioner meeting be rescinded because
4 those actions contemplated that we join the Nevada Minerals
5 Alliance. And the Nevada Mineral Alliance are not named in the
6 lawsuit.

7 COMMISSIONER MILLS: Second. Again.

8 ACTING CHAIRMAN BAKKER: Any public comment?
9 (No comment.)

10 ACTING CHAIRMAN BAKKER: All those in favor?

11 COMMISSIONER CLARK: Aye.

12 COMMISSIONER MILLS: Aye.

13 ACTING CHAIRMAN BAKKER: Aye.

14 COMMISSIONER WAITS: Aye.

15 ACTING CHAIRMAN BAKKER: Okay.

16 COMMISSIONER CLARK: I have a motion. My motion is to join
17 as a participant in the lawsuit regarding the non-listing of the
18 northeastern California-Nevada sage grouse. And that'd be my
19 first motion.

20 MARTIN PARIS: We're not -- they're not --

21 DISTRICT ATTORNEY HERRERA: I -- I think, Commissioner
22 Clark, that we need to be more specific about what we're
23 joining. I've -- I've --

24 ACTING CHAIRMAN BAKKER: You want to read that? Can you
25 read that?

26 DISTRICT ATTORNEY HERRERA: So first --

27 COMMISSIONER CLARK: This is the --

28 DISTRICT ATTORNEY HERRERA: -- we have to --

29 COMMISSIONER CLARK: -- second one.

30 DISTRICT ATTORNEY HERRERA: First we have to --

31 COMMISSIONER CLARK: Okay, I'll modify it.

32 DISTRICT ATTORNEY HERRERA: Yes.

33 ACTING CHAIRMAN BAKKER: You got to read all that. And
34 then when you get to --

35 COMMISSIONER CLARK: Okay.

36 ACTING CHAIRMAN BAKKER: -- you got to add that --

37 TORI SUNDHEIM: Hi.

38 ACTING CHAIRMAN BAKKER: -- in there before --

39 TORI SUNDHEIM: This is Tori Sundheim with NACO, --

40 ACTING CHAIRMAN BAKKER: -- the end.

1 TORI SUNDHEIM: -- again. I just wanted to say, the
2 plaintiffs in the law-- lawsuit are Western Exploration LLC,
3 Elko County, Eureka County, and Quantum Minerals LLC.
4 DISTRICT ATTORNEY HERRERA: We got it.
5 COMMISSIONER CLARK: We got it.
6 DISTRICT ATTORNEY HERRERA: Thank you, Tori.
7 ACTING CHAIRMAN BAKKER: Thanks, Tori.
8 COMMISSIONER CLARK: Okay, the motion will be that Lander
9 County commissioners join the ongoing lawsuit named as a pla--
10 a plaintiff between Western Explorers LLC, Elko County, Eureka
11 County, and Quantum Minerals LLC versus Department of the
12 Interior and their complaint for declaratory and injunctive
13 relief with a mon--
14 ACTING CHAIRMAN BAKKER: Monetary.
15 COMMISSIONER CLARK: -- monetary expenditure of not more
16 than \$10,000 based on the engagement for legal services,
17 engagement letter prepared by Laura Garner [verbatim] and sent
18 to the DA, Ted Herrera, and authorize the chair to sign. That's
19 motion one.
20 ACTING CHAIRMAN BAKKER: Second. Any public comment?
21 (No comment.)
22 ACTING CHAIRMAN BAKKER: All those in favor?
23 Aye.
24 COMMISSIONER MILLS: Aye.
25 COMMISSIONER CLARK: Aye.
26 COMMISSIONER WAITS: Aye.
27 COMMISSIONER CLARK: My second motion is to authorize the
28 executive director to work with Laura and NACO to adopt a
29 declaration of impact.
30 ACTING CHAIRMAN BAKKER: Second.
31 Public comment?
32 (No comment.)
33 ACTING CHAIRMAN BAKKER: All those in favor?
34 COMMISSIONER MILLS: Aye.
35 ACTING CHAIRMAN BAKKER: Aye.
36 COMMISSIONER CLARK: Aye.
37 COMMISSIONER WAITS: Aye.
38 ACTING CHAIRMAN BAKKER: Okay. Now --
39 COMMISSIONER CLARK: Motions have passed.
40

1 **PUBLIC COMMENT**

2
3 ACTING CHAIRMAN BAKKER: Now we go to public comment.
4 Public comments for non-agendized items only.

5 Persons are invited to submit a comment in writing and/or
6 attend and make comments in any non-agenda item at the board
7 meeting of any. And discussion of those comments at the
8 discretion of the board. All public comment may be limited to
9 three minutes per person, again, at the discretion of the board.

10 Reasonable restrictions may be placed on public comment
11 based upon time, place, and manner.

12 But public comment based upon viewpoint may not be
13 restricted.

14 Any public comment?

15 (No comment.)

16 ACTING CHAIRMAN BAKKER: Okay. With that, I need a motion.

17 COMMISSIONER CLARK: Second.

18 ACTING CHAIRMAN BAKKER: No.

19
20
21 **ADJOURNMENT**

22
23 COMMISSIONER MILLS: Motion to adjourn.

24 ACTING CHAIRMAN BAKKER: Second.

25 Any public comment?

26 (No comment.)

27 ACTING CHAIRMAN BAKKER: All in favor? Aye.

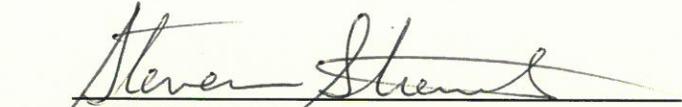
28 COMMISSIONER CLARK: Aye. Aye.

29 COMMISSIONER MILLS: Thank you for coming.

30 COMMISSIONER WAITS: Aye.

31 ACTING CHAIRMAN BAKKER: Thank you.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40


**CHAIRMAN OR VICE CHAIRMAN OF THE
BOARD OF LANDER COUNTY
COMMISSIONERS AND THE LANDER
COUNTY LIQUOR BOARD**

ATTEST: 
LANDER COUNTY CLERK

Note: The Board of Lander County Commissioners serves as the Town Board for the unincorporated towns of Battle Mountain and Austin, Nevada.