



October 18, 2023

To: State Land Use Planning Advisory Council

From: Scott Carey AICP, State Lands Planner

RE: State Land Use Planning Agency Update

Since the August 4<sup>th</sup>, meeting the Agency has been working on and tracking various activities, SLUPAC projects, Federal public lands and other legislation, and other issues of interest to the Council. The purpose of this memo and agenda item to provide the Council with an update on the agency and provide an opportunity to answer questions or provide additional information.

- 1) NEPA Reform: Since the last Council meeting, the agency has been informed that Congress has enacted changes to the National Environmental Policy Act (NEPA) for the first time since the law was enacted in 1970. As part of the debt ceiling bill the Fiscal Responsibility Act of 2023 (H.R. 3746) that was passed in June, the bill makes several key changes to NEPA.
  - NEPA Mandate: The new law provides that an Environmental Impact Statement (EIS) must consider the “reasonably foreseeable environmental effects of the proposed agency action” and analysis of a “reasonable range” of alternatives that are “technically and economically feasible” for a project. The law also requires an agency to consider “any negative environmental impacts of not implementing the proposed agency action in the case of a no action alternative”.
  - New EA and EIS Deadlines: Under the new law an agency must complete an EIS no later than two years and complete an Environmental Assessment (EA) in one year.
  - NEPA Applicability: The new law provides clarification on what can qualify for a categorical exclusion and allows for agencies to adopt categorical exclusions from other agencies.
  - Agency Hierarchy: The new law includes a new strong lead agency role with provisions for joint lead agencies and authority to coordinate the preparation of an environmental document and related permits and authorizations. Also of note, the new law creates an appeal process for agencies who have been denied cooperating agency status on a project.
  - Applicant Prepared EA and EIS: The new law require that lead agencies prescribe procedures for project sponsors to prepare an EA or EIS under agency supervision.

- The legislation requires the lead agency to independently evaluate an environmental review document and take responsibility for its contents.
- Definition of Major Federal Action: The new law defines a Major Federal Action as “an action that the agency carrying out such action determines is subject to substantial Federal control and responsibility.” The new definition excludes Federal loan or loan guarantee programs where the agency has minimal involvement and does not control the outcome of a project.
  - Page Limits: Under the new law the maximum page limit for an EIS is 150 pages with an allowance of up to 300 pages in certain circumstances. The law limits an EA to be 75 pages. Appendices are not counted towards the page limit.

The changes to NEPA are outlined in Sections 321 to 323 of H.R. 3746 (Pages 29-37), a copy of the debt ceiling bill is available [at this link](#).

- 2) Proposed CEQ NEPA Regulation Changes: On July 28, 2023, the Council for Environmental Quality announced a Phase 2 Notice of Proposed Rulemaking—the “Bipartisan Permitting Reform Implementation Rule”—to revise its regulations for implementing the procedural provisions of the National Environmental Policy Act (NEPA). Part of the proposed regulations changes included changes to implement the amendments to NEPA by the Fiscal Responsibility Act of 2023 (Debt Ceiling Bill).

In September, Governor Lombardo led the effort by the Republican Governor’s Association to provide comments to the proposed changes. The Association submitted a comment letter that was signed by 19 Governors from across the nation expressing concerns over the proposed regulation changes. A copy of the association’s letter is available [at this link](#).

- 3) Federal Public Lands Bills: The Agency continues to track the progress of several Nevada specific public lands and natural resource Federal bills. As the 118<sup>th</sup> Congress and the Biden Administration begin their work, the Agency expects new Federal public land bills to move through the process or resurface over the next year. Below is a listing of the bills that the agency is tracking during the 118<sup>th</sup> Session.

Status of Legislation in the 118<sup>th</sup> Congress.

- Lake Tahoe Restoration Reauthorization Act (H.R. 1274) (S. 612) – [Congressman Amodei introduced the House version of this bill on 3-1-23. Senator Cortez Masto introduced the Senate version of this bill on 3-1-23.](#)
- Maude Frazier Mountain (H.R. 848) – [Congresswoman Titus introduced this bill on 2-21-23.](#)

- Nuclear Waste Informed Consent Act (H.R. 1051) (S. 404) - [Congresswoman Titus](#) introduced this this bill on 2-14-23. [Senator Cortez Masto](#) introduced the Senate version of this bill on 2-14-23.
- Wild Horse and Burro Protection Act of 2023 (H.R. 3656) - [Congresswoman Titus](#) introduced this this bill on 5-24-23.
- Public Land Renewable Energy Development Act of 2023 (H.R. 178) – [Congressman Mike Levin \(CA-49\)](#) introduced this bill on 2-21-23.
- [Avi Kwa Ame National Monument](#) – [On March 21, 2023, President Biden](#) issued a proclamation under the Antiquities Act to designate [Avi Kwa Ame](#) in Clark County as a National Monument. The new national monument spans approximately 506,814 acres of lands managed by the Interior Department’s Bureau of Land Management, Bureau of Reclamation, and National Park Service.
- Northern Nevada Economic Development and Conservation Act (H.R. 3173) – [Congressman Amodei](#) introduced this this bill on 5-10-23.
- Sloan Canyon National Conservation Boundary Amendment (S. 2042) – [Senator Cortez Masto](#) introduced this bill on 6-15-23. On 9-21-23, this bill received a hearing in the Senate Committee on Energy and Natural Resources and was passed out of the committee.
- Ruby Mountains Protection Act (S. 706) – [Senator Cortez Masto](#) introduced this bill on 3-8-23. On 7-19-23, this bill received a hearing in the Senate Committee on Energy and Natural Resources and was passed out of the committee.
- Apex Area Technical Corrections Act (H.R. 1504) (S. 1760) – [Congressman Horsford](#) introduced the House version of this bill on 3-9-23. [Senator Cortez Masto](#) introduced the Senate version of this bill on 5-30-23. On 9-21-23, this bill received a hearing in the Senate Committee on Energy and Natural Resources and was passed out of the committee.
- Nevada Test and Training Range modernization & withdrawal (H.R. 2670) – [In June, Congressman Amodei](#) has submitted an amendment to the National Defense Authorization Act providing for the modernization & withdrawal.
- Nullify NASA Withdrawal of Railroad Valley withdrawal (H.R. 3883) – [In June, Congressman Amodei](#) introduced a bill to nullify the BLM’s Public Land Order

7921 which withdrew 23,000 acres of public land in the Railroad Valley in Nye County. On 6-14-23, the bill received a hearing in the House Natural Resources Subcommittee on Energy and Mineral Resources and no action was taken.

- Withdrawal BLM Public Lands Rule (H.R. 3397) (S. 1435) – In June, Congressman John Curtis (R-UT-3) introduced a bill to require the Director of the BLM to withdrawal the proposed Public Lands Rule. There is related bill (S. 1435) that has been introduced in the Senate that was introduced by Senator John Barrasso (R-WY) in May.

#### Other Potential Federal Land Bills

- Southern Nevada Economic Development and Conservation Act – No bill introduced yet.
- Carson City Public Land Correction Act – No bill introduced yet.
- Elko National Cemetery Act – No bill introduced yet.
- Truckee Meadows Lands Bill – No bill introduced yet. Discussion draft of the proposed bill has been circulated to stakeholders and public meetings have been held.
- Nye County Lands Bill – No bill introduced yet.
- Lyon County Lands Bill – No bill introduced yet.
- Sunrise Mountains/East Las Vegas National Monument – No bill introduced yet.
- Bahsahwahbee Swamp Cedars National Monument – No bill introduced yet.
- Historic Wendover Airfield National Monument. – No bill introduced yet.