

HOUSE NATURAL RESOURCES COMMITTEE MEETING  
January 17, 1983

The House Natural Resources Committee had a joint meeting with the Senate Natural Resources Committee at 12:25 p.m. on January 17, 1983, with Chairmen Hal Harper and Harold Dover presiding, in Room 325 of the State Capitol.

Chairman Hal Harper welcomed the Western Conference Study Team and the members of both the House and the Senate Natural Resources Committees.

Chairman Harold Dover was the moderator of the program.

DON SPRAGUE, Director, Western Office of State Governments, introduced the members of the team. He said they will present the regional findings of a study that deals with federal land issues in the west. He said it contains ways in which the states can exert a much bigger influence on land management in the west.

DR. SALLY K. FAIRFAX, University of California, gave the historical background leading up to present conditions and grievances.

JOHN THORSON, Attorney and Associate Director, Western Office of the Council of State Governments, discussed the Public Land Law Review Commission and status and prospects of litigation in this field.

DON SPRAGUE asked if there were any questions and as there weren't he said we would move from history and get to the here and now.

LEONARD WILSON, Council of State Governments, Senior Research Associate; consultant to National Governors' Association subcommittee on rangeland management, spoke on opportunities for asserting state policies.

DR. SALLY K. FAIRFAX spoke on assessing national law disposal initiatives.

DR. RICHARD GANZEL, University of Nevada, Associate Professor, Department of Political Science, spoke on innovative land transfer proposals.

DON SPRAGUE gave a brief summary.

The meeting adjourned at 2:30 p.m.

Exhibits attached to the minutes include the letter inviting Chairman Harper; the Western Conference Agenda pamphlet; the Western Conference news release for January 13, 1983; the "Western Natural Resource Litigation Digest Commentary," Winter, 1983.

Respectfully submitted,  
*Harper*



# WESTERN CONFERENCE

THE COUNCIL OF STATE GOVERNMENTS

720 SACRAMENTO STREET, 3rd FLOOR    SAN FRANCISCO, CALIFORNIA 94108    (415) 986-3760

January 21, 1983

Representative Hal Harper  
State Capitol  
Helena, MT 59620

Dear Representative Harper:

On behalf of the Western Conference and our study team, please accept our appreciation for your assistance in organizing the Public Lands Workshop in Helena on Monday, January 17.

I hope you and your Committee Members received some value from the presentation. We certainly appreciated the time and support you all gave to it.

Best wishes for a positive and productive session; and thanks again for your help.

Sincerely,



Daniel M. Sprague  
Director

DMSstk

LIP07-07

Comprised of Legislators, representing the following States:

Alaska • American Samoa • Arizona • California • Colorado • Commonwealth of the Northern Mariana Islands  
Guam • Hawaii • Idaho • Montana • Nevada • New Mexico • Oregon • Utah • Washington • Wyoming



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**BEYOND SAGEBRUSH:  
A Series of Briefings for State Officials on  
Strategies for Asserting Greater Control Over  
Federal Land Management Decisions**

**January 1983**

**AGENDA**

**Part 1:**

Welcome and Introduction  
Organization of the Briefing  
Historical Background Leading up to Present Conditions and Grievances  
Public Land Law Review Commission Revisited  
Litigation Status and Prospects  
Questions and Answers

**Part 2**

Opportunities for Asserting State Policies  
Assessing National Law Disposal Initiatives  
Innovative Land Transfer Proposals  
Summary  
Questions and Answers

**STUDY TEAM MEMBERS**

**Richard Cowart**, University of California, Assistant Professor of Planning and Environmental Law, Schools of Law and Environmental Design; formerly Director, Vermont Environmental Board.

**Dr. Sally K. Fairfax**, University of California, Associate Professor, College of Natural Resources; co-author, Forest and Range Policy; member, National Science Foundation committees on rangeland issues.

**Dr. Richard Ganzel**, University of Nevada, Associate Professor, Department of Political Science; author and editor of public lands report for Nevada legislature and attorney general.

**Dan Sprague**, Director, Western Office of the Council of State Governments.

**John Thorson**, Attorney and Associate Director, Western Office of the Council of State Governments.

**Leonard Wilson**, Council of State Governments, Senior Research Associate; consultant to National Governors' Association subcommittee on rangeland management.

Comprised of Legislators, representing the following States:

Alaska • American Samoa • Arizona • California • Colorado • Commonwealth of the Northern Mariana Islands  
Guam • Hawaii • Idaho • Montana • Nevada • New Mexico • Oregon • Utah • Washington • Wyoming

## THE WESTERN (LEGISLATIVE) CONFERENCE

The Western Conference is comprised of elected and appointed officials of the States of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, and the Pacific Territories of American Samoa, Guam, and the Northern Mariana Islands.

The purpose and objectives of the Western Conference are to foster and encourage interstate cooperation on and participation in the consideration of common problems in the west. The conference provides a medium for state legislators to exchange ideas; knowledge and experience toward the development of action research and policy positions on major western issues.

The Western Conference is governed by an Executive Committee composed of the Conference's elected officers, appointed state delegates, and chairs of the conference study committees. The Executive Committee sets interim conference policy and recommends bylaws to implement conference rules.

Conference members meet in committee sessions several times a year, and the entire membership meets annually for three days. During the committee meetings and the annual conference, held throughout the western region, legislators and appointed officials address a variety of issues of concern to the region. Each year, the Conference's leadership determines the priority issues within the region, and establishes policy committees to examine these issues.

For 1982-1984, legislative committees include:

- public lands
- water policy
- public safety
- fiscal affairs and federalism
- energy development and conservation
- hazardous materials and waste management
- transportation

The committees meet to examine policy approaches to these issues in member states. For example, the transportation committee would consider alternative methods of highway funding, and the corrections committee would review sentencing structures across the states. Committees also review federal legislation and develop regional policy positions on national statutory and administrative policies. Committee membership includes legislators appointed from both houses of each state, legislative staff and executive agency representatives.

### Officers of the Conference

Chair, 1982-83	President Pro Tem Russ Donley (Wyoming)
Chair-Elect, 1982-83	Senator Sam Guess (Washington)
Vice Chair	Representative Dan Berry (New Mexico)
Past Chair	Senator Cary Peterson (Utah)

### 1983 Annual Meeting

September 11 - 14    Fairbanks, Alaska

**O & C lands:**

Public lands in Western Oregon which were granted to the Oregon Central railroad companies (later the Oregon & California Railroad Company) to aid in the construction of railroads, but which were later forfeited and returned to the Federal Government by revestment of title.

**Patent:**

A government deed. A document that conveys legal title of public lands to the patentee.

**Permit:**

A revocable authorization to use public lands for a specified purpose.

**Public land or public domain lands:**

Original public domain lands which have never left Federal ownership; also, lands in Federal ownership which were obtained by the Government in exchange for public lands or for timber on public lands.

**Reservation:**

A withdrawal, usually of a permanent nature; also, any Federal lands which have been dedicated to a specific public purpose.

**Reserved land:**

Federal lands which are dedicated or set aside for a specific public purpose or program and which are, therefore, generally not subject to disposition under the operation of all the public land laws.

**Sustained yield:**

Management of the resource to assure continuous production with the aim of achieving, at the earliest possible time, an approximate balance between growth and harvest, by either annual or somewhat longer periods.

**Wild free-roaming horses and burros:**

All unbranded and unclaimed horses and burros on national resource lands managed under the Wild Free-Roaming Horses and Burros Act (Public Law 92-185, Dec. 15, 1971, 85 Stat. 649-651).

**Withdrawal:**

An action which restricts the disposition of public lands and which holds them for specific public purposes; also, public lands which have been dedicated to public purposes.

## COMMONLY USED ACRONYMS

BLM - Bureau of Land Management (Department of Interior)

FLPMA - Federal Land Policy and Management Act

MEPA - Montana Environmental Policy Act

MOU - Memorandum of Understanding

NEPA - National Environmental Policy Act

OCS - Outer Continental Shelf

SMCRA - Surface Mine Control and Reclamation Act

## COMMONLY USED TERMS

### **Acquired lands:**

Lands in Federal ownership which are not public lands. Acquired lands were obtained by the Government through purchase, condemnation, or gift or by exchange for such purchased, condemned, or donated lands or for timber on such lands.

### **Disposition:**

A transaction which leads to the transfer of title of public lands, and/or resources upon or in these lands, from the Federal Government.

### **Entry:**

An application to acquire title to public lands.

### **Federal land:**

All classes of land owned by the Federal Government.

### **Lease:**

An authorization to possess and use public land for a period of time sufficient to amortize capital investments in the land.

# STATE/LOCAL MANAGEMENT STRATEGIES

Level of Involvement	Program Type			
	Consultation	Planning	Mitigation	Permit Review
Local	<ul style="list-style-type: none"> <li>•Local MOU</li> </ul>	<ul style="list-style-type: none"> <li>•Local planning &amp; zoning</li> <li>•FLPMA Sect. 202</li> <li>•Experimental stewardship</li> </ul>	<ul style="list-style-type: none"> <li>•County bargaining</li> <li>•Prepayment of taxes</li> </ul>	<ul style="list-style-type: none"> <li>•NEPA</li> <li>•County development controls</li> </ul>
State and local	<ul style="list-style-type: none"> <li>•Umbrella MOU</li> <li>•Rangeland coordinating council (AZ, ID)</li> <li>•Training sessions</li> </ul>	<ul style="list-style-type: none"> <li>•CRMPT (MT)</li> <li>•Utility corridor planning (MT)</li> <li>•Joint planning teams (AZ)</li> </ul>		
State	<ul style="list-style-type: none"> <li>•Lead state agency</li> <li>•Rangeland coordinating council (CO, MT)</li> <li>•Training sessions</li> </ul>	<ul style="list-style-type: none"> <li>•CRMP (ID, NV, WY)</li> <li>•Urban Lands Act (AZ)</li> <li>•Coal teams</li> <li>•Cumulative impacts task force (CO)</li> </ul>	<ul style="list-style-type: none"> <li>•Range improvement loan (UT, MT)</li> <li>•State bargaining</li> </ul>	<ul style="list-style-type: none"> <li>•Joint review</li> <li>•MEPA/NEPA (MT)</li> <li>•SMCRA primacy</li> </ul>

NEWS RELEASE

For Immediate Release

January 13, 1983

Going beyond the Sagebrush Rebellion and identifying ways for states to have greater control over federal land will be the subject of a briefing for Montana state legislators to be held on Monday, January 17, 1983 in Room 325 of the State Capitol in Helena. Senator Harold Dover and Representative Hal Harper will open the session which begins at 12:00 noon.

The meeting, conducted by the Western Conference of state legislators, will release the findings and recommendations of a two-year study partially funded by the State of Montana. This study was mandated by the Conference in order to develop strategies for Western states to increase state control and ownership of federal public lands.

Issues to be discussed at the briefing include:

Major causes of citizen and state unrest about federal public lands policies in the West;



the Bureau of Land Management, the U.S. Forest Service, the U.S. Fish and Wildlife Service, and the U.S. Geological Survey. The conference will also discuss the economic and environmental issues for Western states, and the role of the federal government in the future. The conference will be held in Denver, Colorado, on September 10-11, 1980. For greater state role;

Possible legal actions by states to regain greater control over federal lands and a candid evaluation of the potential of these strategies;

The meaning and significance of this Administration's "good neighbor policies," programs to sell excess and surplus lands, and the Department of Interior's asset management program;

Ways that states can gain greater control of federal land policies under existing federal law; and

Positions that states can take before Congress and federal agencies.

Speakers include Richard Cowart, law professor at the University of California; Sally Fairfax, professor of natural resources at the University of California; Richard Ganzel, professor of political science at the University of Nevada; Dan Sprague, Director of the Western Conference of the Council of State Governments; John Thorson, attorney, also with the Western Conference of the Council of State Governments; and Leonard Wilson, a senior research associate for the Council of State Governments.

...many of the...  
...and...  
...representative...  
...the study...  
...importance of this briefing.  
Denney said: "These issues are of vital concern to all Western  
legislators who want to bring state land management back in line  
with state objectives. I urge you to attend this briefing to  
discover possible solutions to a major Western problem."

Attached is a brochure concerning the briefing, part of a series  
conducted by the Western Conference, including an agenda and more  
detailed information. (The date, time, and location in the  
brochure has been changed.)

For further information and press registration, please contact:

John Thorson  
Western Office  
Council of State Governments  
(415) 986-3760

or

Deborah Schmidt  
Environmental Quality Council  
(406) 449-3742

## THE WESTERN CONFERENCE

The Western Conference is comprised of legislators of the States of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, and the Pacific Territories of American Samoa, Guam, and the Northern Mariana Islands. Much of the work of the Conference is done through its committees which meet several times a year. The entire membership of the Conference meets annually for three days. The 1983 annual meeting will be held in Fairbanks, Alaska on September 11-14.

For 1982-84 the Conference Committees are:

- Public Lands
- Water Policy
- Energy Development and Conservation
- Transportation
- Hazardous Materials
- Public Protection
- Fiscal Affairs and Federalism

## OTHER INFORMATION

An executive summary of the regional public lands study, including information from the regional briefings, will be sent to participants approximately March 1st. Final reports of the study will be submitted to funding states later in the spring.

## PRESS AND PUBLIC PARTICIPATION

The press and the public are invited to attend these briefings. In most states, press conferences will be held at the conclusion of the session. For additional information, please call (415) 986-3760.

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Council of State Governments  
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# BEYOND SAGEBRUSH

A series of briefings for  
state officials on strategies  
for asserting greater  
control over federal land  
management decisions

Conducted by the  
**WESTERN CONFERENCE**  
Council of State Governments  
January and February 1983

## THE ISSUES

- Six western states have passed "Sagebrush Rebellion" legislation claiming ownership of federal public lands, but litigation on the issue remains unsettled in the courts.
- Historical grievances of western citizens concerning federal lands remain unresolved. Much western land remains poorly managed in checkered ownership patterns. Excess numbers of wild horses and burros still roam the range. State land selections promised by the federal government have not been satisfied. Forced upon the West are defense installations, energy development, and storage of hazardous waste.
- Current federal policies have brought mixed blessings to the West. While having a greater role in some decisions, states have not designated the necessary financial resources to exercise this responsibility. Payments in lieu of taxes have been reduced, and the federal government has curtailed or mismanaged sources of funds necessary for responsible state management of their resources.

## BACKGROUND

The Western Conference of state legislators was charged by its membership with developing strategies for increasing state control and ownership of federal public lands. A two-year study funded by eight western state legislatures has produced recommendations for alternative state actions. Briefings on the results of the study will be conducted by study team members who will alert legislators to alternative solutions for greater public land control.

## BRIEFINGS

In this series of briefings, the study team will:

- Identify the major causes of citizen unrest concerning federal public lands policy in western states and the legislative response to this discontent;
- Illustrate the impact of current federal policies on western state governments, economies, and lifestyles;
- Evaluate the success of litigation and of previous federal "reform" measures;
- Explore the meaning and significance of this Administration's "good neighbor," "privatization," and "asset management" policies;
- Show how states can gain greater control over federal land policies under existing law; and
- Propose actions that states could take before Congress and before federal agencies.

## WHO SHOULD ATTEND

These briefings are designed especially for state legislative leadership, members of natural resource committees, and freshmen legislators. Other legislators, executive officials, the press, and the public are also invited to attend. Legislators will have ample opportunity to discuss their concerns with study team members.

## PANEL MEMBERS

**Richard Cowart**, University of California, Assistant Professor of Planning and Environmental Law, Schools of Law and Environmental Design; formerly Director, Vermont Environmental Board.

**Dr. Sally K. Fairfax**, University of California, Associate Professor, College of Natural Resources; co-author, *Forest and Range Policy*; member, National Science Foundation committees on rangeland issues.

**Dr. Richard Ganzel**, University of Nevada, Associate Professor, Department of Political Science; author and editor of public lands report for Nevada legislature and attorney general.

**Dan Sprague**, Director, Western Office of the Council of State Governments.

**John Thorson**, Attorney and Associate Director, Western Office of the Council of State Governments.

**Leonard Wilson**, Council of State Governments, Senior Research Associate, consultant to National Governors' Association subcommittee on rangeland management.

## THE ADVISORY COMMITTEE OF THE REGIONAL PUBLIC LANDS STUDY OF THE WESTERN CONFERENCE:

Senator Norm Glaser of Nevada, Chair  
Representative Dan Berry of New Mexico  
Senator Ivan Matheson of Utah

## AGENDA

- Brief History of Western Public Land Issues
- Strategies States can Initiate:
  - Litigation
  - Greater use of state role and consistency provisions in existing federal statutes
- Strategies States can Voice or Support in Washington D.C.
  - Recommendations from the Public Land Law Review Commission
  - Administration proposals for "good neighbor" policy, "asset management," and "privatization"
  - Statutory Change

## REGIONAL BRIEFING

Because of interest among legislators and other officials from states in which briefings will not be held, a special regional workshop is scheduled from 9:00 a.m.-12:00 noon on Friday, January 28 at the State Capitol in Salt Lake City. Legislators and interested members of the public from throughout the West are invited to attend. For additional information about this briefing and accommodations in the Salt Lake area, please call (415) 986-3760.

## DATES AND LOCATIONS OF BRIEFINGS

Montana	Afternoon Tuesday, January 18, 1983	State Capitol Helena, Montana
Wyoming	Afternoon Wednesday, January 19, 1983	House Chamber State Capitol Cheyenne, Wyoming
Colorado	8:30-11:00 a.m. Friday, January 21	State Capitol Denver, Colorado
New Mexico	2:00-5:30 p.m. Wednesday, January 26, 1983	State Capitol Santa Fe, New Mexico
Utah (REGIONAL BRIEFING SESSION)	9:00-11:30 a.m. Friday, January 28, 1983	State Capitol Salt Lake City, Utah
Nevada	2:00-4:30 p.m. Monday, January 31, 1983	Room 131 Legislative Building Carson City, Nevada

(Please call state staff for exact time and location.)

## ADVANCE REGISTRATION and INFORMATION:

Please complete and return the enclosed registration form indicating the briefing you plan to attend.

General information about the public lands study:	John Thorson (415) 986-3760
Housing information for Salt Lake City briefing:	Cheryl Schweitzer (415) 986-3760
Media information:	John Thorson or Leah Brumer (415) 986-3760

LEGISLATORS MAY CALL THE FOLLOWING STATE STAFF FOR INFORMATION ABOUT WORKSHOPS IN THEIR STATES:

Colorado:	Lyle Kyle, Director, Legislative Council (303) 866-3521
Montana:	Diana S. Dowling, Executive Director, Legislative Council (405) 449-3064
Nevada:	Bob Erickson, Senior Research Analyst, Legislative Council Bureau (702) 885-5637
New Mexico:	Charlie Young, Staff Attorney, Legislative Council Service (505) 827-3705
Utah:	Jon M. Memmott, Director, Legislative Research (801) 533-5481
Wyoming:	Ralph Thomas, Director, Legislative Council (307) 777-7881