



Was it because these counties do not need federal assistance to help grow their economies? NO. Was it because these counties are currently doing well as things are? Generally, NO. Why then would three counties with generally differing needs, stand together in their rejection of assistance and to protest the proposed restriction of 1.4 million acres of federally controlled lands?

**The answer is in the land itself.**

Nevadans know that the future of the state rests with the access to and reasonable use of the land. While metropolitan areas of the state that are located on main interstate routes have unlimited ability to grow and develop their economies without dependence on the use the public lands, rural Nevada counties consider the land as precious as life's blood itself. Without access to the land there can be no mining, no alternative energy resource exploration or development, and there will be no more tourists whose only reason for coming in the first place is to drive into the hills and explore all that Nevada has to offer on their limited vacation time.

Congress intended that lands designated as Wilderness Areas meet a certain test for quality of the landscape. Congress defined what it meant by "wilderness" in the legislation that was enacted in 1964. That definition should be the controlling factor in what lands are placed under restricted use through designation as Wilderness Areas. Proposals for restricted use Wilderness Areas through Congressional designation should not control the future well being of Nevada or Nevadans by being inextricably linked to lands bills that MANDATE the inclusion of such wilderness proposals.

With that thought in mind, the Coalition for Public Access (CPA) submits the following suggestions for the Committee to consider for recommendation to the Legislature in an attempt to rein in the ever increasing proposals that go far beyond Wilderness Areas designations and result in the CREATION of wilderness where none presently exists.

**Suggestion No. 1 - Resolution to the Congressional Delegation**

*The Nevada Legislature should pass a resolution that is similar to The Nevada Association of Counties resolution #08-06, require that approval of new wilderness areas comply fully with the definition found in the Wilderness Act of 1964, and request the Congressional Delegation seek the release all Wilderness Study Areas where the areas have been determined by the BLM to not meet the wilderness requirements.*

Any resolution recommended by the Committee to the Nevada Legislature must emphasize the differing needs of Nevada's counties and urge the Delegation not to follow boilerplate lands bill legislation, but to tailor each bill that a county may request to the specific needs of that county, irrespective of an outside desire for the inclusion of Wilderness Area designations.

A predominant theme of such a resolution must be the requisite that no lands bill be developed unless it is at the request of the county governing body and that a bill should not be introduced in Washington, D.C. unless it is accompanied by a resolution of support adopted by the governing body of the county that is to be benefited by it. Lands bills and the impacts associated with wilderness proposals must first be driven at the local level.

Any such resolution must stress to the Delegation the importance of keeping federal public lands in Nevada open and without unreasonable restrictions for it has always been that the land has been a mainstay in Nevada's economic opportunities. The resolution should encourage the Congressional Delegation to require that all lands proposed as Wilderness Areas strictly comply with the definition established in the Wilderness Act of 1964, as approved by Congress.

Finally, the resolution should strongly urge the Congressional Delegation to establish a date or series of dates by which Congress shall release the Wilderness Study Areas (WSA) that federal land managers have already reported are not suitable for Wilderness Area designation. A provision for the release of WSAs could be included in any federal lands bill related to the state or counties within Nevada.

### **Suggestion No. 2 – Resolution to Support the Creation of a Multiple-Use Lands Designation**

*The Nevada Legislature should pass a resolution requesting the Congress to permanently establish substantial acres of federal public lands in Nevada as Multiple-Use and protect these lands from being designated Wilderness Areas in the future.*

As an alternative to congressionally designated Wilderness Areas that only restrict access and use of federal public lands, the Committee may wish to recommend a resolution by the Legislature that supports the creation of a Congressionally approved lands designation that permanently establishes certain areas of the state as multiple use lands. In this way, those lands will never be available for Wilderness Area designation or be subject to becoming Wilderness Study Areas. They will remain forever available to all the American public and to economic development opportunities that will support the state's economy.

Land designations for lands managed by the Bureau of Land Management might include areas specifically identified as "Multiple Use Areas" to preserve access for a variety of uses. Designations applicable to lands within federal forest reservations might be identified as "National Forest Open Access Areas," wherein the Department of the Interior would be tasked with ensuring open access to specific areas of the forest reserves.

Determination of which areas would be suitable for such multiple use designations may require the resolution to authorize each county to submit a list of the lands it believes offer future economic opportunities without which such opportunities would not exist.

### **Suggestion No. 3 – Legislation to License and Register Off-Highway Vehicles**

*The Committee should recommend the Nevada Legislature enact legislation to require licensing and registration of off-highway vehicles, including the establishment of a special fund account that would be dedicated to off-highway trails education, enforcement, maintenance, restoration and enhancement.*

The CPA understands the Committee has previously heard from organizations and citizens relative to the need for licensing and registration of OHV's. CPA also believes such legislation would be of benefit to Nevada. In this regard, we suggest that the Committee should consider

and recommend that any potential Nevada legislation adopt provisions similar to those established by Idaho's statutes (§ 57-1901, § 67-7126 and §7127) so that fees collected through such a law will be returned to benefit users of these types of vehicles by funding education, enforcement, restoration, maintenance, and improvements of existing trails and areas, as well as acquisition of future OHV facilities. Having a separate fund or funds that will provide a benefit to the OHV community of users will help promote support for such legislation. (See Exhibit B of the background attachment.)

#### **Suggestion No. 4 – Legislation to Evaluate Impact of Wilderness Area Proposals on Water**

*The Nevada Legislature should task the Department of Water Resources to determine the impacts on state water resources that would result from applying wilderness area designations to large tracts of land in the future.*

Many of the areas proposed for Wilderness Areas designations in the recently declined lands bill for Lyon, Mineral and Esmeralda counties included a vast number of springs, wells, creeks and streambeds. The designation of Wilderness Areas would preclude the ability of the state or its counties to forever tap into these potential water resources. Wilderness Areas do not allow for future construction of pipelines from such sources so that the development potential would be entirely lost.

If the State Water Engineer with the Department of Water Resources is not already responsible for reviewing Wilderness Area proposals for possible impacts on development of water resources or potential restriction of access to water resources within proposed Wilderness Areas, such legislation might be recommended in order to preserve the State's ability to develop those resources in the future.

The Committee might recommend to the Legislature it require the State Water Engineer to issue a report documenting the associated impacts of the Wilderness Area proposals that the Engineer determines would adversely affect the state. In this way, both the affected county(ies) and the state could appropriately respond in subsequent discussions.

#### **Suggestion No. 5 – Legislation Authorizing Statewide Transportation Study**

*The Nevada Legislature should launch a statewide inventory of public rights-of-way in federal lands to prohibit unlawful closures by federal agencies.*

Congressionally designated Wilderness Areas are not the only way in which the federal government restricts access and use of the federal public lands. Administrative actions performed by the U.S. Forest Service and the Bureau of Land Management also have a potential to restrict use and access to the lands. Such actions also affect the use public roads and rights of way established pursuant to both state and federal laws.

In 1999, the Senate Committee on Natural Resources heard testimony in support of Senate Joint Resolution No. 2 (SJR 2) from ranchers, miners and others about a then-pending amendment to the Federal Land Policy and Management Act of 1976. SJR 2 expressed support for the amendment which required federal agencies to identify, map and recognize certain rights of way across lands of the Federal Government. (See Exhibit C of the background attachment.) Since that time

a vast number of legal cases have been heard whereby the federal courts have attempted to clarify the intent of the former RS 2477 provisions. There today remains no clear consensus on how a valid right of way may be determined and the federal agencies have been directed to leave the determination of rights to the courts.

In 2007, the Nevada Legislature adopted Senate Joint Resolution Number 10 (SJR 10) which sought to support actions by the federal land managers to adopt off road vehicle roads and trails for the protection of the lands. SJR 10 did not, however, encourage the federal managers to respect the rights-of-ways historically acquired and, further, made no provision for the protest to federal actions which may affect these rights. (See Exhibit D of the background attachment.)

Current federal travel management plans, such as that currently being conducted by the Forest Service, review roads and set restrictions or closures of certain of those roads within forest lands. Some of these roads, however, may pre-date the jurisdiction of the forest service and the public has acquired rights of ways over those roads which may not administratively be extinguished.

A statewide transportation study would benefit the citizens of the state by identifying which roads within each county pre-date forest service jurisdiction, other federal land reservations, and the Federal Lands Policy and Management Act (FLPMA) of 1976. Some counties have already identified their public roads while others have not. A transportation study that provides clear guidelines and access to available historical maps would assist the counties in performing an evaluation of the roads within their boundaries.

Nevadans should not be required to give up roads long established by its pioneer citizenry. These roads became the lifeline for many of the state's earliest and important mining camps and communities, serving the needs of miner and farmer alike. They are heritage roads and trails which remain in use, and they are jeopardized by federal agency management plans, such as that presently being conducted. We cannot depend on the federal government to identify or honor these rights-of-ways. Once they are allowed to be closed in any way, it will be far more difficult to acquire permits to reconstruct them for the purpose of mineral development or other economic development endeavors.

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**Background Attachments follow.**

# BACKGROUND ATTACHMENTS

## EXHIBIT A

### Lyon County Wilderness Area Proposal Map (February 2008)



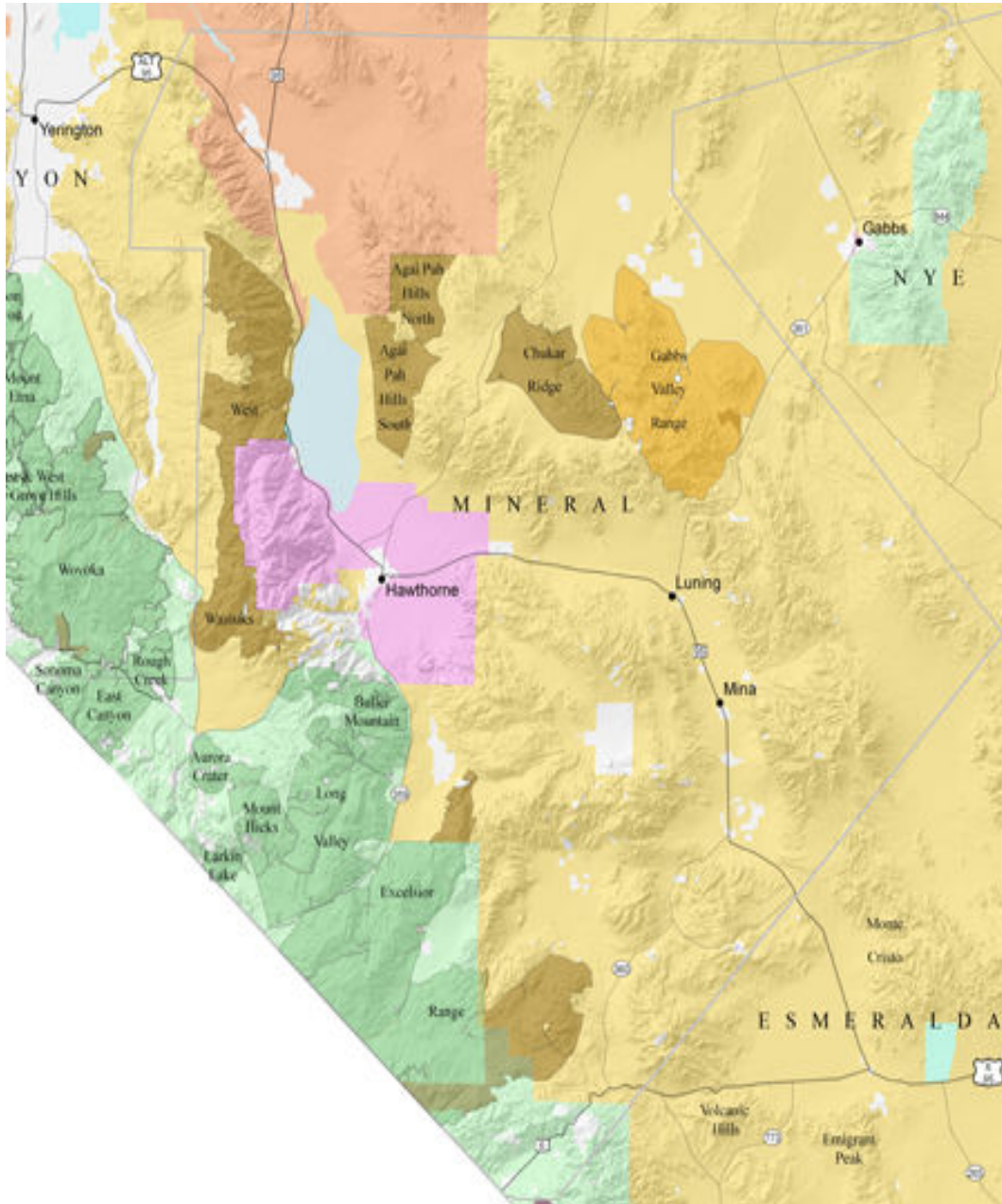
**Approximately 288,000 acres were proposed**

(Areas included are in brown and dark green.)

(Source: [www.wildnevada.org](http://www.wildnevada.org))

# EXHIBIT A

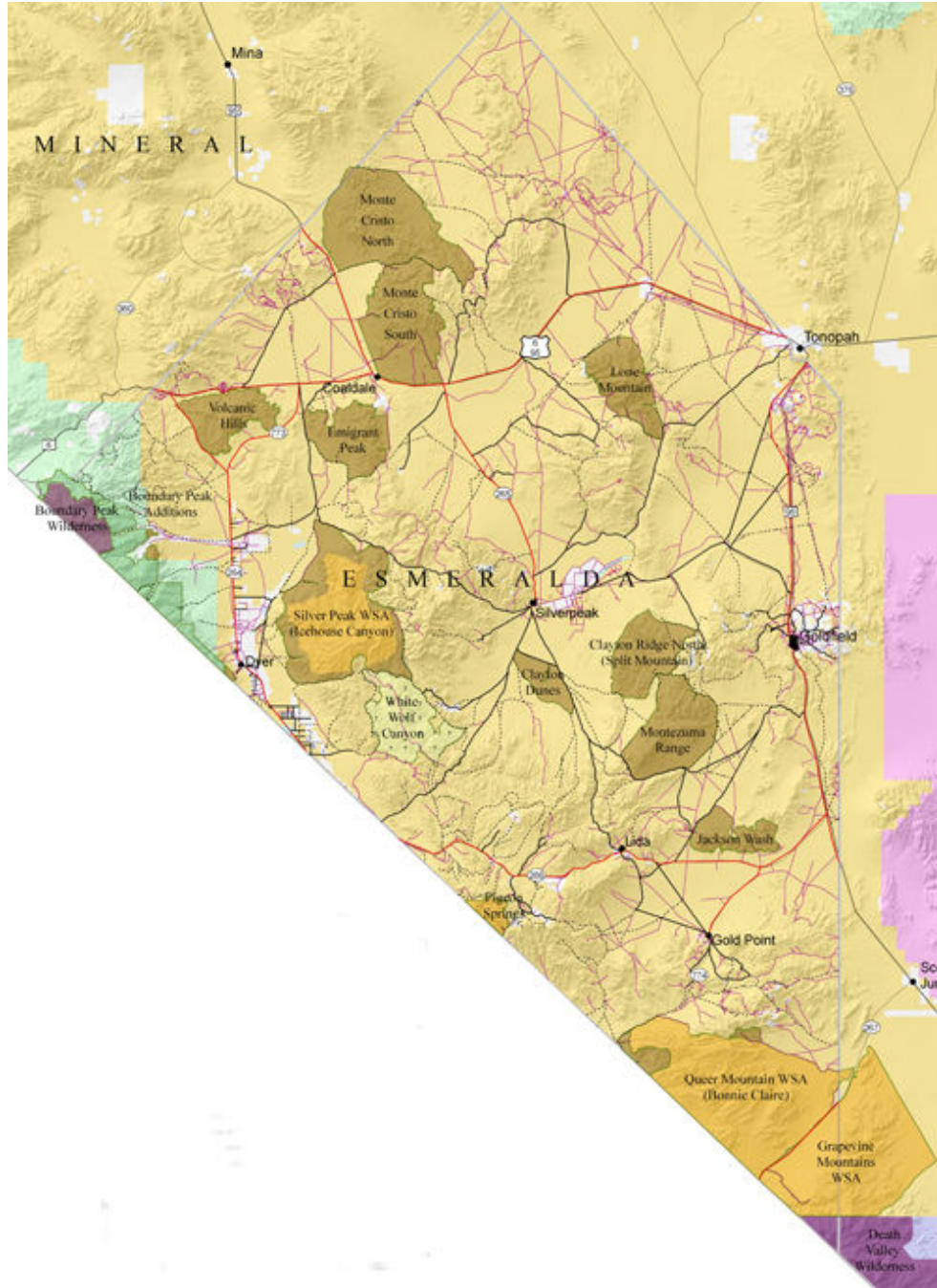
## Mineral County Wilderness Area Proposal Map (February 2008)



**Approximately 598,000 acres were proposed.**  
(Areas included are in brown and dark green.)  
(Source: [www.wildnevada.org](http://www.wildnevada.org))

# EXHIBIT A

## Esmeralda County Wilderness Area Proposal Map (May 2008)



**Approximately 515,000 acres were proposed.**  
(Areas included are in brown and dark green.)  
(Source: [www.wildnevada.org](http://www.wildnevada.org))

## EXHIBIT B

### **Idaho Statutes**

**TITLE 57  
PUBLIC FUNDS IN GENERAL  
CHAPTER 19  
OFF-ROAD MOTOR VEHICLE FUND**

57-1901. CREATION OF OFF-ROAD MOTOR VEHICLE ACCOUNT -- PURPOSE.

There is hereby created and established in the state treasury an account to be known as the "off-road motor vehicle account" to which shall be credited or deposited all moneys accruing for the purposes of the account. The purposes for which moneys in the account may be used shall be to acquire, purchase, improve, repair, maintain, furnish, and equip off-road motor vehicle facilities and sites or areas used by off-road vehicles on public or private land, and to assist with the enforcement of laws and regulations governing the use of off-road vehicles in the state of Idaho. The park and recreation board is charged with the administration of the account for the purposes specified herein. The provisions of section 67-4228, Idaho Code, are made applicable for the provisions of this section. All claims against the account shall be examined, audited and allowed in the same manner now or hereafter provided by law for claims against the state, except that the board is hereby empowered to enter into agreements with legal governmental agencies in Idaho, for the disbursement of funds to them on a project by project basis.

**TITLE 67  
STATE GOVERNMENT AND STATE AFFAIRS  
CHAPTER 71  
RECREATIONAL ACTIVITIES**

67-7126. ESTABLISHMENT OF ACCOUNT -- DISTRIBUTION OF FEES.

There is established in the state treasurer's office an account to be known and designated as the "motorbike recreation account." The ten dollar (\$10.00) fee collected for off-highway vehicle registration stickers shall be allocated as follows:

- (1) Vendors shall charge one dollar and fifty cents (\$1.50) for a handling fee;
- (2) Up to fifteen percent (15%) shall be allotted to the department for administration and for the production of registration stickers, which moneys shall be placed in the motorbike recreation account; and
- (3) The remaining funds shall be transmitted to the state treasurer's office for deposit to the credit of the motorbike recreation account, all such moneys to be transmitted to the state treasurer on or before the 10th day of each month.

67-7127. USE OF MONEYS IN ACCOUNT.

The board shall administer the motorbike recreation account. The moneys derived from this account shall be used as follows:

- (1) For the securing of special leases or permits, or for the actual purchase of land under private, state or federal ownership to be used for recreational off-highway vehicle activity;
- (2) For the securing, maintenance, construction or development of trails and other recreational facilities for off-highway vehicle use on state and federal lands;
- (3) To finance the formulation and implementation under the board's direction of an off the road rider education program.
- (4) To acquire applicable federal matching funds.

EXHIBIT C

**70<sup>th</sup> Legislative Session**

**Senate Joint Resolution No. 2—Committee on Natural Resources  
FILE NUMBER 23**

SENATE JOINT RESOLUTION—Expressing the support of the Nevada Legislature for an amendment to the Federal Land Policy and Management Act of 1976 to require the identification, mapping and recognition of certain rights of way across land administered by the Federal Government.

WHEREAS, Many rights of way that cross public lands administered by the Federal Government were granted pursuant to the authority of section 8 of the Act of July 26, 1866, 14 Stat. 253, formerly codified as Section 2477 of the Revised Statutes; and

WHEREAS, Congress explicitly recognized the continued validity of such rights of way in subsection (a) of section 701 of the Federal Land Policy and Management Act of 1976; and

WHEREAS, The Bureau of Land Management has failed to recognize the validity of such rights of way; and

WHEREAS, The costs for a person individually to file a lawsuit to identify and establish such a right of way are prohibitive; and

WHEREAS, The Nevada Miners and Prospectors Association has proposed an amendment to the Federal Land Policy and Management Act of 1976; and

WHEREAS, Pursuant to the amendment, the Secretary of the Interior and the Secretary of Agriculture would be required to contract with each state that has enacted legislation recognizing the status of such rights of way, to provide for the identification and mapping of such rights of way within its borders; and

WHEREAS, Pursuant to the amendment, the Secretary of the Interior and the Secretary of Agriculture would be required to recognize the validity of such rights of way for all purposes under federal law; now, therefore, be it

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That the members of the 70th session of the Nevada Legislature hereby express their support for the amendment to the Federal Land Policy and Management Act of 1976 proposed by the Nevada Miners and Prospectors Association; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to the United States Senate Committee on Energy and Natural Resources, the United States House of Representatives Committee on Resources, the Secretary of the Interior, the Secretary of Agriculture and each member of the Nevada Congressional Delegation; and be it further

RESOLVED, That this resolution becomes effective upon passage and approval.

## EXHIBIT D

### **74th Legislative Session**

#### **Senate Joint Resolution No. 10—Committee on Natural Resources FILE NUMBER 94**

SENATE JOINT RESOLUTION—Expressing support for the designation of trails for off-highway vehicles by certain federal agencies.

WHEREAS, Approximately 86 percent of Nevada’s land is federally owned, with the Bureau of Land Management managing 68 percent and the United States Forest Service managing 8 percent; and

WHEREAS, Recreation is the fastest growing use of public lands, and as the population of Nevada and our nation continues to grow, the demand for recreational use of and access to public lands also grows; and

WHEREAS, Nevada lacks a comprehensive designated route system for the estimated 400,000 off-highway vehicles in this State which are part of the lifestyle for many Nevadans; and

WHEREAS, The explosion of off-highway vehicle use across the nation and conflicts with other land uses have often led to undesirable results, such as serious physical injuries, the spread of noxious and invasive weeds, environmental damage and litigation or the closing of federal lands to off-highway vehicles; and

WHEREAS, The Bureau of Land Management and the United States Forest Service recognize the need to improve the management of off-highway vehicle use, to reduce conflicts and resource impacts, and to minimize the soil, watershed, wildlife and habitat impacts from off-highway vehicles to protect our public lands while continuing to provide for a wide variety of recreational opportunities; now, therefore, be it

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That the Nevada Legislature hereby supports the actions and policies of the Bureau of Land Management and the United States Forest Service which designate specific roads, trails and limited-use areas for use by off-highway vehicles and hereby urges the Bureau of Land Management and the United States Forest Service to carry out those actions and policies in cooperation with other groups, including local law enforcement, hunting, hiking, biking, ranching and conservation groups and others who work on issues involving Nevada’s backcountry; and be it further

RESOLVED, That the Nevada Legislature urges the Bureau of Land Management and the United States Forest Service to require that off-highway vehicles stay on existing roads and trails and not pioneer unauthorized roads and trails; and be it further

RESOLVED, That the Bureau of Land Management and the United States Forest Service are encouraged to enter into interagency agreements with federal, state and local law enforcement agencies to use resources efficiently and to ensure sufficient enforcement of policies and regulations; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to the Secretaries of Agriculture and the Interior, the Chief of the United States Forest Service, the Director of the Bureau of Land Management and each member of the Nevada Congressional Delegation; and be it further

RESOLVED, That this resolution becomes effective upon passage.