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# THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION

ALASKA ARIZONA CALIFORNIA COLORADO HAWAII
IDAHO LOUISIANA MONTANA NEBRASKA NEVADA
NEW MEXICO NORTH DAKOTA OKLAHOMA OREGON
SOUTH DAKOTA TEXAS UTAH WASHINGTON WYOMING

## RESOLUTION #1

## U.S. SURPLUS TIDELANDS AND SUBMERGED LANDS

WHEREAS, each Western state, upon its admission to the Union, was vested with fee simple title to the tide and submerged lands, the beds of the estuaries, navigable rivers and lakes within the state; and

WHEREAS, these sovereign waterway lands, because of their extreme importance to the well-being of the respective states, have been impressed with a public trust for the protection of fisheries, commerce and navigation; and

WHEREAS, the United States Government, over the years, has acquired for Federal purposes, large areas of these waterway lands and utilized them in carrying out its delegated powers under the U.S. Constitution; and

WHEREAS, in recent times, the United States has determined that portions of these former state waterway lands are surplus to the needs of the United States; and

WHEREAS, the United States, through its process of disposal of Federal surplus, places these lands for purchase at appraised market value, even though the Federal Government, in many cases, acquired these waterway lands at little or no cost to the United States; and

WHEREAS, the United States has sold some of these surplus waterway lands to private individuals and corporations contrary to the sovereign rights and responsibilities of the states and protections afforded the public trust, or required that the states pay full market value to purchase their former sovereign waterway lands; now therefore, be it

RESOLVED, that the Western States Land Commissioners, on legal and public policy grounds, determines that former sovereign state waterway lands, occupied by the United States for Federal purposes, should be returned to the states in which the land is located under the public trust when such lands are no longer needed for Federal purposes; and be it further

RESOLVED, that a copy of this Resolution be sent to the President of the United States, the Majority and Minority leadership of the United States Congress, the Attorney General, the Secretaries of the U.S. Department of the Interior, the Department of Energy and Department of Defense, the Environmental Protection Agency, the Congressional delegation representing all states of this Association, and the Governor of each state.

ADOPTED this 1st day of August, 1980.

FOR THE WESTERN STATES LAND
COMMISSIONERS ASSOCIATION

President

Secretary

# THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION

ALASKA ARIZONA CALIFORNIA COLORADO HAWAII IDAHO LOUISIANA MONTANA NEBRASKA NEVADA NEW MEXICO NORTH DAKOTA OKLAHOMA OREGON SOUTH DAKOTA TEXAS UTAH WASHINGTON WYOMING

## RESOLUTION #1

## BLM BUDGET

WHEREAS, the success of the land management programs of the western states demands supporting and concurrent activities on the part of the Bureau of Land Management, and

WHEREAS, two particular areas of support which are critical to the states' management are activities of Lands and Realty Management and Cadastral Survey, and

WHEREAS, the level of support proposed by the President for Fiscal Year 1981 is encouraging to the western states, and

WHEREAS, the BLM 1981 Budget, as submitted, funds to a responsible level most of the areas of concern to the western states, but needs augmentation in certain critical areas, and

WHEREAS, the activity areas of Lands and Realty Management and Cadastral Survey are not supported at the level necessary to properly and adequately support the western states' land management programs, and

WHEREAS, these critical program activities need additional funds and staff positions available in the Bureau of Land Management so that it can adequately process and handle the transactions required by the western states for efficient management of the states' public land resources, and

WHEREAS, there exists a backlog of 4000 - 5000 realty transactions including state indemnity selections, exchanges and rights-of-way, and 340,000 miles of cadastral surveys which, at proposed 1981 Budget levels, is a 75-year workload, and

WHEREAS, a backlog of such magnitude and with such a long time span for completion is unacceptable and an undue burden upon the western states, and

WHEREAS, the Bureau of Land Management makes a profit from its land operations in the western states, excluding the Outer Continental Shelf, and such profit should be expended upon the land and for its management including meeting the needs of the states, and

WHEREAS, the western states believe that the Lands and Realty Management activity should be augmented by $1,250,000 and 50 personnel years, and the Cadastral Survey activity augmented by $1,600,000 and 50 personnel years to fully and adequately process the transactions and complete the surveys necessary for proper management of the states' trust lands; now therefore, be it

RESOLVED, that the Western States Land Commissioners Association urges the Congress to augment the 1981 Budget for the Bureau of Land Management by $2,850,000 and 100 personnel years in the areas of Lands and Realty Management and Cadastral Survey, and to retain such increases in the Bureau's basic budget so that these critical program activities are operating on a current basis annually; and be it further

RESOLVED, that a copy of this resolution be sent to the President of the United States, the members of the appropriate appropriations committees of the House of Representatives and Senate, the Secretary of the Interior, the Director of the Bureau of Land Management and to the congressional delegation representing all states of the Association.

ADOPTED this 1st day of February, 1980.

FOR THE WESTERN STATES LAND
COMMISSIONERS ASSOCIATION

President

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# THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION

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RESOLUTION #2

S. 739: VENUE IN CIVIL ACTIONS WITH THE FEDERAL GOVERNMENT

WHEREAS, states have often been compelled, in order to protect their respective interests, to appear and defend either as named parties or intervenors in cases brought by various environmental and public interest groups against Federal agencies and officials in the United States District Court for the District of Columbia; and

WHEREAS, preparation for litigation in a court thousands of miles from the state most affected is burdensome; and

WHEREAS, the District Court or Circuit Court embracing the area affected is usually the most convenient forum for parties, witnesses and others who may be affected by the action; and

WHEREAS, most cases filed against the Federal Government in the District of Columbia have a major impact on a single state where the subject matter of the suit is located, and their only connection to the District of Columbia is the fact that the Federal Government and the plaintiff's attorneys are located there; and

WHEREAS, such cases should be tried in the District Court where the controversy exists or where the major impact or injury is situated; and

WHEREAS, United States Senator Paul Laxalt has introduced into the United States Senate a bill, S. 739, which if enacted by Congress, would amend Section 1391(e) of Title 28, United States Code, relating to venue in the District Courts and the Circuit Courts of Appeal to require that a civil action with the Federal Government as the defendant be brought in the Federal District Court where the impact or injury is substantial and similarly establishing venue with respect to proceedings brought before the Circuit Courts of Appeal; now therefore, be it

RESOLVED, that the Western States Land Commissioners Association supports S. 739, and urges its passage by Congress; and be it further

RESOLVED, that a copy of this Resolution be sent to the President of the United States, the President of the Senate, the Speaker of the House of Representatives, the respective Congressional committees on Judiciary, the Attorney General, and the members of Congress from the member states.

ADOPTED this 1st day of August, 1980.

FOR THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION

President

Secretary

THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION

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RESOLUTION #2

CRUDE OIL TRANSPORTATION

WHEREAS, the security and economic stability of the United States of America has been adversely affected by the actions of certain oil producing nations, and

WHEREAS, foreign oil producing nations have increased the price of crude oil this preceding year to a level which will raise this nation's oil import bill by nearly 20 billion dollars a year, costing each American citizen an average of $80.00, and

WHEREAS, continued use of, and dependence on foreign oil is not, only costly to the American people, but undermines our nation's foreign policy options, and

WHEREAS, large quantities of oil must be transported to refineries and oil distribution facilities along the Gulf Coast via the Panama Canal Zone, which is more costly, hazardous and environmentally precarious than transportation by a pipeline if one were available from California to the Gulf Coast, and

WHEREAS, the Panama Canal is no longer under United States control and cannot be viewed as an unqualified, secure means of delivering oil to the Gulf Coast distribution system, and

WHEREAS, the State of California has significant quantities of undeveloped oil reserves and development of California heavy oil reserves could provide a new supply of nearly 900,000 barrels of oil per day, and

WHEREAS, West Texas crude oil production has been steadily declining and there is open capacity in both the Texas refineries and pipeline systems to the balance of the Gulf Coast and the midcontinental refineries, and

WHEREAS, it is in the best interest of the states involved and the security of the United States both economically and strategically to have a pipeline connecting the State of California to Eastern refinery centers, and

WHEREAS, a pipeline would encourage expanded exploration for oil in New Mexico and Arizona by providing an economic means of transporting discovered oil to the Gulf Coast refinery centers, and

WHEREAS, a project has been proposed which would enable the construction of an all inland pipeline from the California heavy crude areas through New Mexico and Arizona into the Midland, Texas area, and

WHEREAS, large quantities of United States Alaskan North Slope oil must be transported to refineries and facilities in the continental United States, and

WHEREAS, northern states as a whole will suffer declining production and insufficient oil supplies in the near future and have open capacity in refineries and pipeline systems, and

WHEREAS, it is in the best interest of the northern states and the security of the United States, both economically and strategically, to have a pipeline connecting the refineries in the northern states and the Alaskan oil fields, and

WHEREAS, such a pipeline will encourage expanded exploration for oil in the northern states by providing an economic means of transporting oil to the northern refinery centers, and

WHEREAS, the Northern Tier Pipeline project proposes the construction of a pipeline from Puget Sound, Washington through Idaho, Montana and North Dakota, into Minnesota; now therefore, be it

RESOLVED, That the Western States Land Commissioners Association endorses a heavy oil west to east pipeline project and the Northern Tier Pipeline Project; encourages and urges all local, state, and federal bodies to assist these projects and to expedite the governmental processes necessary to enable the initiation and prompt completion of these vital links; and supports the coordination of the international transportation of oil so that all available worldwide crude oil supplies are utilized in the most efficient manner; and be it further

RESOLVED, That a copy of this resolution be sent to the President of the United States; the Majority and Minority leadership of the United States Congress; the Secretaries of the U.S. Department of the Interior, Environmental Protection Agency, Department of Energy, Department of Defense, the Congressional delegation representing all states of this Association, and the Governor of each state.

ADOPTED this 1st day of February, 1980.

FOR THE WESTERN STATES LAND
COMMISSIONERS ASSOCIATION

President

Secretary

# THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION

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SOUTH DAKOTA TEXAS UTAH WASHINGTON WYOMING

RESOLUTION #3

EQUAL FOOTING DOCTRINE

WHEREAS, under the Constitution of the United States, each state is on an equal footing with every other state with respect to the sovereignty; and

WHEREAS, the Federal Government has title, or asserts title, to the unreserved public lands in the Western States; and

WHEREAS, the Western States have their sovereign functions adversely affected by reason of the aforesaid Federal land ownership; and

WHEREAS, the impacts referred to may be so obtrusive as to be unconstitutional and in any event so detrimental to the United States, as a whole, and to the Western States, in particular, that Congress should enact legislation to provide appropriate redress of the aforesaid situation; and

WHEREAS, an objective study of the facts referred to above is needed to enable Congress to consider these problems; now therefore, be it

RESOLVED, that the Western States Land Commissioners Association hereby memorializes Congress to enact legislation directing a comprehensive study of the ownership and management of the public lands in the Western States and as to the impact thereof on the economics and sovereignty of said states and appropriate the funds necessary to undertake such a study; and be it further

RESOLVED, that a copy of this Resolution be sent to the President of the United States, the President of the Senate, the Speaker of the House of Representatives, the Office of Management and Budget, and to the Members of Congress from the member states.

ADOPTED this 1st day of August, 1980.

FOR THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION

President

Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

ALASKA ARIZONA CALIFORNIA COLORADO HAWAII
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RESOLUTION #3

DELEGATION OF AUTHORITY
TO BLM STATE DIRECTORS
FOR APPROVING STATE INDEMNITY SELECTIONS

WHEREAS, there remains unsatisfied from the United States, some 643,000 acres of school land indemnity entitlement owing the western public land states, and

WHEREAS, much of this acreage is owing as the result of a difference of opinion between the Secretary of the Interior and the Bureau of Land Management over the basis for satisfying the entitlement, and

WHEREAS, this difference is the subject of litigation argued and now pending decision by the United States Supreme Court, and

WHEREAS, the decision of the Supreme Court is expected early in 1980, and

WHEREAS, it is in the interest of the western states and the Bureau of Land Management to have, in advance of the Supreme Court decision, a procedure for expediting the processing of state indemnity selections, and

WHEREAS, the most practical method for handling the processing of selections is at the state level directly between the State Land Commissioner and the BLM State Director; now therefore, be it

RESOLVED, That the Secretary of the Interior and Director of the Bureau of Land Management are requested to delegate to the State Directors, all processing and handling of state school land indemnity selections, such delegation to conform with the findings of the United States Supreme Court; and be it further

RESOLVED, That the Secretary send a copy of this resolution to the Secretary of the Interior and the Director of the Bureau of Land Management.

ADOPTED this 1st day of February, 1980.

FOR THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION

President

Secretary

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RESOLUTION #4

POSSIBLE LITIGATION

WHEREAS, several of the states in the west have enacted statutes asserting title to public lands in their states; and

WHEREAS, litigation concerning those statutes and similar ones that may be enacted in other states is imminent; and

WHEREAS, absent enabling Federal legislation, there may be legal constraints raised that could prevent the Court from reaching the substantive issues; and

WHEREAS, it would be advantageous to all concerned to have such legislation enacted, and the enactment thereof would focus national attention on this public issue; now therefore, be it

RESOLVED, that the Western States Land Commissioners Association hereby memorializes Congress to enact a law which specifically authorizes the various states in the west to sue the United States in the courts of the United States at any time within a five-year period for the purpose of litigating the constitutionality and legality of Federal ownership of public lands in the west and the Federal management of such lands; and be it further

RESOLVED, that copies of this Resolution be sent to the President of the United States, the Speaker of the House of Representatives, the President of the Senate, the Attorney General, the Secretary of the Department of the Interior, and the appropriate Committees of the Congress.

ADOPTED this 1st day of August, 1980.

FOR THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION

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RESOLUTION #4

TAR SANDS DEVELOPMENT

WHEREAS, the nation's tar sand resources are located in the western states, and

WHEREAS, this resource could potentially provide over 25 billion barrels of oil, and

WHEREAS, a sensibly phased program of tar sand development could benefit both the west and the nation, and

WHEREAS, a major barrier to this development is the lack of a tar sand leasing program on Federal lands; now therefore, be it

RESOLVED, That the Federal Government administratively and legislatively develop, in cooperation with state and local governments, a leasing program for tar sand resources; and be it further

RESOLVED, That the Secretary send a copy of this resolution to the President of the United States, the Secretary of the Department of the Interior, the Director of the Bureau of Land Management and to the members of Congress from the member states.

ADOPTED this 1st day of February, 1980.

FOR THE WESTERN STATES LAND
COMMISSIONERS ASSOCIATION

President

Secretary

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RESOLUTION #5

## AMENDMENT OF FEDERAL QUIET TITLE STATUTE AND ADOPTION OF H.R. 4171

WHEREAS, in 1972, Congress passed Public Law 92-526 enacting 28 United States Code, Section 2409a; and

WHEREAS, this provision was intended to waive sovereign immunity on behalf of the United States for quiet title actions thereby permitting states to litigate questions of title against the United States; and

WHEREAS, this legislation includes a statute of limitations (28 U.S. Code Section 2409a(f)) which the U.S. Justice Department contends bars all claims which the plaintiff knew or should have known about 12 years prior to October 25, 1972, the date of its enactment of 28 U.S. Code, Section 2409a; and

WHEREAS, this statute of limitations presents a classic "Catch 22" situation: Before 1972, quiet title actions were unavailable against the Federal Government as the United States was immune from suit. With its enactment, the claim is now made that the 12-year statute ran during the period when sovereign immunity was in effect, even though in many cases where the states were unable to take any action against the United States to quiet title because of the bar of sovereign immunity; and

WHEREAS, this provision, as interpreted, would emasculate the cause of action Congress intended to give to the states; and

WHEREAS, H.R. 4171 would solve this problem by eliminating the 12-year statute of limitations; and

WHEREAS, Congress has taken no action to date on H.R. 4171; now therefore, be it

RESOLVED, that the Western States Land Commissioners Association urges prompt hearings and the adoption of H.R. 4171; and be it further

RESOLVED, that a copy of this Resolution be sent to the President of the Senate, the Speaker of the House of Representatives, the respective Committees on Judiciary, and the members of Congress from the member states.

ADOPTED this 1st day of August, 1980.

FOR THE WESTERN STATES LAND
COMMISSIONERS ASSOCIATION

President

Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

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RESOLUTION #5

PUBLIC LAND CONVEYANCE

WHEREAS, the enabling acts admitting the western states into the Union expressly recognize that the Federal Government may some day choose to extinguish title to public lands held by it within the borders of these states, and

WHEREAS, Article IV, section 3 of the Constitution expressly provides Congress with the power to "dispose of and make all needfully Rules and Regulations respecting the Territory or other Property belonging to the United States", and this provision has been interpreted to invest in Congress plenary authority to dispose of lands held in Federal ownership, through sale, grant, or any other means of disposition, and

WHEREAS, there is precedent for large transfers of Federally-owned public lands designed to place new states on par with the original thirteen states of the Union, and

WHEREAS, the states of the Union and their citizens are at least as well equipped as the central government to make the often difficult policy decisions that are necessary with respect to the use to which lands within their states shall be put; now therefore, be it

RESOLVED, By the Western States Land Commissioners Association that provisions for the cession and conveyance to the states of Federally-owned unreserved, unappropriated lands, and the establishment of policy, methods, procedures, schedules, and criteria for such transfers, is hereby endorsed; be it further

RESOLVED, That the Secretary forward copies of this resolution to each member of the congressional delegation from the member states, the Speaker of the United States House of Representatives, President Pro Tempore of the United States Senate, the Secretary of the Interior, and the President of the United States.

ADOPTED this 1st day of February, 1980.

FOR THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION

President

Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

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RESOLUTION #6

URGING THE SECRETARY OF THE INTERIOR
TO RESTORE A POLICY OF EQUITY IN INDEMNITY SELECTIONS

WHEREAS, in Andrus v. Utah, the United States Supreme Court has declared that the Secretary of the Interior has discretion to decide whether or not to apply an "equal value" criterion to satisfy state indemnity selections; and

WHEREAS, the present "equal value" test presents a substantial impediment to the satisfaction of hundreds of thousands of acres of indemnity selections to which many of the Western States are entitled; and

WHEREAS, the Secretary of the Interior has publicly declared his disagreement with the "equal value" criterion and has stated that the Court's decision threw into chaos his plans to clear away all pending in-lieu land selections in the Western States by the end of 1980; now therefore, be it

RESOLVED, that the Western States Land Commissioners Association respectfully urges the Secretary to exercise his discretion to rescind the "equal value" criterion and to direct the Bureau of Land Management to refrain from applying it to indemnity selections; and be it further

RESOLVED, that a copy of this Resolution be sent to the President of the United States, the Secretary of the Interior, and to the appropriate Committees of Congress.

ADOPTED this 1st day of August, 1980.

FOR THE WESTERN STATES LAND
COMMISSIONERS ASSOCIATION

President

Secretary

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LAND COMMISSIONERS ASSOCIATION

ALASKA ARIZONA CALIFORNIA COLORADO HAWAII
IDAHO LOUISIANA MONTANA NEBRASKA NEVADA
NEW MEXICO NORTH DAKOTA OKLAHOMA OREGON
SOUTH DAKOTA TEXAS UTAH WASHINGTON WYOMING

RESOLUTION #6

WILD HORSES AND BURROS

WHEREAS, the Wild Horse and Burro Act had the intent to control the numbers of such animals, and

WHEREAS, this intent has proven ineffective under the existing statute, and

WHEREAS, the result has been damaging to the animals, to the public lands, and to the users of the public lands; now therefore, be it

RESOLVED, That the Congress, the Department of the Interior, the Director of the Bureau of Land Management, and the Western States Land Commissioners Association work diligently to amend the existing legislation to assure the orderly and humane management of this renewable resource on public lands of the west.

ADOPTED this 1st day of February, 1980.

FOR THE WESTERN STATES LAND
COMMISSIONERS ASSOCIATION

President

Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

ALASKA ARIZONA CALIFORNIA COLORADO HAWAII
IDAHO LOUISIANA MONTANA NEBRASKA NEVADA
NEW MEXICO NORTH DAKOTA OKLAHOMA OREGON
SOUTH DAKOTA TEXAS UTAH WASHINGTON WYOMING

RESOLUTION #7

NATIONAL INTEREST LANDS LEGISLATION

WHEREAS, the Congress of the United States is presently adopting and implementing a legislative policy for permanent design for the withdrawal of millions of acres of Federal "national interest" lands from the Western States; and

WHEREAS, the Western States Land Commissioners Association adamantly supports the rights of states to fulfill their Federal land grant entitlements with lands of appropriate value; and

WHEREAS, any permanent Federal withdrawals should be carefully selected and classified so as to encourage maximum Federal, state and private cooperative land management; and

WHEREAS, the Western States Land Commissioners Association supports the establishment of wilderness areas through the orderly process of state involvement in decision-making processes of such evaluations as prescribed in the Wilderness Act of 1964; and

WHEREAS, the Western States Land Commissioners Association is aware of certain conclusions adopted by the American Institute of Professional Geologists in their evaluation of the impacts of such withdrawals from state multiple use programs adversely affecting long-term energy and mineral development in the several Western States; now therefore, be it

RESOLVED, that the Western States Land Commissioners Association opposes all Congressional legislation which is creating unnecessarily large national parks and wildlife refuges, creating unreasonably large "instant" wilderness areas without allowing significant state decision-making participation; and be it further

RESOLVED, that the Western States Land Commissioners Association supports all legislation restoring states' involvement and significant decision-making roles in national interest lands proposals; and be it further

RESOLVED, that the Federal Government should assure that prior to any withdrawal of public domain, that the requisite exploration and evaluation of the mineral resources being preempted and the relationship of those resources to current national shortages and anticipated needs should be completed; and be it further

RESOLVED, that the Western States Land Commissioners Association urges all its members through its many political and organizational contacts to actively support this Resolution; and be it further

RESOLVED, that copies of this Resolution be sent to the President of the Senate, the Speaker of the House of Representatives, the Senate Committee on Energy and Natural Resources, the House Committee on Interior and Insular Affairs, and the members of Congress from the member states.

ADOPTED this 1st day of August, 1980.

FOR THE WESTERN STATES LAND
COMMISSIONERS ASSOCIATION

President

Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

ALASKA ARIZONA CALIFORNIA COLORADO HAWAII
IDAHO LOUISIANA MONTANA NEBRASKA NEVADA
NEW MEXICO NORTH DAKOTA OKLAHOMA OREGON
SOUTH DAKOTA TEXAS UTAH WASHINGTON WYOMING

RESOLUTION #8

FEDERAL AGENCY PARTICIPATION AT CONFERENCES

WHEREAS, the Bureau of Land Management (BLM) has annually contributed to the Western States Land Commissioners Association (WSLCA) Conferences since the meeting in San Diego in 1977; and

WHEREAS, since the appointment of Frank Gregg to the directorship of BLM in 1978, the attitudes and announced positions of BLM have changed directions dramatically; and

WHEREAS, Director Gregg has once again announced his resolve to complete the in-lieu selections and remaining exchanges and generally "clean-up" the less than 1% of total BLM lands in question with the member WSLCA states; and

WHEREAS, at the 1980 Meeting in Steamboat Springs, the U.S. Forest Service (USFS) also indicated a desire to resolve those areas of tangled ownership and outstanding selections; now therefore, be it

RESOLVED, by the WSLCA, that Director Frank Gregg of the BLM be extended this organization's heart-felt thanks for this forthright position in attempting to come to grips with the remaining land selections of the WSLCA members; and be it further

RESOLVED, that the USFS be commended and encouraged to continue dialogue with the WSLCA looking to a prompt solution to our mutual concerns; and be it further

RESOLVED, that a copy of this Resolution be sent to the Secretary of the Interior, Cecil D. Andrus, the Assistant Secretary for Land and Water Resources, Guy Martin, Bureau of Land Management Director Frank Gregg; The Secretary of Agriculture, Bob Bergland; the Acting Assistant Secretary for Natural Resources and Environment, Ned D. Bayley, Forest Service Chief Max Peterson; and the appropriate committees of the Congress.

ADOPTED this 1st day of August, 1980.

FOR THE WESTERN STATES LAND
COMMISSIONERS ASSOCIATION

President

Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

Alaska
Arizona
California
Colorado
Hawaii
Idaho
Louisiana
Montana
Nebraska
Nevada
New Mexico
North Dakota
Oklahoma
Oregon
South Dakota
Texas
Utah
Washington
Wisconsin
Wyoming


# RESOLUTION #1

## EXEMPTING THE STATE SHARE OF FEDERAL OIL ROYALTIES FROM THE WINDFALL PROFIT TAX

WHEREAS, the Crude Oil Windfall Profit Tax Act of 1980 has been interpreted to apply the tax to the states' 50% share of federal oil royalties; and

WHEREAS, this interpretation is contrary to the expressed intent of Congress in exempting state royalty oil from the tax; and

WHEREAS, this interpretation allows the federal government to retain far more than 50% and causes the states to receive far less than 50% of the federal oil royalties, in direct contravention of the Mineral Leasing Act of 1920, which provides that 50% of the royalties received from leases issued under these acts shall be paid to the states from which the mineral or resource is produced; and

WHEREAS, this unintended, and severe reduction of the income received by the states adversely affects their ability to offset the impacts of federal land ownership upon the states and their citizens; and

WHEREAS, Senator Wallop has introduced in Congress, Senate Bill 700 which would eliminate this interpretation and its unjust result by exempting the state share of federal oil royalties from the Windfall Profit Tax; now therefore, be it

RESOLVED, that the Western States Land Commissioners Association urges the Congress of the United States to enact S. B. 700 without further delay; and be it further

RESOLVED, that a copy of this Resolution be sent to all members of Congress, to the President of the United States, and the Secretary of the Treasury.

ADOPTED this 30th day of July, 1981.

FOR THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION

Rowena Rogers
President

Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

Alaska, Arizona, California, Colorado, Hawaii, Idaho, Louisiana, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, Wyoming

## RESOLUTION #1

## MINERAL ROYALTY COLLECTIONS

WHEREAS, all of the states represented by the Western States Land Commissioners are entitled, by law, to substantial portions of the mineral royalties collected by the Federal Government from leases on the public lands; and

WHEREAS, a recent review by the U.S. General Accounting Office has revealed that the U.S. Geological Survey, which is charged with the responsibility for making royalty collections from Federal leases, has failed to maintain adequate records, to verify royalty reporting, and to perform adequate lease amount verifications and audits; and

WHEREAS, such failures on the part of the Geological Survey have led to the underreporting of oil, gas, and other mineral royalties in large, and as yet unidentified, amounts to the detriment of the states entitled to share in such royalties; and

WHEREAS, the Conference of Western Attorneys General have established a subcommittee to study this problem and recommend appropriate legal or other actions; now therefore, be it

RESOLVED, by the Western States Land Commissioners that Congress and the U.S. General Accounting Office be urged and requested to institute a complete investigation and audit of mineral royalty collections made by the U.S. Geological Survey; and be it further

RESOLVED, that the Chair of the Conference appoint a subcommittee composed of representatives of Land Commissioners of the affected states, in coordination with the Western States Attorneys General, to conduct further studies, meet and confer with appropriate legislators and public officials, and recommend such further steps as may be appropriate to recover revenues rightfully due the Western States.

ADOPTED this 9th day of January, 1981.

FOR THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION

Rowena Rogers
President

Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

*Alaska, Arizona, California, Colorado, Hawaii, Idaho, Louisiana, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, Wyoming*

# RESOLUTION #2

## LANDS & REALTY AND CADASTRAL SURVEY

WHEREAS, the Western States are entitled to 600,000 acres of public land to satisfy their school land grants; and

WHEREAS, many of the school lands received in place are scattered, intermingled sections within the public domain, National Forests, National Parks, defense installations, Indian reservations, or other Federal enclaves; and

WHEREAS, it is in the national and state interest to block up these lands while simultaneously blocking up federal ownerships into cohesive units capable of efficient management; and

WHEREAS, the satisfaction of remaining state school land entitlement and completion of exchanges to organize effective land management units are dependent on there being available sufficient resources to the Bureau of Land Management's Lands & Realty and Cadastral Survey programs; and

WHEREAS, these programs have received some augmentation in recent budgets, but remain unfunded to the degree necessary to move promptly to complete state indemnity selection processing and process exchanges in a timely manner; now therefore, be it

RESOLVED, that the Western States Land Commissioners Association urges the Secretary of the Interior to provide the Bureau of Land Management with the appropriate positions and funds needed to process on a current basis, the satisfaction of state school land indemnity entitlement and the exchanges of interests needed to block up federal and state land holdings; and be it further

RESOLVED, that the Secretary of the Association send a copy of this Resolution to the Members of Congress on the appropriate committees; to the Secretary of the Interior, to the Director of the Office of Management and Budget, and to the Director of the Bureau of Land Management.

ADOPTED this 30th day of July, 1981.

FOR THE WESTERN STATES LAND
COMMISSIONERS ASSOCIATION

Rowena Rogers
President

Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

*Alaska, Arizona, California, Colorado, Hawaii, Idaho, Louisiana, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, Wyoming*

RESOLUTION #2

AMENDMENT OF FEDERAL QUIET TITLE STATUTE
AND ADOPTION OF H.R. 4171

WHEREAS, in 1972, Congress passed Public Law 92-526 enacting 28 United States Code, Section 2409a; and

WHEREAS, this law was intended to waive sovereign immunity on behalf of the United States for quiet title actions thereby permitting States to litigate questions of title against the United States; and

WHEREAS, this law includes a 12-year statute of limitations (28 U.S. Code Section 2409a(f)) which has been applied, at the urging of the U.S. Department of Justice, to bar all claims which the plaintiff knew or should have known about 12 years prior to October 25, 1972, the date of its enactment of 28 U.S. Code, Section 2409a; and

WHEREAS, this statute of limitations presents a classic "Catch 22" situation: Before 1972, quiet title actions were unavailable against the Federal Government as the United States was immune from suit. The U.S. Department of Justice now claims that the 12-year statute ran against States, as well as private persons, during the period when sovereign immunity was in effect, even though in many cases States were unable to take any action against the United States to quiet title because of the bar of sovereign immunity; and

WHEREAS, this statute of limitation, if applied to the States, would not only emasculate the cause of action Congress intended to be available to the States, but also would have the effect of divesting the States of their title to sovereign trust lands in violation of the 10th Amendment to the U.S. Constitution; and

WHEREAS, the United States District Court for the Northern District of California in "California v. United States", N 079-1865 RPA has ruled that this statute of limitations could not be applied to a State seeking to protect its title to sovereign trust lands and found that, if applied, such a statute would have grave constitutional problems; and

WHEREAS, this law, in Section 2409a(c), also requires the complaining party to set forth, with particularity and at his peril, the nature of the right, title, and interest claimed by the United States; and

WHEREAS, this pleading burden is unconscionable because the complainant may not know the precise nature of the claimed interest of the United States and is thus required to investigate for the United States the defenses which it might assert in the action; and

WHEREAS, this pleading burden is contrary to the normal rules of pleading which require the plaintiff to set forth only his side of the case; and

WHEREAS, H.R. 4171 (96th Congress), designed to solve this problem by eliminating the 12-year statute of limitation of Section 2409a(f) and the above-specified pleading requirement of Section 2409a(c), was opposed by the Administration and was not acted upon by Congress; now therefore, be it

RESOLVED, that the Western States Land Commissioners support Federal legislation to amend Section 2409a of Title 28 of the United States Code to read substantially as set forth in the attached draft bill; and be it further

RESOLVED, that this body transmit copies of this resolution together with the attached proposed legislation to the Secretary of the Interior, the Director of the Bureau of Land Management, appropriate members of the Congress of the United States, and to the Attorneys General of the States.

ADOPTED this 9th day of January, 1981.

FOR THE WESTERN STATES LAND
COMMISSIONERS ASSOCIATION

Rowena Rogers
President

Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

| | | | | |
|---|---|---|---|---|
| *Alaska* | *Hawaii* | *Nebraska* | *Oklahoma* | *Utah* |
| *Arizona* | *Idaho* | *Nevada* | *Oregon* | *Washington* |
| *California* | *Louisiana* | *New Mexico* | *South Dakota* | *Wisconsin* |
| *Colorado* | *Montana* | *North Dakota* | *Texas* | *Wyoming* |

## RESOLUTION #3

## SECRETARY WATT, TO CONTINUE "GOOD NEIGHBOR" POLICY

WHEREAS, the appointment of James Watt to the position of Secretary of the Interior has dramatically changed the philosophy and the direction of the Department; and

WHEREAS, reality, reasonableness, and responsibility, are reflected in these changes; and

WHEREAS, the Western States Land Commissioners Association is fully aware of how difficult it may be to have changes filter down to the local level; and

WHEREAS, the desire to improve the federal-state relationship is the goal of all involved entities; now therefore, be it

RESOLVED, that Secretary Watt be encouraged to continue, with sound environmental constraints, in his efforts to "be a good neighbor"; and that the Western States Land Commissioners Association pledges to accept the responsibility of assisting in the effort to make the states and the federal government true "partners" in the western land issues.

ADOPTED this 30th day of July, 1981.

FOR THE WESTERN STATES LAND
COMMISSIONERS ASSOCIATION

Rowena Rogers
President

Secretary

# AMENDMENT OF QUIET TITLE STATUTE

To amend Title 28 of the United States Code to make certain modifications in provisions relating to actions to quiet title.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) section 2409a.(c) of title 28 of the United States Code, is amended by inserting "and" before "the circumstances" and by striking out ", and the right, title, or interest claimed by the United States".

(b) Section 2409a.(f) of such title is amended by inserting ", except civil actions by a State," before "shall be barred".

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

*Alaska Arizona California Colorado Hawaii Idaho Louisiana Montana Nebraska Nevada New Mexico North Dakota Oklahoma Oregon South Dakota Texas Utah Washington Wisconsin Wyoming*

RESOLUTION #3

WINDFALL PROFIT TAX EXEMPTION OF
STATE NET PROFITS INTERESTS

WHEREAS, member states of the Western States Land Commissioners Association administer trust lands containing crude oil reserves and provide by contractual arrangements with private firms for development of these reserves; and

WHEREAS, the development of these reserves produces revenues for the states which are dedicated to public purposes and which are intended to be exempt from the windfall profit tax on crude oil; and

WHEREAS, several member states are using or planning to use net profits contracts for the development of the crude oil reserves on their trust lands; and

WHEREAS, the Treasury Department and the Internal Revenue Service have interpreted the Crude Oil Windfall Profit Tax Act as requiring allocation of crude oil production to net profits interests in a manner which imposes an unintended windfall profit tax burden on a property with an exempt state net profits interest that, if the tax is treated as a reimbursable expense, is borne by the state net profits interest, thereby diverting to the Federal Treasury oil revenues that would have been used for public purposes; and

WHEREAS, Congress did not intend for any state interest, including a net profits interest, to bear the burden of the windfall profit tax; and

WHEREAS, there will be a bill, supported by the Treasury Department, before the 97th Congress, amending the Crude Oil Windfall Profit Tax Act to provide for allocation of crude oil production to net profits interests in proportion to their respective percentage shares of net profits, thereby eliminating the unintended windfall profit tax burden placed on state net profits interests by the interpretation of the Act's present language by the Treasury Department and the Internal Revenue Service; now therefore, be it

RESOLVED, that the Western States Land Commissioners Association urges the Congress to enact immediately and the President to sign legislation amending the Crude Oil Windfall Profit Tax Act to provide for allocation of crude oil production, for the purpose of assessing the windfall profit tax, among the holders of net profits interests in proportion to their respective shares of net profits, so that states employing or intending to employ net profits contracts for development of crude oil reserves in their trust lands may enjoy a complete exemption from the windfall profit tax, and be it further

RESOLVED, that copies of this Resolution be sent to the President of the United States, the members of Congress, and the Governors of the member states.

ADOPTED this 9th day of January, 1981.

FOR THE WESTERN STATES LAND
COMMISSIONERS ASSOCIATION

Rowena Rogers
President

Wm. L. [illegible]
Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

Alaska, Arizona, California, Colorado, Hawaii, Idaho, Louisiana, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, Wyoming

## RESOLUTION #4

## GRANTS OF PUBLIC LAND FOR SMALL URBAN COMMUNITIES

WHEREAS, there are many small urban communities in the public land states that are surrounded by federal land; and

WHEREAS, the energy and mineral crisis has created excessive demands for land to allow for expansion; and

WHEREAS, the lack of this needed land for expansion has created artificially high values on existing land that is available for housing and commercial development; and

WHEREAS, existing statutes only allow the federal land at issue to be sold at appraised values and these appraised values are inflated primarily due to the unavailability of these same federal lands; now therefore, be it

RESOLVED, that the Western States Land Commissioners Association does hereby urge Bureau of Land Management Director, Robert Burford, and Secretary of the Interior, James Watt, to ask the Congress of the United States to pass an alternate method, or methods to resolve a serious western fiscal problem that is being unnecessarily created by the federal ownership of lands around expanding communities.

ADOPTED this 30th day of July, 1981.

FOR THE WESTERN STATES LAND
COMMISSIONERS ASSOCIATION

President

Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

*Alaska, Arizona, California, Colorado, Hawaii, Idaho, Louisiana, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, Wyoming*

RESOLUTION #4

WINDFALL PROFIT TAX
EXEMPTION OF STATES' MINERAL
LANDS LEASING ACT ROYALTIES

WHEREAS, many member states of the Western States Lands Commissioners Association have within their boundaries federal lands that are leased to private companies pursuant to the Mineral Lands Leasing Act of 1980, as amended; and

WHEREAS, pursuant to the Mineral Lands Leasing Act a state is entitled to 50% of the royalties received by the Federal Government from lands within its boundaries leased pursuant to such Act, except for Alaska which is entitled to 90%; and

WHEREAS, revenues received by the states as their share of royalties are dedicated to public purposes; and

WHEREAS, the Crude Oil Windfall Profit Tax Act of 1980 exempts interests in crude oil held by states if the revenues therefrom are dedicated to public purposes, but does not exempt interests held by the Federal Government, so that the states' share of crude oil royalties from federal lands is subject to windfall profit taxes and oil revenues obtainable by the states that would be used for public purposes are diverted to the Federal Treasury; and

WHEREAS, there will be a bill before the 97th Congress amending the Crude Oil Windfall Profit Tax Act to provide for an exemption from the windfall profit tax of the states' share of royalties from federal lands leased under the Mineral Lands Leasing Act; now therefore, be it

RESOLVED, that the Western States Land Commissioners Association urges the Congress to enact immediately and the President to sign legislation amending the Crude Oil Windfall Profit Tax Act to provide for an exemption from the windfall profit tax for the states' share of royalties from federal lands leased under the Mineral Lands Leasing Act, provided that the revenues represented by such royalties are dedicated to public purposes; and be it further

RESOLVED, that copies of this Resolution be sent to the President of the United States, the members of Congress, the Interstate Oil Compact Commission, the Governors of affected states and western oil and gas associations.

ADOPTED this 9th day of January, 1981.

FOR THE WESTERN STATES LAND
COMMISSIONERS ASSOCIATION

President

Secretary

# RESOLUTION #5

## ON APPOINTMENT OF A WESTERN STATE LAND COMMISSIONER TO THE COMMISSION ON FISCAL ACCOUNTABILITY OF THE NATION'S ENERGY RESOURCES

WHEREAS, the General Accounting Office of the Congress has highlighted the continuing problem of properly collecting and accounting for royalties on minerals produced from the federal public lands; and

WHEREAS, the Secretary of the Interior has recognized the immediate need to correct this problem and has established a Commission on Fiscal Accountability of the Nation's Energy Resources; and

WHEREAS, under the Mineral Leasing Act of 1920, and the Geothermal Steam Act, 50% of the royalties received from leases issued under these acts shall be paid to the states; and

WHEREAS, in each of the member states of the Western States Land Commissioners Association, state agencies are collecting royalties on minerals produced from state lands, taxes on mineral production, and oil and gas production data for conservation purposes; and

WHEREAS, their expertise should be made available to the Department of the Interior and to the Commission appointed by the Secretary; and

WHEREAS, cooperation and full exchange of information between the state and federal agencies is essential to avoid needless and inefficient duplication of effort and to achieve maximum efficiency in collecting and accounting for royalties; now therefore, be it

RESOLVED, that the Western States Land Commissioners Association urges the Secretary of the Interior to take advantage of this expertise in the western states; and be it further

RESOLVED, that the Secretary be requested to appoint a member of the Association to the Commission; and be it further

RESOLVED, that the Secretary of the Association send a copy of this Resolution to the Secretary of the Interior, the Director of the Geological Survey, the Director of the Bureau of Land Management, and to the Governors of the member states.

ADOPTED this 30th day of July, 1981.

FOR THE WESTERN STATES LAND
COMMISSIONERS ASSOCIATION

Rowena Rogers
President

Secretary

# RESOLUTION #6

## ROYALTY ACCOUNTING PROBLEMS ON FEDERAL MINERAL LEASES

WHEREAS, an estimated 80% of the mineral resources of the United States are located in the western states represented in the Western States Land Commissioners Association; and

WHEREAS, in 1980 federal revenues from onshore oil alone are expected to be 378 million dollars, and are expected to double between 1980 and 1984; and

WHEREAS, it is conservatively estimated by the General Accounting Office and the United States Geological Survey that 10% of these revenues are being lost through poor federal management; and

WHEREAS, the Mineral Leasing Act of 1920, and the Geothermal Steam Act of 1970, provide that 50% of the federal revenues from mineral and geothermal resources should go to the state from which they are taken; and

WHEREAS, the Secretary of the Interior has recognized the serious loss in revenues to federal and state governments alike in the Department's failure to collect mineral royalties due, and appointed a Commission on Fiscal Accountability of the Nation's Energy Resources to consider the problem and make recommendations; now therefore, be it

RESOLVED, that the Western States Land Commissioners Association respectfully urges that the Secretary and Commission meet and confer with it and its members to determine ways and means of improving federal royalty collections; and be it further

RESOLVED, that the Secretary be requested to conduct a meaningful and adequately staffed audit to determine and recover past underpayments made on all federal mineral leases; and be it further

RESOLVED, that the Secretary be urged to seek, and Congress to appropriate, supplemental appropriations in an amount sufficient to permit the Department of the Interior to conduct immediate audits, field inspections, and accountings adequate for the full collection of mineral revenues from the public lands; and be it further

RESOLVED, that the Secretary of the Association send a copy of this resolution to the Secretary of the Interior, the Director of the Geological Survey and the Chairman of the Commission on Fiscal Accountability of the Nation's Energy Resources.

ADOPTED this 30th day of July, 1981.

FOR THE WESTERN STATES LAND
COMMISSIONERS ASSOCIATION

President

Secretary

RESOLUTION #6

IMPACT OF FEDERAL LAND OWNERSHIP
IN THE WESTERN STATES

WHEREAS, this Association has resolved that the states represented in it should act together in a united and purposeful manner and achieve constitutional equality with respect to the public lands within their respective borders; and

WHEREAS, all of the states affected by federal acts and impositions respecting the public lands which are discriminatory and of questionable constitutional validity; and

WHEREAS, the members of this Association have found a need to pool resources in order to develop sufficient information by which any interested state may assert its rights with respect to the public lands; and

WHEREAS, the Western Office of the Council of State Governments, serving the Western Conference, the Conference of Western Attorneys General, and the Western Governors Conference, is ready, able and willing to conduct and coordinate, on behalf of all the Western States, the studies needed and determine the impacts on the Western States by reason of Federal land ownership and management policies; now therefore, be it

RESOLVED, that the Western States Land Commissioners Association endorses the request of the Western Conference that the Council of State Governments, Western Office, under the guidance of a steering committee composed of representatives of this Association, the Western Conference, and the Western Attorneys General, manage and conduct a study of facts needed to determine the impact of federal retention of the public lands and management policies relative thereto on the Western States; and be it further

RESOLVED, that the President of this Association be authorized to provide said Office with fiscal support for the purposes outlined above from the $5,000 heretofore appropriated for studies and informational programs pertaining to the use and abuse of Federal power respecting the public lands.

ADOPTED this 9th day of January, 1981.

FOR THE WESTERN STATES LAND
COMMISSIONERS ASSOCIATION

Rowena Rogers
President

Wm. J. Coultrige
Secretary

# THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION

*Alaska Arizona California Colorado Hawaii Idaho Louisiana Montana Nebraska Nevada New Mexico North Dakota Oklahoma Oregon South Dakota Texas Utah Washington Wisconsin Wyoming*

RESOLUTION #7

COOPERATION OF THE BUREAU OF LAND MANAGEMENT

WHEREAS, the Bureau of Land Management (BLM) has annually contributed to the Western States Land Commissioners Association (WSLCA) Conferences since the meeting in San Diego in 1977; and

WHEREAS, since the appointment of Frank Gregg to the Directorship of BLM in 1978, the attitudes and announced positions of BLM have changed directions dramatically; and

WHEREAS, Director Gregg has signed Memoranda of Understanding to complete the in-lieu selections and exchanges and generally "clean up" the less than 1% of total BLM lands in question with the member WSLCA states; now therefore, be it

RESOLVED, by WSLCA, that Director Frank Gregg of the BLM be extended this organization's heart-felt thanks for this forthright position in attempting to come to grips with the remaining land selections of the WSLCA members; and be it further

RESOLVED, that a copy of this Resolution be sent to the Secretary of the Interior, the Assistant Secretary for Land and Water Resources, the Director of the Bureau of Land Management, and the appropriate committees of the Congress.

ADOPTED this 9th day of January, 1981.

FOR THE WESTERN STATES LAND
COMMISSIONERS ASSOCIATION

President

Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

*Alaska Arizona California Colorado Hawaii Idaho Louisiana Montana Nebraska Nevada New Mexico North Dakota Oklahoma Oregon South Dakota Texas Utah Washington Wisconsin Wyoming*

# RESOLUTION #8

## NET PROFITS INTERESTS UNDER THE WINDFALL PROFIT TAX ACT

WHEREAS, the Congress enacted in 1980 the Windfall Profit Tax Act; and

WHEREAS, it was the intent of Congress that state and other public interests in oil were to be exempt from the provisions of the Act; and

WHEREAS, Section 4994(a) of the Windfall Profit Tax Act does exempt, explicitly, the oil interests of states from payment of the tax; and

WHEREAS, interpretations of the Act by the Department of the Treasury have caused the tax to be applied to the state-owned oil where net profits type agreements exist; and

WHEREAS, this interpretation, based on income tax law terms, is inapplicable, and an unintended application of the Windfall Profit Tax Act; and

WHEREAS, Senators Hayakawa and Cranston have introduced Senate Bill 753, and Representative Glenn Anderson introduced House Resolution 3044 which, when enacted would correct this problem; and

WHEREAS, the Department of the Treasury has indicated its support of these bills to clarify the Act; now therefore, be it

RESOLVED, that the Western States Land Commissioners Association supports the provisions of S. B. 753 and H. R. 3044 and encourages their passage; and be it further

RESOLVED, that the Association urges the Senate and House of Representatives to take prompt action to relieve the states from the burden of paying the tax on state-owned oil; and be it further

RESOLVED, that the Secretary of the Association send a copy of this Resolution to the Members of Congress from the member states, to the Secretary of the Treasury, and to the Secretary of the Interior.

ADOPTED this 30th day of July, 1981.

FOR THE WESTERN STATES LAND
COMMISSIONERS ASSOCIATION

Rowena Rogers
President

Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

Alaska Arizona California Colorado Hawaii Idaho Louisiana Montana Nebraska Nevada New Mexico North Dakota Oklahoma Oregon South Dakota Texas Utah Washington Wisconsin Wyoming

# RESOLUTION #8

## FEDERAL PREEMPTION OF STATES' RIGHTS

WHEREAS, each of the member states of the Western States Land Commissioners Association has responsibility for administering state-owned lands for the benefit of its citizens; and

WHEREAS, the respective Legislatures and framers of the state constitutions have mandated that such lands be administered in such a manner as to yield to the states and to their public school systems the optimum economic benefit; and

WHEREAS, there is a growing tendency for federal agencies to impose regulations which infringe upon the rights of the states and thus inhibit or actually prevent the individual states from utilizing their properties and natural resources; and

WHEREAS, an example of such infringement exists in the State of Utah wherein the state-owned public lands contain large mineral resources which need to be exploited to satisfy a critical national energy need and such development is dependent upon a water supply from the planned White River Dam and Reservoir; and

WHEREAS, the federal agencies interpretation of the Endangered Species Act and the analysis of in-stream flow requirements on the White River are seriously threatening the possibility of federal permits for construction of the White River Dam, now therefore, be it

RESOLVED, that the Western States Land Commissioners Association meeting in Santa Fe, New Mexico, takes a position strongly urging the Reagan administration to give reason and balance to the interpretation of procedures, rules and regulations, such that the factors of national energy preparedness and economic benefits can be given proper consideration and the State of Utah may proceed with this particular phase of its state water plan, and such that the other states in the west, and indeed the nation, can have similiar action exercise and sovereign powers in managing their own resources; and be it further

RESOLVED, that if the agencies of the administration cannot or do not favorably respond to this critical issue, then the Western States Land Commissioners Association be on record as supporting a united concerted effort to present any legislation to the Congress for passage of amendments to the Endangered Species Act which will give reason and balance in the management of the Nation's water and land resources; and be it further

RESOLVED, that copies of this Resolution be sent to the Secretary of the Department of Interior, the Assistant Secretary of the Interior for Fish and Wildlife and Parks, the Governors of the member states, the members of the Congress and to other interested parties.

ADOPTED this 9th day of January, 1981.

FOR THE WESTERN STATES LAND
COMMISSIONERS ASSOCIATION

Rowena Rogers
President

Wm. I. Cleveland
Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

*Alaska Arizona California Colorado Hawaii Idaho Louisiana Montana Nebraska Nevada New Mexico North Dakota Oklahoma Oregon South Dakota Texas Utah Washington Wisconsin Wyoming*

RESOLUTION #10

COOPERATION WITH THE DEPARTMENT OF THE INTERIOR

WHEREAS, there has been a longstanding relationship between the Western States and the Department of Interior; and

WHEREAS, this relationship has been characterized by adversary proceedings, and no little frustration on the part of the states, particularly, in past times; and

WHEREAS, over the years, the Western States Land Commissioners Association has endeavored to improve the working relationship with the Department of Interior, particularly by inviting and including representatives from the Bureau of Land Management at their meetings; and

WHEREAS, the 20-member states have, in their land departments, considerable talent, expertise and experience, together with an on-the-ground knowledge of current and changing problems; and

WHEREAS, although the working relationship between the states and the Department of Interior has shown steady improvement, there is still a long way to go and much to be done, now therefore, be it

RESOLVED, that the Western States Land Commissioners Association convey its congratulations to James G. Watt for his selection and confirmation as Secretary of Interior; and be it further

RESOLVED, that the Western States Land Commissioners Association extend to Secretary Watt a sincere invitation to make use of their organization and its members whenever they might be of use to him in the course of performing his duties; and be it further

RESOLVED, that the members of the Western States Land Commissioners Association are unanimous in their hope and desire that the working relationship between the states and the Department of Interior will continue to improve to the benefit of both the states and the Federal Government under the leadership of Secretary Watt; and be it further

RESOLVED, that copies of this Resolution be sent to the Secretary of the Department of the Interior, the President of the United States, the Governors of the member states, and the U.S. Senators of the member states.

ADOPTED this 9th day of January, 1981.

FOR THE WESTERN STATES LAND
COMMISSIONERS ASSOCIATION

Rowena Rogers
President

Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

*Alaska, Arizona, California, Colorado, Hawaii, Idaho, Louisiana, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, Wyoming*

RESOLUTION #11

INTERIOR LAND USE DECISION COORDINATION

WHEREAS, the Department of Interior manages 520,000,000 acres of the Nation's land through its various bureaus and operating agencies, and whereas, 98.7% of this land is within the States represented by the Association; and

WHEREAS, management of this land depends on a vast number of decisions which effect state and local government; and

WHEREAS, these effects can be adverse to the economic and policy programs within states; and

WHEREAS, land use decisions made within the Department of Interior are to consider the concerns and interests of state and local governments; and

WHEREAS, in many cases the decisions appear to have been made without due attention to comments of the states land managers; and

WHEREAS, it is desirable that a process exist for a dialogue between the Department of Interior and the Western States Land Commissioners Association; and

WHEREAS, such dialogue can occur through periodic presentation of proposed decisions by the Department to representatives of Western States Land Commissioners prior to putting the decision into effect; now therefore, be it

RESOLVED, that the Department of Interior provide a periodic, frequent and open forum of discussion and input with the Western States Land Commissioners Association in those matters which affect state lands; and be it further

RESOLVED, that the Secretary of Interior initiate contact with the Association toward this end; and be it further

RESOLVED, that copies of this Resolution be sent to the Secretary of the Department of Interior, the President of the United States, and Members of Congress.

ADOPTED this 9th day of January, 1981.

FOR THE WESTERN STATES LAND
COMMISSIONERS ASSOCIATION

Rowena Rogers
President

[signature]
Secretary

MEMORANDUM OF UNDERSTANDING
BETWEEN
WESTERN STATES LAND COMMISSIONERS ASSOCIATION
(AN ASSOCIATION OF 20 COOPERATIVE STATES)
AND BUREAU OF LAND MANAGEMENT
DEPARTMENT OF THE INTERIOR

PURPOSE:

Western States Land Commissioners Association (the Association) and Bureau of Land Management, United States Department of the Interior (the Bureau), wish to establish procedures for processing indemnity or in-lieu selections between the Bureau and the various western public land States represented by the Association.

Further, it is the mutual desire of various States, the Assoication, and the Bureau to adopt procedures that will accomplish the transfer of these lands in an equitable, expeditious, and reasonable manner, with due respect for the interests of the States, the Federal Government, and the public.

BACKGROUND:

In their enabling acts, public land States were granted public lands for various purposes and for specific acreages. Under the various acts, specified numbered sections of in-place public lands were granted for the support of the common schools. If the in-place sections to which the State was entitled had been sold, preempted, or included within any Indian, military, or other reservation, or were otherwise disposed of by the United States, prior to survey, the various States could select other public lands as indemnity or in-lieu lands. Indemnity or in-lieu lands were also granted for deficiencies when the in-place sections were fractional in quantity or missing by reason of the township being fractional.

The basic authority providing for indemnity selections is 43 U.S.C. 851, 852, as made applicable and as amended to apply to specific States, and Section 7 of the Taylor Grazing Act of 1934 (43 U.S.C. 315f), coupled with the May 19, 1980, Supreme Court decision entitled "Andrus v. Utah", No. 78-1522. Additionally, the land use planning requirements, with respect to public land disposals, must be consistent with the requirements of Section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712).

MUTUAL COVENANTS AND AGREEMENTS:

1. The Bureau agrees that various States, at present, have base land entitlement rights for approximately 600,000 acres for which indemnity selections may be made. Additionally, certain legislative and/or judicial actions may occur which could increase the entitlement rights acreage.

2. The Bureau and the Association hereby declare that they are committed to accomplishing the task of transferring appropriate lands to various States in fulfillment of this obligation in an equitable, expeditious, and reasonable manner and that they are committed to working together in a good-faith and cooperative manner to identify, evaluate, and process selections of sufficient lands suitable for fulfillment of this obligation with reasonable and appropriate opportunities for public notice and involvement in all stages in the process.

3. The initial step in the agreed process is a cooperative identification and verification of the acreage, location, category, and type of base lands entitlement. Data on valuation of entitlement lands, where available, will also be provided. This effort is already underway between some of the members of the staffs of the State Land Boards/Commissions/Departments and the State Directors of the Bureau of Land Management.

4. Since the Supreme Court's decision in Andrus v. Utah, the Department conducted a study of existing Departmental regulations and procedures to determine if certain provisions should be amended to facilitate completion of the program. As a result of this study, the Secretary has indicated to the various States his intention to amend the provisions of 43 CFR Subparts 2091 and 2621. Dependent on the operational results under the provisions of the amended regulations, the Department may promulgate new permanent regulations governing indemnity selections. The regulations on the Bureau planning system (43 CFR Part 1600), and the classification regulations (43 CFR 2400), will be evaluated to identify opportunities for development of streamlined processes and procedures to facilitate the program to satisfy the various States' selection entitlements.

5. The Secretary has accordingly decided that the applicable statutes, as they have been discussed and interpreted in Andrus, permit the use of a concept of total acreage and roughly equivalent value of base lands as limitations in the aggregate rather than to only utilization of tract-for-tract comparisons as had been the previous Bureau practice.

6. The policy commitment on indemnity selections by the Department is set forth in Bureau of Land Management Instruction Memorandum No. 81-34, dated October 21, 1980, which is attached to and made a part of this memorandum by reference. As set forth in the subject Instruction Memorandum, satisfaction of indemnity selection rights and disposal of parcels of public lands for that purpose are to be considered "serving the national interest" in the context of Section 102(a)(1) of the Federal Land Policy and Management Act of 1976 (FLPMA) and in connection with land-use planning and classification activities in the indemnity selection implementation program.

7. Adoption by the Bureau of mutually acceptable and equitable procedures for evaluation of base and selected lands is deemed essential, and the Bureau agrees that it will expeditiously prepare and submit draft operational procedures and guidelines to the various States through the Western States Land Commissioners Association for review and comment.

8. The Association agrees that the plans and procedures set out herein above appear to be equitable and reasonable. The Bureau and the Association accordingly agree to work together cooperatively under these general precepts and in accordance with the operational procedures and guidelines to be developed toward the goal of expeditious transfer of appropriate lands to the various States in fulfillment of the States' indemnity selection rights.

9. The various States and the Association have advised the Secretary that should they become dissatisfied with the progress of the States' selection process at any time, they reserve the option of seeking a legislative or judicial solution to the matter.

IMPLEMENTATION SCHEDULE:

No specific time frames for implementation are required. Implementation timing and phasing will be developed on an individual State-by-State basis between the State Land Commissioner/Director/Manager and the Bureau of Land Management State Director. Scheduling and phasing will be developed on a joint State-Bureau basis as part of the operational procedures for program implementation in the particular State involved.

OPERATIONAL PROCEDURES:

Selection proposals and discussions initiated by the various States will be made at the Bureau of Land Management State Director level, unless otherwise specified by the terms of a separate Memorandum of Understanding between the individual State Land Commissioner/Director/Manager and the State Director for an individual State.

Processing of indemnity selection proposals and applications will be included as a specific work activity in the Bureau's Annual Work Plan and Budget and in the individual State Land Board/Commission/Department budgets. It is expressly understood that work activities and budget allocations by either the Bureau or an individual State is subject to availability and/or appropriation of sufficient financial resources and staff personnel to accomplish the specified work program.

Each State may establish with its Bureau State Director, a supplemental MOU to this Memorandum of Understanding containing specific details, requirements and review procedures for that individual State situation. Where an existing Master or Overall Memorandum of Understanding exists between the State and the Bureau, such Memorandums as are developed for indemnity selections will be considered as within and subservient to such Master or Overall MOU.

Should an individual State, as a member of the Association, desire to withdraw from this MOU, and not be bound by its terms and conditions, such notification should be made to the Association and to the Bureau. Withdrawal of one or several States from the MOU will not affect the terms of this MOU with respect to the Association.

This memorandum will become effective upon the signature of both approving officials of the respective parties entering into this agreement. It will be reviewed every year to evaluate the need for modifications. If the parties agree to no change, resignature will not be necessary. This MOU may be renegotiated at any time and either party may cancel the memorandum after a 90-day notification period.

Frank Gregg
Director, Bureau of Land Management

Jan 8, 1981
Date

Rowena Rogers
President, Western States Land
Commissioners Association

Jan. 8 1981
Date

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

*Alaska Arizona California Colorado Hawaii Idaho Louisiana Montana Nebraska Nevada New Mexico North Dakota Oklahoma Oregon South Dakota Texas Utah Washington Wisconsin Wyoming*

RESOLUTION #1

MINERAL CHARACTER OF SAND AND GRAVEL

WHEREAS, the U.S. Court of Appeals has recently rendered its opinion in Western Nuclear, Inc., v. Cecil Andrus and Wyoming Stock Growers Association, et al., No. 79-2290, holding that ordinary sand and gravel are not a mineral included within the reservation of "coal and other minerals" contained in patents issued by the Secretary of the Interior when granting certain lands under the Stock-Raising and Homestead Act of 1916 [39 Stats. 862, Chapter 9, 43 U.S.C., Sections 291-302 (1976)]; and

WHEREAS, such decision is contrary to the longstanding administrative position of the Secretary of the Interior and to the position of many private parties and to that of many of the Western Land Grant states and, as a result, there are many outstanding sand and gravel leases and permits issued by the various parties, the validity of which leases and permits are now in question. Further, the demand for such sand and gravel will require issuance of permits and leases by the true owners within the immediate and continuing future; and

WHEREAS, 43 U.S.C.A., Section 870, 47 Stats. at Large 1026, Chapter 557, confirms mineral ownership in the various land grant states and also provides for forfeiture of the lands back to the U.S. Government in the event the states attempt to sell land rather than to lease said lands for mineral development; and

WHEREAS, in view of the foregoing, a final decision on the issue of the ownership of sand and gravel is imperative to the proper administration of federal, state and private lands; now therefore, be it

RESOLVED, by the Members of the Western States Land Commissioners Association meeting in Washington, D.C., on this 12th day of January 1982, respectfully request that the Secretary of the Interior and the Department of Justice seek a final review by the U.S. Supreme Court of the opinion of the Tenth Circuit Court of Appeals and that, if practical, the individual land grant states be given an opportunity to assert their positions and views on the issue.

ADOPTED this 13th day of January, 1982.

FOR THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

Rowena Rogers
President

Jm L. Manton
Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

*Alaska Arizona California Colorado Hawaii Idaho Louisiana Montana Nebraska Nevada New Mexico North Dakota Oklahoma Oregon South Dakota Texas Utah Washington Wisconsin Wyoming*

# RESOLUTION #2

## SUPPLEMENTAL APPROPRIATIONS FOR DEPARTMENT OF INTERIOR STATE PILOT PROJECT IN ROYALTY COLLECTIONS

WHEREAS, the Department of the Interior is attempting to improve its collections of mineral royalties from the public lands; and

WHEREAS, inefficiencies and delays in such collections have resulted in serious underpayments to the federal government and states; and

WHEREAS, many western states have in place or are capable of developing systems capable of carrying out royalty collections and audits; and

WHEREAS, this Association has proposed that a uniform data bank and procedures be established with the Department of the Interior so that states, Indian tribes and federal agencies will have adequate information for royalty and taxation programs; and

WHEREAS, the legislative history of the Mineral Leasing Act of 1920 shows that Congress intended 10% of federal mineral royalties be made available for administration of the act; and

WHEREAS, the western states can, with such funding from the act, establish and conduct programs involving field inspections, audits, accounting and collections with respect to federal mineral leases; now therefore, be it

RESOLVED, that
(1) this Association urge Congress and the President to approve the appropriation of adequate funds for grants and contracts for the establishment of state programs for the collections and audit of mineral royalties from the public lands; and

(2) the Secretary of the Interior is respectfully urged to authorize pilot projects, federally funded, for such purposes

ADOPTED this 13th day of January, 1982.

FOR THE WESTERN STATES LAND
COMMISSIONERS ASSOCIATION

Rowena Rogers
President

Jim Hutchison
Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

*Alaska Arizona California Colorado Hawaii Idaho Louisiana Montana Nebraska Nevada New Mexico North Dakota Oklahoma Oregon South Dakota Texas Utah Washington Wisconsin Wyoming*

# RESOLUTION #3

## MINERAL ROYALTY LEGISLATION (HR 5121)

WHEREAS, in 1920 Congress determined that the public mineral lands in the western states should be retained and leased rather than transferred to those states and their people; and

WHEREAS, to compensate for the impact of federal leasing and the State revenue losses from such federal retention of lands, the Congress has determined that 50% of the federal revenues from mineral leases or public lands should go to the state from which such revenues originated; and

WHEREAS, for over 20 years, audits and studies by the Department of the Interior, the General Accounting Office, and Congress have shown serious inefficiencies in the collection of such mineral revenues by the U.S. Geological Survey; and

WHEREAS, many states with mineral lands have in place, or are developing, efficient systems for the collection and audit of mineral revenues for purposes of state taxation and leasing programs; and

WHEREAS, payments to the states of their share of mineral royalties is made only twice a year, and often later than the dates set forth in the Mineral Leasing Act; and

WHEREAS, Representatives Markey and Santini have, after investigation and study, proposed legislation (HR 5121) authorizing states to collect mineral royalties on behalf of the federal government, and to pay the federal share of such revenues biennially to the federal government after deducting costs of administration and the 50% due to the states; and

WHEREAS, the proposed legislation would result in improved efficiencies in the collection of royalties and help redress the imbalances in western states' revenues resulting from the federal retention of the public lands and inefficiencies and delay in royalty collections; now therefore, be it

RESOLVED, that the Western States Land Commissioners Association approves the Markey-Santini plan, and urge the Secretary of the Interior to support the principles set forth therein.

ADOPTED this 13th day of January, 1982.

FOR THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

Rowena Rogers
President

Wm. L. Gaither
Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

*Alaska Arizona California Colorado Hawaii Idaho Louisiana Montana Nebraska Nevada New Mexico North Dakota Oklahoma Oregon South Dakota Texas Utah Washington Wisconsin Wyoming*

RESOLUTION #1

EXCHANGES

WHEREAS, the federal government finds itself with non-federal in holdings within many of its holdings; and

WHEREAS, the states own sections of and within public lands which could, through exchange with the federal government, block up these holdings thereby improving their management; and

WHEREAS, such exchanges of land between the Western States and the United States have always been time-consuming and difficult in spite of the acknowledged benefits flowing from them; and

WHEREAS, it appears the President's Executive Order 12348 of February 1982 would unnecessarily extend the already time-consuming process by adding an additional level of review not required or authorized by FLPMA; and

WHEREAS, the Western States Land Commissioners Association believes that exchanges with the federal government are beneficial for managing the federal land asset and in the national interest; now therefore be it further

RESOLVED that exchanges which block up federal lands should be exempt from the Property Review Board process and given priority by the federal agencies charged with the management responsibility; and be it further

RESOLVED that a copy of this resolution be sent to the President of the United States, the members of Congress from the member states and the Secretary of the Interior.

ADOPTED this 29th day of July, 1982.

FOR THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

Rowena Rogers
President

James [illegible]
Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

*Alaska Arizona California Colorado Hawaii Idaho Louisiana Montana Nebraska Nevada New Mexico North Dakota Oklahoma Oregon South Dakota Texas Utah Washington Wisconsin Wyoming*

RESOLUTION #2

CONCERNING ACCOUNTING FOR PRODUCTION
FROM ONSHORE FEDERAL LANDS

WHEREAS, the accurate reporting of oil and gas and mineral production is essential to and an inseparable part of proper royalty management, and neither accurate reporting of production nor proper oil and gas and mineral royalty management can be accomplished without adequate site security and monitoring of movement of the minerals after they are mined; and

WHEREAS, the current effort by the Department of the Interior to upgrade mineral production accounting, royalty management, site security and monitoring of movement of minerals produced from onshore federal lands provides the opportunity and the challenge for initiating an integrated and cooperative endeavor with the states to the greater benefit of both the state and federal government; and

WHEREAS, mineral royalty revenues from onshore federal lands are vested in both the federal government and the individual states in which these lands are located, and through recent state initiative millions of dollars of unpaid federal royalties have been identified and collected to the cumulative benefit of the states, the United States and the public at large; and

WHEREAS, this state effort will continue and increase during the development of the federal royalty management and production reporting systems, estimated to take at least four years; and

WHEREAS, State Regulatory and Revenue Agencies already have the means to collect all or almost all of the data necessary to assure accurate production reporting and royalty management from federal onshore lands and their legislatures and law enforcement agencies have the capability to provide for site security and monitoring tailored to the needs of each individual state; and

WHEREAS, the basic principle of the New Federalism is to delegate and return responsibility to the states whenever it is feasible to do so; now therefore, be it

RESOLVED that the Minerals Management Service of the Department of the Interior is hereby requested to meet with representatives of the agencies of each of the public land states in order to inventory the resources for production reporting, royalty management, site security and monitoring of movement of oil and gas produced from federal onshore lands which are or can be made available by these state agencies and to develop rational, economic and uniform plans which will take full advantage of state capabilities, eliminate duplication of effort and function, and avoid the creation of a solipsistic and self-contained federal royalty system which will be a constant source of contention between the Department, the oil and gas producers and the public lands states.

ADOPTED this 29th day of July, 1982.

FCR THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

Rowena Rogers
President

James P. Grant
Secretary

# THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION

*Alaska Arizona California Colorado Hawaii Idaho Louisiana Montana Nebraska Nevada New Mexico North Dakota Oklahoma Oregon South Dakota Texas Utah Washington Wisconsin Wyoming*

RESOLUTION #3

ENDORSING THE OCEAN AND COASTAL DEVELOPMENT IMPACT ASSISTANCE FUND

WHEREAS, it is declared national policy to reduce dependence on foreign energy supplies and encourage conservation, and it is in the best interest of the nation for both economic and national security; and

WHEREAS, the Department of the Interior is encouraging and accelerating domestic oil and gas exploration and development particularly on the Outer Continental Shelf (OCS); and

WHEREAS, coastal states under the OCS Lands Act, 43 U.S.C. 1802 et seq., must be prepared to meet their legal responsibility to participate in federal decisions regarding leasing, exploration and development of OCS oil, gas and other mineral resources; and

WHEREAS, the Federal Government shares revenue through the Mineral Leasing Act of 1920 with states from resource development activities on Federal lands within states to ameliorate impacts; and

WHEREAS, OCS oil and gas activities occur adjacent to but outside the direct jurisdiction of coastal states, and

WHEREAS, these activities have a significant impact on coastal states' natural resources management; and

WHEREAS, there is a need to demonstrate by positive action a truly cooperative relationship between the Federal and state governments directed toward ameliorating State management of ocean and coastal resources through such programs as fishing management, coastal zone management and planning, coastal energy impacts, sea grants, long range scientific research and other natural resource management efforts; now therefore, be it

RESOLVED, that the Western States Lands Commissioners Association supports the concept of OCS revenue sharing whereby a portion of the revenues received by the Federal treasury from OCS leasing and royalties be distributed to coastal states to ensure their ability to continue participating with the Federal Government in the OCS leasing/development decisions and to provide funds to be used by states for coastal management, related marine programs and amelioration of impacts attributable to OCS activites; be it further

RESOLVED, that a committee of the Western States Land Commissioners Association be formed for the following:

1. To send copies of this resolution to the President of the United States, Secretaries of the Departments of Commerce, Interior and Treasury, the Speaker of the House of Representatives and the President Pro Tempore of the Senate, Chairman and Members of the Senate Committees on Finance, Commerce, and Energy and Natural Resources, and House Committees on Ways and Means, Energy and Commerce and to the Governors of coastal states.

2. Continue to monitor and lobby the issue before Congress to ensure its successful passage.

3. To meet when necessary to review the issue at hand and to communicate the program and status of legislation to the Western States of the United States.

ADOPTED, this 29th day of July, 1982.

FOR THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

Rowena Rogers
President

James Grant
Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

Alaska, Arizona, California, Colorado, Hawaii, Idaho, Louisiana, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, Wyoming

# RESOLUTION #4

## DOI PRICING PROBLEMS

WHEREAS, the Department of the Interior contends that in the sale of crude oil from the public lands it was not subject to the provisions of the Emergency Petroleum Allocation Act of 1973 requiring certification within two months of crude oil characterized as other than lower tier; and

WHEREAS, the Department's position is being challenged in a number of district court actions in which it is alleged that refiners were being overcharged for crude oil by the Department; and

WHEREAS, representatives of the Department of the Interior have stated that if this challenge is successful the Department may be required to refund hundreds of millions of dollars, and will attempt to allocate part of its liability as an offset against the share of royalties paid to the states, pursuant to the Mineral Leasing Act of 1920; and

WHEREAS, states receiving a share of federal mineral royalties under the Mineral Leasing Act should not be penalized for any liability accruing from the failure of the Department of the Interior to comply with the law (if such was the case); and

WHEREAS, legislation immunizing the states in whole or part from any such loss is under consideration in the Senate Energy and Natural Resources Committee; now therefore be it

RESOLVED, that this Commission petitions Congress to enact legislation ensuring that no portion of any liability incurred by the Department of the Interior for failure to comply with the Emergency Petroleum Allocation Act of 1973 shall be taken as an offset from mineral royalties paid to the states under the Mineral Leasing Act of 1920; and be it further

RESOLVED, that the Secretary of this Commission be directed to transmit copies of this resolution to each member of said Senate Committee.

ADOPTED this 29th day of July, 1982.

FOR THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

Rowena Rogers
President

James T. Grant
Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

Alaska, Arizona, California, Colorado, Hawaii, Idaho, Louisiana, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, Wyoming

RESOLUTION #5

MINERAL ROYALTY COLLECTIONS

WHEREAS, Congress directed in the Mineral Leasing Act of 1920 that mineral revenues from the public lands be shared with the states from which they came, and imposed a trust duty on the Secretary of the Interior to collect such revenues diligently and efficiently; and

WHEREAS, such revenues are assuming an increasingly important role to the states from which they come; and

WHEREAS, cooperative audits undertaken by the Secretary of the Interior with Wyoming, California, Colorado, New Mexico and North Dakota have already identified over $25 million in underpayment from federal leases; and

WHEREAS, this highly successful federal-state program should be formalized and expanded to permit qualified states to perform collection, accounting audit and inspection services; now therefore be it

RESOLVED that

1. The Secretary of the Interior be commended for his efforts to date to improve the royalty collection process by cooperative effort with the Western states;

2. This Association reaffirms its position that:

a. Any mineral-producing state should, upon its request, be authorized to assume inspection, audit, investigation, and royalty collections for leases made under the Mineral Leasing Act of 1920 and the Geothermal Steam Act of 1970;

b. Any state assuming such federal mineral royalty functions should be reimbursed for its expenses incurred;

c. Any civil penalties collected pursuant to such a state program should be paid to the state concerned;

d. All interest on overdue payments, whether collected under federal programs or by states pursuant to delegation, should be paid to the state from which the royalty obligation originated.

3. The President of this Association is authorized and directed to communicate this resolution to the Secretary of the Interior and to appropriate committees and members of Congress.

ADOPTED this 29th day of July, 1982.

FOR THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

Rowena Rogers
President

James ? ?
Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

*Alaska, Arizona, California, Colorado, Hawaii, Idaho, Louisiana, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, Wyoming*

## RESOLUTION 1

## CONCERNING BLOCKING UP RAILROAD CHECKERBOARD LANDS IN NEVADA

WHEREAS, checkerboard land tenure creates many problems throughout the West; and

WHEREAS, the State of Nevada would benefit if the railroad checkerboard could be blocked up; and

WHEREAS, an effort is being made by the private and non-profit sectors of Nevada to persuade Congress to authorize the sale to Nevada of the public land squares; and

WHEREAS, the State of Nevada then could by sale and exchange facilitate the useful blocking up of these sections; and

WHEREAS, the proceeds of these sales would be used by the State to eliminate railroad grade crossings; now therefore, be it

RESOLVED, that the Western States Land Commissioners Association encourages this innovative approach toward resolving the unproductive land tenure problem created by the railroad checkerboard grants in Nevada.

Passed this 28th day of July, 1983.

STEVEN GAUGER
President

JAMES F. TROUT
Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

*Alaska Arizona California Colorado Hawaii Idaho Louisiana Montana Nebraska Nevada New Mexico North Dakota Oklahoma Oregon South Dakota Texas Utah Washington Wisconsin Wyoming*

RESOLUTION 1

MINERAL ROYALTIES COLLECTION

WHEREAS, this Association, the Western Governors Conference, the Western Attorneys General and the Conference of Western Legislators have all endorsed the concept of state participation, on a compensated basis, in the audit and collection of mineral royalties on federal lands; and

WHEREAS, the establishment of uniform criteria for reporting and verification of oil and gas production data is essential to eliminate duplicative reporting and simplify federal and state royalty collection, tax and conservation functions; and

WHEREAS, federal-state cooperative audits, to date, have identified approximately $25 million in royalties due and payable to the federal government; and

WHEREAS, the Mineral Leasing Act of 1920 directs the Secretary of the Treasury to pay fifty percent of these monies to the States; and

WHEREAS, continued development of uniform reporting criteria and an effective role for States and Indian Tribes in collection and verification of federal royalties requires a federal statute to give direction to these efforts; and

WHEREAS, it is necessary to authorize the Secretary of the Interior both to share the necessary data with the State and Tribes and to compensate States for their work in assisting the Department of the Interior to collect mineral royalties from the public lands; and

WHEREAS, legislation enacted by the House and now before the Senate Committee on Energy and Natural Resources would carry out these purposes and provide for effective and efficient state-federal cooperation in the recovery of mineral royalties; now therefore, be it

RESOLVED, that the Western States Land Commissioners Association endorses the principles of HR 5121 and S 2305 insofar as they call for:

1. the expansion, on a compensated basis, of cooperative federal-state efforts in the verification of royalties due on oil and gas production on federal lands; and

2. access to federal production and other lease data by the States and Tribes; and

3. monthly payments to the States of their fifty percent share of federal land mineral royalties, accompanied by a detailed explanation thereof; and

4. a state cause of action for unpaid royalties in the event the Secretary fails to act; and be it further

RESOLVED, that the Secretary of this Association be directed to transmit copies of this Resolution to the presiding officers of the House and Senate, to each member of the Senate Committee on Energy and Natural Resources, and the House Committee on Interior and Insular Affairs, and to the Secretary of the Interior.

ADOPTED this 3rd day of December, 1982.

FOR THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

Stephen E. Sauger
President

James L. Prout
Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

*Alaska, Arizona, California, Colorado, Hawaii, Idaho, Louisiana, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, Wyoming*

## RESOLUTION 2

## CONCERNING EXCHANGE OF U.S. FOREST SERVICE WINTER RECREATION AREAS

WHEREAS, exchange of federal land with recreation potential is currently permitted by law; and

WHEREAS, many winter recreation areas in the Western States have intermixed state-federal ownership; and

WHEREAS, lands that have existing ski resorts, or have high winter recreation commercial potential, and have intermixed ownership patterns, would be more efficiently managed for their highest use if placed under one ownership; and

WHEREAS, state ownership and management would benefit the educational facilities of the states, and be more responsive to both the commercial needs of the facilities and the recreational needs of the public; now therefore, be it

RESOLVED, that the Western States Land Commissioners Association supports the transfer by exchange to the states of those federal lands in areas of intermixed state-federal ownership with high winter recreation potential; and be it further

RESOLVED, that the Association urges its member states to obtain congressional support of this action.

Passed this 28th day of July, 1983.

STEVEN GAUGER
President

JAMES F. TROUT
Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

*Alaska Arizona California Colorado Hawaii Idaho Louisiana Montana Nebraska Nevada New Mexico North Dakota Oklahoma Oregon South Dakota Texas Utah Washington Wisconsin Wyoming*

RESOLUTION 2

FEDERAL/STATE LAND CONSOLIDATION

WHEREAS, several western states are comprised of State/Federal land ownership patterns that seriously affect the State and the federal government's ability to efficiently manage their holdings; and

WHEREAS, it is in both the State and federal interests to consolidate holdings where desirable and practical; and

WHEREAS, existing selection and exchange policies and practices, including the Federal Land Policy and Management Act (FLPMA), are not conducive to large scale land transfers; now therefore, be it

RESOLVED, that the Western States Land Commissioners Association wishes to convey their support for new initiatives, such as Utah's Project BOLD, to consolidate lands through State/federal transfers that will result in more efficient management of our lands. We hereby express this support to the Legislature of the State of Utah, the Congress of the United States, the Western Governor's Conference, WESTPO, the Western Attorneys General and the Conference of Western Legislators; be it further

RESOLVED, that the Secretary of this Association be directed to transmit copies of this Resolution to the presiding officers of the aforementioned groups.

ADOPTED this 3rd day of December, 1982.

FOR THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

President

Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

*Alaska Arizona California Colorado Hawaii Idaho Louisiana Montana Nebraska Nevada New Mexico North Dakota Oklahoma Oregon South Dakota Texas Utah Washington Wisconsin Wyoming*

## RESOLUTION 3

## INDEMNITY LAND SELECTIONS

WHEREAS, the school land grant of the public land States is a solemn compact, whereby the States were to receive representative sections of public lands within each State for support of their public schools; and

WHEREAS, it has been determined by the Supreme Court of the United States that Congress intended these States to receive lands which fairly represented the value of lands within each State; and

WHEREAS, due to the policies of the federal government, the efforts of the Western States to select representative lands have been largely unsuccessful; and

WHEREAS, Secretary Watt has emphasized the high priority which the current administration places on the fulfillment of this pledge to the Western States by the federal government; and

WHEREAS, in order for the State to receive the value of the representative lands originally granted to them and to support their public schools appropriately, it is necessary that they be reimbursed for the loss of their representative lands including producing mineral lands; and

WHEREAS, the shrinkage in the small amount of land available for indemnity selection is frustrating the ability of the State to select lands which will compensate them for their lost lands; and

WHEREAS, the Western States Land Commissioners Association has made a strong effort to identify and recommend policies which would accomplish a more expedited selection process and has made those policies available to the Secretary in a July 24 letter to which there has been no response; now therefore, be it

RESOLVED, that

(1) the Secretary of Interior is requested, by this Association, to take any and all actions necessary to make producing mineral lands available for selection to replace lost mineral lands of the same character so that the States can support their public schools; and

(2) the Secretary is requested to make available for selection lands that have been, or may be declared surplus or otherwise been made available for sale, exchange or other disposition; and

(3) the Secretary is requested by this Association to designate a responsible person within the Department to meet and confer with affected Western States, and that he delegate to that person the authority to make departmental decisions which implement his policies on this matter.

ADOPTED this 3rd day of December, 1982.

FOR THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

Glyde E. Tonzer
President

James Y. Grant
Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

*Alaska, Arizona, California, Colorado, Hawaii, Idaho, Louisiana, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, Wyoming*

RESOLUTION 4

RELATIVE TO THE QUIET TITLE ACT

WHEREAS, the states and the federal government are alike sovereign within their constitutionally defined spheres; and

WHEREAS, in administration and disposition of public lands by both states and the federal government, there have inevitably been raised disputed title claims between the respective sovereigns as to such lands; and

WHEREAS, prior to the enactment of the Quiet Title Act of 1975, no judicial mechanism existed which allowed for final adjudication of title disputes; and

WHEREAS, because of an anticipated flood of private claims, that enactment included a limitation on such actions to those brought within twelve years of the time in which the claimant knew or should have known the claim existed; and

WHEREAS, despite the long-standing rule that limitations of action do not apply to sovereign entities unless specifically so stated, the United States Supreme Court recently held, in Block v. North Dakota, that the limitation period does in fact apply to the states; and

WHEREAS, since a very large share of federal-state title disputes arise from conditions existent at the time the state was admitted to the Union, the states have been effectively deprived of access to the courts for final adjudication of these claims; and

WHEREAS, the United States Supreme Court was careful to point out that the lack of access to the courts did not affect the validity of the underlying claims, which it noted could possibly be used to provoke federal suit, or at least, remain to cloud the title to the lands, impeding seriously the process of utilization or disposition of those lands; and

WHEREAS, sound public policy requires that such disputes between sovereign entities be expeditiously and finally settled by orderly adjudication; now therefore, be it

RESOLVED, that this Association requests Congress to enact legislation to permit sovereign states to bring actions in quiet title against the United States and to obtain resolution of such actions on the merits, free from the procedural obstacles and repeal the 12-year statute of limitations as it applies to sovereign states; and be it further

RESOLVED, that the Secretary send a copy of this resolution to the Chair of the Senate Committee on the Judiciary, the Senate Committee on Energy and Natural Resources, the House Committee on Interior and Insular Affairs and the House Committee on Judiciary, and that each of the member states request its congressional delegation to support such an amendment.

Passed this 28th day of July, 1983.

STEVEN GAUGER
President

JAMES F. TROUT
Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

*Alaska, Arizona, California, Colorado, Hawaii, Idaho, Louisiana, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, Wyoming*

RESOLUTION 5

RESOLUTION CONCERNING OIL AND GAS ROYALTIES
AND PAYMENTS-IN-LIEU OF TAXES

WHEREAS, federal lands give substantial benefits to the Western States, but impose even greater demands for state and local governmental services and for state action in coordination with federal policy, demands which require expenditure of state tax revenues while the federal lands remain immune from state and local taxation; and

WHEREAS, Congress recognized in the Mineral Leasing Act of 1920 that the equality of right which each state attains upon admission required special compensation for the added tax burdens imposed on the Western States by the reservation of these vast tracts of non-taxable federal lands, a burden not imposed on other states; and

WHEREAS, that recognition directly granted the public land states half the mineral royalties earned on federal public lands within each state, with the remainder, less ten percent for federal expense of royalty management, to go indirectly to the public land states through the Reclamation Fund; and

WHEREAS, Congress also recognized the impact of federal activities generally on local governments within all states, by providing that monies appropriated from other federal land revenus would be provided such local governments through the payments-in-lieu-of-taxes (PILT) program; and

WHEREAS, the President's Budget of the United States and the Interior Department's appropriation bill (H.R. 3363, 98 Cong., 1st. Sess.) proposed a radical change in the substantive law by providing that Mineral Leasing Act royalties would be redistributed, first to fund the PILT program, second, to pay the full expenses of Interior's Minerals Management Program, in addition to the amount already taken from royalties by the Federal Windfall Profits Tax, before the Mineral Leasing Act payments to the states; and

WHEREAS, although these provisions passed the House of Representatives, they were summarily rejected by the Senate Appropriations Committee as unjustified by any valid purpose stated by the Department of Interior, and as an improper attempt to alter substantive law by the appropriation process; now therefore, be it

RESOLVED, by the Western States Land Commissioners Association that it is strongly opposed to such attempt to alter the careful pattern historically followed in both the Mineral Leasing Act and PILT programs, and that they strongly support the position so clearly stated by the Senate Appropriations Committee; and be it further

RESOLVED, that each member state of this Association shall urge each member of its congressional delegation to support the Senate Committee recommendation, by insuring that half the mineral royalty receipts be paid the states without deduction for management expense, and that the PILT program continue to be funded from the financing sources used since the inception of the program.

Passed this 28th day of July, 1983.

STEVEN GAUGER
President

JAMES F. TROUT
Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

*Alaska, Arizona, California, Colorado, Hawaii, Idaho, Louisiana, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, Wyoming*

RESOLUTION 6

RELATIVE TO NATURAL GAS

WHEREAS, natural gas is one of our most valuable natural resources and plays a significant and vital role in our national economy; and

WHEREAS, the Western States Land Comissioners Association is composed of representatives of sovereign states which either produce natural gas in quantities exceeding their needs or are dependent upon other states for natural gas; and

WHEREAS, serious distortions have developed in the natural gas market resulting in higher natural gas cost to consumers and surplus natural gas by producers; and

WHEREAS, the Natural Gas Policy Act, and other federal laws and regulations have resulted in a complex web of confusing controls and regulations on natural gas; and

WHEREAS, contrary to the intent of Congress, present laws, policies, rules and regulations have:

- Increased the price of natural gas to the consumer;
- Led to unsound conservation and environmental practices;
- Caused proven production and reserves of

natural gas and oil to be shut-in;

- Failed to encouarge the exploration and development of future natural gas energy reserves;
- Failed to promote competition and restore order and equality in the natural gas market;

now therefore, be it

RESOLVED, that the Western States Land Commisioners Association calls on Congress to move quickly to restore free market conditions to natural gas; and be it further

RESOLVED, that the Secretary send a copy of this resolution to the appropriate Committee Chairmen in Congress and the Association urges member states to contact their congressional delegation.

Passed this 28th day of July, 1983.

Steven Gauger

STEVEN GAUGER
President

James F. Trout

JAMES F. TROUT
Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

*Alaska, Arizona, California, Colorado, Hawaii, Idaho, Louisiana, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, Wyoming*

## RESOLUTION CONCERNING SCHOOL LANDS AND LIEU LANDS

WHEREAS, most states other than the original thirteen were granted specific sections of federal lands for the support of their public schools, to become available after completion of survey, unless previously disposed of or specifically reserved; and

WHEREAS, proper funding of public schools is a continuing problem facing the western land states; and

WHEREAS, each state must manage its school land assets to maximize revenue-generating capabilities; and

WHEREAS, the economic and beneficial use of state school lands is often denied the western states as a result of preemptory actions by the Federal Government; and

WHEREAS, school land parcels are contained within large federal management areas and therefore subjected to those accompanying use restrictions; and

WHEREAS, such limitations including inconsistent, federal land use considerations, lack of access, or existing use prevent management for revenue generation on those parcels; and

WHEREAS, hundreds of thousands of acres are still owed to a number of western states due to delays in survey or to obstacles to selection of lands in lieu of those unavailable; and

WHEREAS, it has been determined by the Supreme Court of the United States that Congress intended those states to receive lands which fairly represented the values of lands unavailable because of reservation or prior disposition; and

WHEREAS, the current Federal Administration has placed a high priority on fulfilling this pledge to the States by the Federal Government; to receive the lands originally granted to them and to support their public schools appropriately, it is necessary that they be reimbursed for the loss of representative lands, including producing minerals lands; and

WHEREAS, the States would benefit materially if the obligation owed to it by the Federal Government were promptly fulfilled;

NOW THEREFORE BE IT RESOLVED, that Western States Land Commissioners Association respectfully memorialize the Secretary of the Interior to honor the longstanding debt to the States by taking all actions necessary to make immediately available lands for selection in lieu of the lost school lands, including producing mineral lands to replace lost lands of similar nature; and

BE IT FURTHER RESOLVED, that the Secretary of this Association transmit copies of this Resolution to appropriate committees of Congress, to the Secretary of the Interior and to the Director of the Bureau of Land Management.

Adopted this Thirteenth day of January, 1984.

ED ZAJONC
President

JAMES F. TROUT
Secretary

RESOLUTION ENDORSING FEDERAL LEGISLATION (H.R. 3917)
TO PERMIT PROMPT JUDICIAL RESOLUTION OF STATE-FEDERAL
PUBLIC LAND TITLE DISPUTES

WHEREAS, the Federal and State Governments constitutionally coexist as sovereigns in the Federal Union; and

WHEREAS, numerous disputes over public land titles between the Federal and State Sovereigns presently exist and even more will unquestionably be found in the course of further survey and utilization of public lands; and

WHEREAS, it is in the interest both of the States and the Federal Government that such disputes be promptly and finally decided judicially to prevent serious administrative difficulty and delay in the orderly administration and utilization of the public lands of both Federal and State Sovereigns as may be required in the public interest; and

WHEREAS, in Block v. North Dakota, the United States Supreme Court held that such judicial resolution may be prevented by the application of the time limitations in the existing Quiet Title Act procedures to claims of the states, notwithstanding the accepted and cardinal principle of law that statutes of limitations do not run against claims by a sovereign state; and

WHEREAS, the Court also held that the application of the limitations on suit did not extinguish the underlying dispute, but that it would still continue; and

WHEREAS, only action by the Congress can now provide for the needed resolution of these disputes and permit the process of orderly administration and use of the sovereign lands in dispute; and

WHEREAS, a bill presently before the Congress (H.R. 3917) provides for the needed solution by exempting all title disputes between the two sovereigns, the State and the Federal Government from the application of the 12-year limitation period in the Federal Quiet Title Act;

NOW THEREFORE BE IT RESOLVED, that this Association requests Congress to enact H.R. 3917 to permit sovereign states to bring actions in quiet title against the United States and to obtain resolution of such actions on the merits, free from the procedural obstacles created by the statute of limitations; and

BE IT FURTHER RESOLVED, that the Secretary of this Association be directed to transmit copies of this resolution to the appropriate Committees of Congress, the U.S. Attorney General and the Secretary of the Interior.

Adopted this Thirteenth day of January, 1984.

Ed Zajonc

ED ZAJONC
President

James F. Trout

JAMES F. TROUT
Secretary

THE WES  RN STATES
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*Washington*
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*Wyoming*

# RESOLUTION - SCHOOL LANDS GRANTS

WHEREAS, the sole purpose of school land grants is to provide an economic base for support of public school systems; and

WHEREAS, proper funding of public schools is a continuing problem facing the western land states; and

WHEREAS, each state must manage its school land assets to maximize revenue-generating capabilities; and

WHEREAS, the economic and beneficial use of State School Lands is often denied the western states as a result of preemptory actions by the Federal Government; and

WHEREAS, such limitations including inconsitent federal land use considerations, lack of access, or existing use prevent management for revenue generation on those parcels;

NOW THEREFORE BE IT RESOLVED, that the Western States Land Commissioners Association endorses the objective of providing, upon application, states with indemnification for all school lands parcels which are rendered non-productive, by their status as an in-holding of a federal management area, for revenue generation supporting the public school system; and

BE IT FURTHER RESOLVED, that each member state shall urge the Secretary of the Interior to establish policy, and seek necessary statutory and regulatory amendments to facilitate indemnification, by compensation, exchange, or other suitable method, for such school land parcels; and also

BE IT FURTHER RESOLVED, that a copy of this resolution shall be presented to the Secretary of the Interior, and the appropriate officials of each member state.

Adopted this Thirteenth day of January, 1984.

Ed Zajonc

ED ZAJONC
President

James F. Trout

JAMES F. TROUT
Secretary

RESOLUTION ON SATISFYING STATE SCHOOL LAND GRANTS

WHEREAS, many of the states represented by the Association have been waiting for over one hundred years for satisfaction of their outstanding rights and indemnity for lost school lands; and

WHEREAS, their rights have been described by the U. S. Supreme Court as a "solemn obligation" to compensate states with a proportionate share of the public lands within their borders; and

WHEREAS, satisfaction of these outstanding entitlements has been subject to innumerable statutory and administrative impediments; and

WHEREAS, in the meantime, state, private and federal lands are checkerboarded so as to be incapable of proper management; and

WHEREAS, in PROJECT BOLD, the State of Utah has reached an imaginative and constructive solution by agreeing to a program of exchanges that will succeed in consolidating federal and state lands into efficient and manageable parcels.

NOW THEREFORE, BE IT RESOLVED, that: 1) This Association commends the State of Utah and the Secretary of Interior for reaching an imaginative and workable solution to the long-festering problem of school land indemnity; and 2) This Association urges Congress to act favorably on legislation implementing PROJECT BOLD; and 3)

This Association urges the Secretary of Interior to carry out similar programs aimed at satisfying the federal indemnity obligation in other states, and to support any legislation needed to carry out such programs.

Adopted this Thirteenth day of January, 1984.

ED ZAJONC
President

JAMES F. TROUT
Secretary

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LAND COMMISSIONERS ASSOCIATION

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RESOLUTION FOR COASTAL ZONE
REVENUE SHARING

WHEREAS, a number of the coastal state members of the Western States Land Commissioners Association are experiencing extreme difficulty in negotiation with the Department of the Interior a fair and equitable sharing of bonus and royalty revenues generated from those Outer Continental Shelf lands designated by Section 8(g) of the Outer Continental Shelf Lands Act amendments of 1984 (43 U.S.C. 1337g); and

WHEREAS, the OCS Lands Act is clear in its direction to the Secretary of the Department of the Interior to provide for such fair and equitable sharing; and

WHEREAS, certain member states have had to file suit against the Secretary of the Department of the Interior in an attempt to force him to negotiate in good faith; and

WHEREAS, enormous sums of revenue are being held in escrow pending settlement and the Department of the Interior continues leasing 8(g) tracts at an accelerated rate;

NOW, THEREFORE, BE IT RESOLVED, that the Western States Land Commissioners Association urges and requests the Secretary of the Department of the Interior move expeditiously in negotiating a fair and equitable sharing of 8(g) revenues with member coastal states.

Adopted this Twenty-Sixth date of July, 1984.

Ed Zajonc
ED ZAJONC
President

James F. Trout
JAMES F. TROUT
Secretary

# THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION

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## RESOLUTION ON FUNDING OF JOINT AUDIT ACTIVITIES THROUGH AN ASSESSMENT AGAINST FEDERAL ROYALTIES

WHEREAS, the United States Congress passed the Federal Oil and Gas Royalty Management Act of 1982 in response to the long disclosed and documented failure of the Department of the Interior to manage properly federal mineral royalty matters; and

WHEREAS, the Secretary of the Interior attempted to convince Congress, during consideration of the Royalty Management Act, that a percentage of gross federal royalty revenues should be deducted from the States' share thereof, to fund federal royalty management activities; and

WHEREAS, Congress clearly rejected the Secretary of Interior's funding proposal; and

WHEREAS, the funding of joint federal and state royalty management activities through an assessment against federal royalty collections would be contrary to the explicit provisions of the Mineral Lands Leasing Act of 1920 and would dramatically reduce the amount of shared royalties which are received by the states and which are used to promote the national interests to which royalties from state-owned trust lands must be dedicated; and

WHEREAS, the Department of the Interior continues to persist in its attempts to circumvent the clear intent of Congress by attempting to amend substantively the Mineral Lands Leasing Act of 1920 and the Royalty Management Act, through the appropriations process;

NOW, THEREFORE, BE IT RESOLVED:

That the Western States Land Commissioners' Association requests the Department of the Interior to refrain from its attempts to thwart the intent of Congress and to damage materially the states by seeking funding of joint federal and state royalty management activities through an assessment against gross federal royalty revenues.

Adopted this Twenty-Sixth day of July, 1984.

Ed Zajonc
ED ZAJONC
President

James F. Trout
JAMES F. TROUT
Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

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RESOLUTION OPPOSING THE FEDERAL LOTTERY AS A MEANS
OF LEASING FEDERAL OIL AND GAS LANDS

WHEREAS, the Department of the Interior has, for the past sixty years, disposed of federal oil and gas lands through a lottery system; and

WHEREAS, the lottery system fails to place the leases directly in the hands of those who further the national interest by exploration and development which contributes to an adequate national energy base, but instead places them in the hands of speculators and bidders who pay the federal government only a token value for the lottery leases, thereafter transferring them at real value to those who will undertake exploration and development; and

WHEREAS, said lottery system has provided opportunity for fraud that has bilked American citizens out of hundreds of millions of dollars and has placed an undue and overwhelming burden on federal, state, and local administrative and enforcement agencies responsible for controlling securities, consumer and mail fraud; and

WHEREAS, the General Accounting Office and the Office of Management and Budget have reported that the lottery system has failed miserably to adequately compensate the federal government for the fair value of federal leases; and

WHEREAS, said lottery system has led to the leasing of extremely valuable federal lands at a fraction of their fair value, e.g., Amos Draw in Wyoming and Fort Chaffee in Arkansas, to the financial detriment of the United States, the individual states, and their citizens; and

WHEREAS, the funds which should have been received by the States, if federal lands had been leased properly by the Department of the Interior, would be used to help fulfill the important public purposes for which income from state-owned land is used; and

WHEREAS, said lottery system has been suspended on numerous occasions because of fraud and administrative malfeasance to the detriment of orderly leasing and development of federal oil and gas lands; and

WHEREAS, the Department of the Interior perseveres in its program of disposing of federal oil and gas lands in a manner which results in fraud; fails to provide adequate compensation for valuable mineral rights; and fails to insure proper and orderly development of federal lands;

NOW, THEREFORE, be it resolved:

That the Western States Land Commissioners Association requests that Congressional or administrative action be taken immediately to insure that the federal lottery be permanently discontinued and that federal lands be leased in such a manner as would: (1) eliminate the securities, consumer, and mail fraud currently surrounding the lottery program; (2) insure that the federal government, and the respective affected states, receive fair value for federal oil and gas leases; and (3) establish a leasing system which would aid the proper and orderly development of federal lands.

Adopted this Twenty-Sixth day of July, 1984.

ED ZAJONC
President

JAMES F. TROUT
Secretary

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*Wyoming*

RESOLUTION CONCERNING MILITARY ACQUISITION
OF STATES TRUST LANDS

WHEREAS, many of the states were granted lands by Congress to be used in support of institutions of public education and other state-run institutions in recognition of the vital national interest in the purposes for which such institutions were established; and

WHEREAS, Congress thereby recognized that such land grants were necessary to provide perpetual support; and

WHEREAS, such land grants were made in the form of trusts, only after agreement of the states to administer them perpetually for these national interests; and

WHEREAS, the Department of Defense has large installations in most of the states; and

WHEREAS, the plans of the Department necessarily include expansion of some existing military installations which may intrude upon trust lands administered by the states; and

WHEREAS, the Department of Defense has failed to consider the special trust status and national purpose of such lands when balancing the legal, social, political and economic impacts of proposed expansion; and

WHEREAS, the utilization of adversary condemnation proceedings with payment of immediate cash compensation for military use of the trust lands fails completely to recognize the special national interest in the maintenance of the original trust, effectively revising the trust arrangements unilaterally, without regard to the agreement between the federal government and the states for perpetual support of these public purposes;

NOW THEREFORE, be it resolved, that this Association strongly urges that any proposed military acquisition of trust lands must recognize the Congressional purpose underlying the grant of those lands, and include an achievable plan for full indemnification of the trust compatible with the special conditions of that trust; and be it further

RESOLVED, that each member state of this Association shall urge each member of its Congressional delegation to require that expansion of military installations in the states which adversely affect trust lands must recognize its special trust nature, as recited herein; and be it further

RESOLVED, that the Secretary shall send a copy of this Resolution to the Chair of the Senate Committee on Armed Services, the Senate Committee on Public Lands and Water, the Senate Committee on Judiciary, the House Committee on Armed Services, the House Committee on Interior and Insular Affairs, the House Committee on Judiciary, and the United States Attorney General.

Adopted this Twenty-Sixth day of July, 1984

Ed Zajonc

ED ZAJONC
President

James F. Trout

JAMES F. TROUT
Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

Alaska, Arizona, California, Colorado, Hawaii, Idaho, Louisiana, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, Wyoming

## RESOLUTION AMENDMENTS TO FEDERAL QUIET TITLE ACT

WHEREAS, certainty of public land titles is essential to effective management of the land and its resources; and

WHEREAS, the federal government, recognizing its constitutional obligation to admit all states on an equal footing with the original thirteen, granted newly-admitted states substantial holdings of sovereign lands; and

WHEREAS, title disputes with the federal government could not be judicially resolved prior to the 1972 enactment of the Quiet Title Act (29 USC Section 2409f), allowing suits in federal court to quiet title against the federal government; and

WHEREAS, to avoid a flood of private suits, the Quiet Title Act limited claimants to suits based on claims filed within 12 years of the time the claimant knew or should have known the claim existed; and

WHEREAS, both the states and the federal government largely proceeded thereafter on the belief that this limitation, like other general limitation statutes, did not apply to the sovereign states, a rule particularly relevant when it involves sovereign lands acquired upon admission to the Union; and

WHEREAS, under the present Administration, the Department of Justice determined to assert on technical grounds that the 12-year limitation did apply to the states, notwithstanding their sovereign status and notwithstanding the fact that many of the disputes involving state sovereign lands came into being on their admission, far longer than the 12-year limit for which the Department of Justice argued; and

WHEREAS, the Supreme Court, in sustaining the technical position of the United States Department of Justice and holding that such state claims were ineligible for judicial resolution, left the underlying rights vital, to be asserted judicially, if the United States itself should seek to sue, or if Congress should provide further remedy; and

WHEREAS, the Court thus urged that final solution of this problem be left to the Congress; and

WHEREAS, in response to this need, identical bills have been introduced in Congress (H.R. 3917 and S. 2750) to permit the states to seek judicial resolution of title disputes with the federal government without regard to the 12-year limitation;

NOW, THEREFORE, BE IT RESOLVED:

That this Association requests Congress to enact such legislation to permit the states to bring action in quiet title against the federal government; and

BE IT FURTHER RESOLVED, that the Secretary of this Association send copies of this resolution to the Senate and House.

Adopted this Twenty-Sixth day of July, 1984.

Ed Zajonc

ED ZAJONC
President

James F. Trout

JAMES F. TROUT
Secretary

RESOLUTION CONCERNING LONG TERM STATE
LAND LEASES FOR DEVELOPMENT

WHEREAS, long term state land leases for urban and other development by private enterprise is a method of state land use that maximizes return on state trust land; and

WHEREAS, some states have statutes that permit this activity and some do not; and

WHEREAS, those states that do not have this advantage should have the support of Western States Land Commissioners Association to establish the necessary statutes;

NOW, THEREFORE, BE IT RESOLVED that:

The long term leasing of state trust land for urban and other development by private enterprise maximizes revenue in selected parcels of state trust land; and be it further

RESOLVED, that the Western States Land Commissioners Association hereby supports those state land boards without the necessary statutory provisions for this purpose to realize this income advantage for those boards without such provision in state statutes.

Adopted this Twenty-Sixth day of July, 1984.

Ed Zajonc

ED ZAJONC
President

James F. Trout

JAMES F. TROUT
Secretary

# THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION

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*Wyoming*

## RESOLUTION ON FUNDING OF JOINT AUDIT ACTIVITIES THROUGH AN ASSESSMENT AGAINST FEDERAL ROYALTIES

WHEREAS, the United States Congress passed the Federal Oil and Gas Royalty Management Act of 1982 in response to the long disclosed and documented failure of the Department of the Interior to manage properly federal mineral royalty matters; and

WHEREAS, the Secretary of the Interior attempted to convince Congress, during consideration of the Royalty Management Act, that a percentage of gross federal royalty revenues should be deducted from the States' share thereof, to fund federal royalty management activities; and

WHEREAS, Congress clearly rejected the Secretary of the Interior's funding proposal; and

WHEREAS, it is reported that the Administration is also proposing to deduct associated costs such as personnel time of the Bureau of Land Management, the Forest Service, the Bureau of Indian Affairs, and the Minerals Management Service; and

WHEREAS, the Administration is attempting to shift from gross receipt to net profit sharing for both timber and mineral sales; and

WHEREAS, the deduction of windfall profits tax is already illegal; and

WHEREAS, the funding of joint federal and state royalty management activities through an assessment against federal royalty collections would be contrary to the explicit provisions of the Mineral Lands Leasing Act of 1920 and would dramatically reduce the amount of shared royalties which are received by the states and which are used to promote the national interests to which royalties from state owned trust lands must be dedicated; and

**WHEREAS,** the Department of the Interior and the Office of Management and Budget persist in attempts to circumvent the clear intent of Congress by attempting to amend substantively the Mineral Lands Leasing Act of 1920 and the Royalty Management Act, through the appropriations process; and

**WHEREAS,** if federal royalty collection were more efficient it might not feel the need to take a portion of the state share;

**NOW, THEREFORE BE IT RESOLVED:**

That the members of the Western States Land Commissioners Association have determined that the present conduct by the Department of the Interior and the Office of Management and Budget is not what Congress intended when it enacted the Federal Oil and Gas Royalty Management Act of 1982.

Passed this 11th day of January, 1985.

B. E. Lemmen
President

James P. Grant
Secretary

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RESOLUTION ON
PAYMENTS-IN-LIEU OF TAXES

WHEREAS, land exchanges between State Lands Commissions and the federal government are beneficial to both parties and result in better land management; and

WHEREAS, the Department of the Interior has encouraged states into exchanges to block with heretofore checkerboarded, isolated state and federal lands; and

WHEREAS, a recent Solicitor's opinion for the Department of the Interior, finds that federal lands acquired by exchange with the states do not qualify for payments in lieu of taxes; and

WHEREAS, the effect of this opinion will be to inhibit and discourage future land exchange; and

WHEREAS, failure to carry out exchanges will result in continuing waste and inefficiency in state and federal land management and will be detrimental to the public trust; and

WHEREAS, this effect upon exchanges was not the intent of PILT legislation;

NOW, THEREFORE BE IT RESOLVED:

By the Western States Land Commissioners Association to encourage the Bureau of Land Management to join with its membership in providing information about this destructive default of language in the PILT legislation.

Passed this 11th day of January, 1985.

President

Secretary

# THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION

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## RESOLUTION IN SUPPORT OF STATE LAND GRANTS STUDY

WHEREAS, a legal history and legal treatise on state land grants would be a valuable and unique contribution to American jurisprudence and to all persons interested in state trust lands; and

WHEREAS, such a history and treatise have never been compiled despite the need for such a work;

NOW, THEREFORE BE IT RESOLVED:

That the Western States Land Commissioners Association endorses the publication of a legal history and treatise of state land grants, and urges other organizations and associations interested in state land law to support such an understanding; and urges the Conference of Western Attorneys General to consider adopting as a work plan item the organization of such a study and to devote staff time to exploring funding sources for such a study.

BE IT FURTHER RESOLVED:

That the Western States Land Commissioners Association will assist in the publication of this work by furnishing any relevant data and materials needed to assure successful completion of the project.

Passed this 11th day of January, 1985.

President

Secretary

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## RESOLUTION ENDORSING MEANS FOR THE PROMPT RESOLUTION OF STATE-FEDERAL LAND TITLE DISPUTES

**WHEREAS,** it is the responsibility of the members of this Association to plan for the orderly development and utilization of state lands; and

**WHEREAS,** numerous disputes over public land titles between the federal and state governments presently exist and even more will unquestionably be found in the course of further survey and development of public lands; and

**WHEREAS,** it is in the interest both of the states and the federal government that judicial resolution of such disputes take place to prevent serious administrative difficulty and delay in the utilization of the public lands of both federal and state sovereigns in the public interest; and

**WHEREAS,** in <u>Block</u> v. <u>North Dakota</u>, the United States Supreme Court held that such judicial resolution may be prevented by the application of the statute of limitations in the Federal Quiet Title Act; and

**WHEREAS,** the Court's holding has resulted in the prevention of judicial resolution of such disputes, leaving clouds on their titles and precluding effective planning for land and mineral development and conservation; and

**WHEREAS,** the application of a 12-year statute of limitations to state claims, many of which arose on admission to statehood in the nineteenth century, is inherently absurd; and

**WHEREAS,** legislation in the form of HR 2484, has been introduced in Congress to provide a means for the resolution of such title disputes by exempting the claims of states from the application of the 12-year limitation period in the Federal Quiet Title Act;

**NOW, THEREFORE, BE IT RESOLVED,** that this Association endorses the principle of exemption of sovereign states from the statute of limitations in quiet title actions against the United States, in order that such actions may be resolved on the merits, and finds that HR 2484 and any other legislation to that effect will benefit the members of the Western States Land Commissioners Association.

Passed this 22nd day of August, 1985.

B. E. Lommen
President

James T. Grout
Secretary

# THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION

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## RESOLUTION CONCERNING PARTICIPATION OF MEMBERS ON INTERIOR ADVISORY COMMITTEES

**WHEREAS,** the Secretary of the Interior and other officials of the United States Department of the Interior find it appropriate, from time to time, to appoint various advisory committees to advise officials of the Department about issues affecting the public lands of the United States and the use, development, and regulation of such public lands; and

**WHEREAS,** the most substantial portion of the public lands of the United States are located in the states which are members of the Western States Land Commissioners Association; and

**WHEREAS,** the land commissioners of the western states have acquired a considerable degree of experience in the management of public lands and public lands issues, and believe it to be in the public interest to make their experience available to the Department of the Interior; and

**WHEREAS,** the United States Department of the Interior and the public interest may be well served by all forms of cooperation between state and federal officials in public lands issues;

**NOW, THEREFORE, BE IT RESOLVED,** by the Western States Land Commissioners Association at its regular meeting in Anchorage, Alaska, this 22nd day of August, 1985, that:

The Association places itself on record as supporting participation by its members on departmental advisory committees and the Secretary of the Interior designation of representatives of the Western States Land Commissioners Association to serve on such advisory committees.

President

Secretary

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## RESOLUTION CONCERNING APPOINTMENT OF MEMBERS TO THE INTERIOR ROYALTY MANAGEMENT ADVISORY COMMITTEE

**WHEREAS,** the Secretary of the Interior proposes to appoint up to a total of thirty-one persons to serve on the Royalty Management Advisory Committee; and

**WHEREAS,** the predominant source of the royalties arising from mineral resources on federal lands is the western portion of the United States; and

**WHEREAS,** the Western States ultimately receive a substantial portion of the royalties collected by the Department of the Interior; and

**WHEREAS,** the Western States Land Commissioners Association has a special public interest in the fair administration of the royalty provisions of the Mineral Leasing Act;

**NOW, THEREFORE, BE IT RESOLVED,** by the Western States Land Commissioners Association in their regular meeting in Anchorage, Alaska, this 22nd day of August, 1985, that the Secretary of the Interior be requested:

1. To appoint at least three members of the Western States Land Commissioners Association to the Royalty Management Advisory Committee; and

2. To also appoint members representing the state participants of the Quarterly MMS/State/Tribal meetings to serve as members of the Royalty Management Advisory Committee; and

3. To also appoint at least one member of the Conference of Western Attorneys General with expertise in mineral royalty issues to serve as a member of the Royalty Management Advisory Committee.

President

Secretary

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**RESOLUTION CONCERNING**
**PACIFIC RIM IMPORT RESTRICTIONS**

**WHEREAS,** TRUST recipients who receive income from lands managed by the various Western States depend on healthy export trade relationships for income growth and stability. Increasingly, the Western States focus on Pacific Rim markets for export of agricultural products, forest products, and animals, because of natural growth of those markets, proximity to Pacific Rim ports, and strong reciprocal trade relationships; and

**WHEREAS,** various recent movements to assist regional industries (e.g., textiles) by restricting imports put the Western States at risk by inviting retaliation by our Pacific Rim trading partners against forest products and agriculture; and

**WHEREAS,** the most recent example of such a movement is HR 1562 (Textile and Apparel Trade Enforcement Act of 1985), which proposed to impose limitations on textile and apparel imports, and in fact discriminates against Pacific Rim countries by exempting Canada and the European Economic Community;

**NOW, THEREFORE, BE IT RESOLVED,** that the Western States Land Commissioners Association, at its conference in Anchorage, Alaska, this 22nd day of August, 1985, endorses the principle that proper attention be given to consideration of the critical dependency of the Western States and the educational systems that depend on open trade with the Pacific Rim, and resolve trading disparities in a manner that does not sacrifice the health of one region's economy in an effort to protect another region's industry.

President

Secretary

# THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION

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## RESOLUTION CONCERNING PROJECT BOLD

**WHEREAS** many Western States have scattered land ownership patterns and inholdings in various federal reserves; and

**WHEREAS,** such ownership patterns often hinder the efficient management of lands administered by both the state and federal governments; and

**WHEREAS,** the Federal Land Management and Policy Act does not accommodate large scale land transfer by Congressional action; and

**WHEREAS,** Project BOLD has received enthusiastic support from the Western States Land Commissioners Association and Project BOLD may establish a process that other states could utilize to achieve similar objectives.

That after careful study the Western States Land Commissioners Association, which is comprised of the Land Commissioners of the 21 western states, finds that the completion of Project BOLD would benefit the member states of the organization.

Passed this 22nd day of August, 1985.

R. E. Sommers
President

James L. Grant
Secretary

THE WES' RN STATES
LAND COMMISSIONERS ASSOCIATION

*Alaska, Arizona, California, Colorado, Hawaii, Idaho, Louisiana, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, Wyoming*

## RESOLUTION CONCERNING: "TAKE PRIDE IN AMERICA"

WHEREAS, the Western States Land Commissioners Association was honored with the presence of the Honorable Donald P. Hodel, Secretary of the Interior, at its winter meeting January 9 and 10, 1986 in Tucson, Arizona; and

WHEREAS, the Secretary expressed a policy of cooperation with State and local governments in the administration of public lands; and

WHEREAS, Secretary Hodel announced an initiative to "Take Pride in America," a nationwide effort to educate, inform and involve the public in the use and protection of the public lands; and

WHEREAS, such a program would benefit not only federal public lands in the West but also State lands; and

WHEREAS, such a program should be supported to the fullest extent possible by Western Land Managers; and

WHEREAS, the Association is aware of the need for such a program;

**NOW, THEREFORE BE IT RESOLVED:**

That the Western States Land Commissioners Association encourages the Secretary of the Interior in fulfilling the goals of the initiative and supports enthusiastically "Take Pride in America."

**BE IT FURTHER RESOLVED:**

That the Association and its member states offer their help and assistance in pursuing this initiative.

**AND BE IT FURTHER RESOLVED:**

That we thank Secretary Hodel for attending the 1986 winter meeting of the Land Commissioners.

Adopted this 10th day of January, 1986.

Ralph G. Miles
President

James G. Grant
Secretary

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## RESOLUTION CONCERNING VALUATION OF FEDERAL OIL, GAS AND COAL PRODUCTION

**WHEREAS**, the Secretary of the Interior has appointed a Royalty Management Advisory Committee for the purpose among others, of reviewing federal royalty value regulations applicable to oil, gas, and coal production from federal lands; and

**WHEREAS**, the Royalty Management Advisory Committee has appointed individual valuation regulations review panels for the purpose of recommending oil, gas, and coal valuation regulations to the Advisory Committee; and

**WHEREAS**, the work and recommendations of the review panels could reduce substantially the revenues accruing to the federal government upon production of federally-owned oil, gas and coal; and

**WHEREAS**, the individual states are statutorily entitled to fifty percent of the value of federal oil, gas, and coal production occurring on federal lands within the borders of the individual states; and

**WHEREAS**, the mineral producing states will be significantly harmed by adoption of valuation regulations which ignore the true value of federal mineral production and which do not insure that the Secretary of the Interior fulfills his trust responsibilities over federal lands or his statutory responsibilities to collect fair market value for mineral production on federal lands;

**NOW, THEREFORE BE IT RESOLVED:**

By the Western States Land Commissioners Association that the Royalty Management Advisory Committee mandate preparation of cost analysis prior to making any recommendations for regulatory changes to the Secretary of the Interior; and

The committee not adopt any proposed valuation regulations which will reduce royalties to which the federal and state governments are entitled; and

The Secretary of the Western States Land Commissioners Association be directed to deliver this resolution to the Secretary of the Interior and the Royalty Management Advisory Committee.

Adopted this 14th day of August, 1986.

President

Secretary

THE WESTERN STATES
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# RESOLUTION CLARIFYING SCHOOL LAND TRUSTEES FIDUCIARY DUTY TO MAXIMIZE REVENUES FROM TRUST ASSETS

WHEREAS, many western states are actively managing land granted in trust for the support of schools; and

WHEREAS, the United States Supreme Court set out the following important principles* governing school trust lands:

1) That the enabling acts created trusts similar to a private charitable trust which the state could not abridge; and

2) That the enabling acts were to be strictly construed according to fiduciary principles; and

3) That the enabling acts prevail over inconsistent state statutes and constitutional provisions; and

WHEREAS, it is the duty of a state, as trustee of its educational trust, to maximize the income and earnings and preserve the assets of that trust; and

WHEREAS, in the case of Kadish v. Arizona, the plaintiff is challenging a state statute, alleging that it sets a fixed priced for leases of school land minerals at a rate arbitrarily less than the full value of the trust asset.

NOW, THEREFORE BE IT RESOLVED BY THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION:

That the Association, without taking a position on this specific litigation which would be governed by full findings of the applicable facts, reaffirms its position that any procedure for the leasing of School Trust Lands which would prevent the maximization of income and earnings would be contrary to the purpose, intent and spirit of the School Trust Grants and contrary to the objectives of this Association.

*Trustees of Vicennes University v. Quick (1859), 55 U.S. 268 14 L.Ed. 267 and Springfield Township v. Quick, 63 U.S. 56, L.Ed.

Adopted this 14th day of August, 1986.

Ralph A. Miles
President

James F. Grout
Secretary

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## RESOLUTION RECOMMENDING ADOPTION OF A PROGRAM OF AUDITING AND REPORTING OF OFFSHORE OIL AND GAS LEASES

**WHEREAS**, the Western State Lands Commissioners Association found, in 1981, that problems of supervision by the Department of the Interior of the production of mineral resources on public and Indian lands had seriously complicated the efforts of the affected states to prevent physical waste of oil and gas and insure their conservation; and

**WHEREAS**, this Association also found that the inadequacies of Interior administration had deprived member states of their rightful shares from federal leasing and development of proceeds granted them by Congress; and

**WHEREAS**, the Association has urged, by resolution, that the Department of the Interior consider utilization of state management resources on a formal, compensated contract basis to undertake direct administration of prevention of waste and collection of revenues on the public lands; and

**WHEREAS**, the member states of the Western State Land Commissioners Association endorsed passage of the Federal Oil and Gas Royalty Management Act of 1982, authorizing the Secretary of the Interior to delegate certain audit functions relating to onshore oil and gas leases to qualified states; and

**WHEREAS**, the Federal Oil and Gas Royalty Management Act of 1982 provides for implementation of these audit functions by requiring monthly reports to the states receiving payments, detailing the type of payment being made, the period covered by such payments, the source of such payments, production amounts, the royalty rate, unit value and other pertinent information; and

**WHEREAS**, the delegated audit and reporting program has been an unqualified success, resulting in increased efficiencies in onshore lease administration and greater federal-state cooperation, thus reducing duplication in reporting and audit requirements; and

**WHEREAS**, Congress has now provided that states should share 27 percent of the federal share of revenues from the three-mile zone offshore adjacent to their boundaries established by Section 8(g) of the Outer Continental Shelf Lands Act;

**NOW, THEREFORE BE IT RESOLVED:**

That the Western States Land Commissioners Association congratulates the Secretary of the Interior on his highly successful program of federal-state cooperation with regard to the administration of onshore oil and gas leases, and urges him to adopt a similar program of audits and reporting for the offshore 8(g) zone; and

**BE IT FURTHER RESOLVED:**

That subject to all legal requirements of confidentiality, the Secretary of the Interior establish procedures for entering into information-sharing agreements for the full exchange of geological, geophysical, and other technical data of all kinds between the federal government and the coastal states.

Adopted this 14th day of August, 1986.

Ralph A. Miles
President

James L. Grant
Secretary

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## RESOLUTION CALLING ON FEDERAL AGENCIES TO PERMIT RESOLUTION OF STATE - FEDERAL CONTROVERSIES ON THE MERITS

WHEREAS, the U.S. Supreme Court held, in Block v. North Dakota, that the 12-year statute of limitations in the federal Quiet Title Act applies to the claims of sovereign states against the federal government; and

WHEREAS, the federal government has asserted that states were placed on notice of federal claims, and thus subject to the statute of limitations, by such diverse means as Bureau of Land Management records in other states, notices posted in remote areas, and participation in joint reclamation projects, in some cases occurring at the time of a state's admission to the Union; and

WHEREAS, the "Block" decision purports to deprive the states of an effective forum in which to present and litigate state claims, without, in any way, ruling on the merits of those claims; and

WHEREAS, the application of the statute of limitations to state claims, and the resultant uncertainty surrounding state claims have effectively hamstrung efforts to make orderly plans for the development and management of state and federal lands; and

WHEREAS, members of this Association have repeatedly endorsed legislation to exempt states from this statute of limitations to provide a forum for resolving state claims on their merits rather than on legal technicalities; and

WHEREAS, such legislation has been opposed by the federal Justice, Interior, and Agriculture departments; and

WHEREAS, members of this Association and the Conference of Western Attorneys General have negotiated with federal agencies since June, 1984, in an attempt to reach a compromise to this pressing problem in federal - state relations; and

**WHEREAS,** in the course of such negotiations and legislative hearings, the federal agencies concerned were unable to show that any major harm would occur to federal programs if states were exempted from this statute of limitations;

**NOW, THEREFORE BE IT RESOLVED:**

That this Association expresses its frustration and regret over the apparent inability of the federal agencies to comprehend the states concerns and urges the Secretaries of Agriculture and Interior and the U.S. Attorney General to actively support legislation that will permit the resolution of federal - state title disputes on their merits.

Adopted this 14th day of August, 1986.

President

Secretary

# THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION

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## RESOLUTION PERTAINING TO THE OUTER CONTINENTAL SHELF LANDS ACT SECTION 8(g)

**WHEREAS,** since enactment of the Submerged Lands Act of 1954 confirming title to all natural resources beneath submerged lands belonging to coastal states of the United States of America in coastal states and enactment of the Outer Continental Shelf Lands Act in 1953 establishing a regime for administration of mineral development of the Outer Continental Shelf by the United States it has been the policy of both the federal government and the governments of affected coastal states to avoid the ravages of unbridled competitive development of oil and gas belonging to affected coastal states and the federal government respectively by cooperation in the formation of units or other appropriate means of avoiding waste of natural resources and inequitable allocation of produced reserves or income therefrom; and

**WHEREAS,** in 1978 the United States Congress enacted certain amendments to the Outer Continental Shelf Lands Act intended to compensate affected coastal states for the economic burdens of development of federal offshore lands and resources, particularly that portion of the Outer Continental Shelf Lands Act commonly known as Section 8(g); and

**WHEREAS,** in litigation between the federal government and certain affected coastal states, the executive branch of the federal government took the position that the Section 8(g) amendments were solely to compensate affected coastal states for the effects of drainage across the common boundaries between such states and the United States; and

**WHEREAS,** the United States Congress has now enacted certain additional amendments to Section 8(g) of the Outer Continental Shelf Lands Act and other portions thereof making it abundantly clear that the sharing of revenues from production attributable to the "8(g) zone" of the Outer Continental Shelf is for the purpose of easing economic and environmental burdens on coastal states arising from development of the federal offshore domain; and

WHEREAS, the recent amendments to Section 8(g) also included Section 8(g)(3) establishing a procedure under which the Secretary of the Interior and the governor of affected coastal states are, upon determination of the existence of a "potentially common hydrocarbon bearing area", to give notice each to the other of any such determinations and to enter into unitization agreements where the law of affected areas permits or into other appropriate royalty sharing agreements; and

WHEREAS, the Secretary of the Interior has, through a statement of policy and implementing directive, declared that the Minerals Management Service will enter into unitization with affected coastal states only as necessary to conserve oil and gas and to prevent waste and not to prevent reasonably avoidable net drainage as between the federal domain and an affected coastal state; and

WHEREAS, a failure to unitize to prevent drainage necessarily involves a failure to protect correlative rights and creates competitive development of common potentially hydrocarbon bearing areas; and

WHEREAS, such development inherently creates the serious danger, if not the inevitability, of waste, the drilling of unnecessary wells, and inequitable taking of reserves; and

WHEREAS, the new Section 8(g)(3) was intended by the United States Congress to afford a means to avoid such threats of waste, to avoid the drilling of unnecessary wells, and to protect correlative rights and thus avoid inequitable taking of reserves; and

WHEREAS, the new Section 8(g)(3) was further intended to facilitate entry into unitization agreements or other appropriate agreements by the United States and affected coastal states;

NOW, THEREFORE:

The member states of the Western States Land Commissioners Association resolve that:

1. The ravages of uncontrolled competitive development resulting in above-ground and below-ground waste, the drilling of unnecessary wells and consequent avoidable net drainage are

so plain historically as to make it clear that development along state-federal offshore boundaries under competitive conditions is inconsistent with the ends of conservation and the national interest;

2. The historic policies of the United States and the coastal states to cooperate in the prevention of waste, and avoidance of the drilling of unnecessary wells, and the protection of correlative rights by unitization of other appropriate means is in the best interest of all affected sovereigns and of the national and must be encouraged, continued, and supported by all affected sovereigns:

3. The member states believe that the interpretation recently given by the Secretary of the Interior to the Outer Continental Shelf Lands Act and specifically to Section 8(g)(3) thereof is inconsistent with legislative intent or in the best interest of coastal states and the nation;

4. The Secretary of the Interior be urged to revise the stated policy consistently with congressional intent, and principles of conservation, and the best national interest; and

5. Subject to all legal requirements of confidentiality, the United States and all affected coastal states should establish well defined procedures designed to achieve full cooperative exchanges of all geological, geophysical, and other technical data of all kinds relevant to a determination of the need for unitization or other appropriate procedures and to the process of unitization or other appropriate procedures necessary to achieve the ends of conservation and to prevent reasonably avoidable net drainage.

Adopted this 14th day of August, 1986.

Ralph A. Mils
President

James L. Grant
Secretary

# THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION

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*Wyoming*

## RESOLUTION CONCERNING FEDERAL LAND EXCHANGE PRACTICES

**WHEREAS,** existing land ownership patterns in certain areas of the western United States are very complex, sometimes illogical from a land management standpoint, and in many cases in need of adjustment or consolidation in order to promote more efficient and better land management and serve important public and private objectives; and

**WHEREAS,** voluntary land exchanges between the federal government, the states and the private sector are a very important method of achieving such land adjustment and consolidation; and

**WHEREAS,** existing laws governing land exchange do not always adequately address problems associated with land exchange including problems involving land appraisal disputes; costs of preparing lands for an exchange; delays in land exchange caused by land survey backlogs in the Department of the Interior; federal funding and personnel to process and consummate land exchanges; uniformity of rules and regulations among the various federal agencies which engage in land exchanges of "O & C" lands in western Oregon; and, unnecessarily burdensome requirements for exchanges of small tracts of land; and

**WHEREAS,** the Western States Land Commissioners Association recognizes that the federal exchange process should be streamlined and that new legislation is an appropriate and timely means to resolve this concern; and

**WHEREAS,** any proposed federal land exchange legislation shall also be reviewed individually by affected state governments prior to final action by the Congress. Affected state governments shall timely communicate any concerns or recommendations to Congress, preferably through the Western States Land Commissioners Association;

NOW, THEREFORE BE IT RESOLVED:

That the Western States Land Commissioners Association believes that facilitating exchanges of public lands with state and local governments, and private parties is in the public interest and would be of great benefit to federal, state, and private landowners;

BE IT FURTHER RESOLVED:

That a committee shall be established to study and recommend means of more efficiently expediting and facilitating future land exchanges with the federal government.

Adopted this 14th day of August, 1986.

Ralph A. Mile
President

James P. Grant
Secretary

# THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION

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NO. 1

## RESOLUTION REGARDING VALUATION OF FEDERAL OIL AND GAS ROYALTIES

WHEREAS, federal retention of vast tracts of public lands within the boundaries of the western states, which are reserved from the taxing and other authority of the states involved, places those states on less than an "equal footing" with the states admitted to the Union prior to that decision; and

WHEREAS, as compensation to those states, the Mineral Leasing Act of 1920 provided that the states would receive the benefit of the royalties collected from federal land leases, half to be paid directly to the state in which the royalty was earned, and the remainder to be principally devoted to western reclamation projects; and

WHEREAS, the Mineral Leasing Act of 1920 requires that the Secretary of the Interior collect a royalty share of minerals produced on federal lands, on the basis of its fair market value, and to pay the states' half-share to them promptly; and

WHEREAS, the General Accounting Office, in various reports over several decades, reported that the Department of the Interior, by accepting without audit the amounts tendered by royalty payors, had failed either to collect the full value of royalties due or to pay over their proper shares without delay, thereby violating the spirit and letter of the Mineral Leasing Act; and

WHEREAS, following the introduction of the amendatory legislation which became the Federal Oil and Gas Royalty Management Act, the Secretary of the Interior appointed a Commission on Fiscal Accountability of the Nation's Energy Resources (the Linowes Commission) which reported in 1982 that the Department's federal royalty collection program overly relied on unauditable information supplied by payors, and did not provide the states with their due shares promptly; and

WHEREAS, the Linowes Commission recommended that the Secretary "develop systematic, independent crosschecks of royalties paid and reports submitted by companies..." that these crosschecks be immediately provided for in valuation regulations to be issued promptly, and that payments of state shares be made promptly; and

WHEREAS, Congress, in enacting the Federal Oil and Gas Royalty Management Act of 1982, explicitly disapproved the use of the "honor system" for collection of royalties and directed the Department of the Interior to institute aggressive independent mechanisms for the collection of royalties to assure that the federal government, and the states, tribes, and Indian allottees as beneficiaries, receive full value as royalty and to pay the states' shares to them within the month that they are received; and

WHEREAS, the Department of the Interior has not yet developed a system of royalty valuation under which tenders of royalty by lessees can be independently audited and evaluated to assure they represent the fair market value of federal production; and

WHEREAS, the Department of the Interior persists in delaying payment of the states' share of royalties and bid deposits until all questions are resolved and payments are identified to individual leases; a practice that delays payments for months, in many cases without interest; and

WHEREAS, the Royalty Management Advisory Committee appointed by the Secretary of the Interior to advise him on valuation regulations failed to approve proposed regulations in large part because of the concerns expressed by state and tribal representatives that the panel proposals would not result in full valuation;

NOW, THEREFORE BE IT RESOLVED

The Western States Land Commissioners believe that the Department of the Interior should quickly institute a valuation system that includes mechanisms aimed at independently crosschecking industry reported prices and price markers to assure the collection of fair market value, and publish regulations so providing without delay; and

The Department of the Interior should immediately institute a program of prompt payment of the states' shares of royalties collected, with provisions for payment of interest on such payments running from the actual time of receipt; and

The Members of the Western States Land Commissioners Association should each notify their Congressional representatives of the need for the appropriate Committees of the Congress to undertake prompt oversight investigation of the failure of the Department of the Interior to carry out the statutory mandate.

Adopted this 10th day of January, 1987.

President

Secretary

# THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION

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NO. 2

## RESOLUTION REGARDING STATE SOVEREIGNTY AND SATISFACTION OF THE SCHOOL LANDS GRANT

WHEREAS, approximately 87 percent of Nevada, 69 percent of Utah, 67 percent of Idaho, 53 percent of Oregon, 49 percent of Wyoming, 44 percent of Arizona, 47 percent of California, 37 percent of Colorado, and 34 percent of New Mexico are in federal lands; and a substantial portion of the mineral resources of this nation is situated on these lands; and

WHEREAS, obstacles to the taxation and full regulation of these lands seriously impair the sovereignty of these states and their ability to finance schools and other needed public services; and

WHEREAS, Congress entered into a solemn compact, whereby the states were to receive representative sections of public lands within each state for support of their public schools; and

WHEREAS, it has been determined by the Supreme Court of the United States that Congress intended these states to receive lands which fairly represented the value of lands within each state; and

WHEREAS, the efforts of the western states to select representative lands have been largely unsuccessful due to the refusal of the executive branch to make indemnity lands of equal value available, and to terminate federal reservations that no longer serve the purposes for which they were established; and

WHEREAS, in order for the states to receive the value of the representative lands originally granted to them and to support their public schools appropriately, it is necessary that they be reimbursed for the loss of their representative lands including producing mineral lands; and

WHEREAS, the shrinkage in the small amount of land available for indemnity selection is frustrating the ability of the States to select lands which will compensate them for their lost lands; and

WHEREAS, the Working Group on Federalism of the Domestic Policy Council has just issued its report calling for renewal and reaffirmation of state sovereignty and recommending the promulgation by the President of an Executive Order on federalism ensuring the adherence of these principles by all federal agencies;

**NOW, THEREFORE BE IT RESOLVED:**

That this Association commends the Domestic Policy Council for its report and expresses its view that the President should immediately implement its recommendations by directing the agencies within his administration to take the following acts with respect to the public lands;

1. Comply to the fullest extent permissible under law with applicable state requirements and regulations;

2. Review all federal reservations and withdrawals with the aim of formally revoking or terminating those no longer used for the purposes for which they were established, in order to permit the satisfaction of federal school land obligations;

3. Direct the Secretary of the Interior to permit the satisfaction of state school land indemnity rights with lahds of substantially equal value to those lost to the states by settlement, preemption, withdrawal or reservation.

Adopted this 10th day of January, 1987.

President

James P. Pruitt
Secretary

NO. 3

## RESOLUTION REGARDING ADMINISTRATIVE COSTS FOR FEDERAL REVENUE SHARING ACTIVITIES

WHEREAS, various federal statutes and programs have been adopted and administered for many years to properly protect the legitimate fiscal interests of the western states; and

WHEREAS, said statutes and programs were intended to provide equitable sharing of federal receipts with western states saddled with federal lands and presence; and

WHEREAS, it is universally recognized that significant federal land ownership negatively impacts the ability of western states to control their own destiny and provide needed services and economic opportunity to their citizenry; and

WHEREAS, certain elements and agencies of the federal government continue their improper and illegal attempts to circumvent clear statutory mandates and balance the federal budget by diverting funds to which the western states are unequivocally entitled; and

WHEREAS, a proposition to substantially amend statutory provisions in budget regulation is contrary to good legislative practice and the rules of Congress;

*NOW, THEREFORE BE IT RESOLVED:*

That the Western States Land Commissioners Association urges the federal government and its instrumentalities to refrain from and discontinue their incessant efforts to reduce income streams to which the western states are legally and morally entitled.

*Adopted this 10th day of January, 1987.*

President

Secretary

# THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION

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NO. 4

RESOLUTION IN SUPPORT OF
RATIFICATION OF
ANNEX V OF MARPOL 73/78

WHEREAS, the United States is blessed with thousands of miles of beaches that play major roles in recreation, tourism and the habitat so crucial to aquatic wildlife; and

WHEREAS, the general condition of those beaches is shameful as a result of litter and garbage deposited on them by beach visitors and washed ashore from the adjacent oceans; and

WHEREAS, any long-term solution of the beach garbage problem requires identification and elimination of the sources of marine garbage; and

WHEREAS, studies indicate that 75% to 90% of such beach garbage results from offshore sources such as ships and offshore oil and gas platforms; and

WHEREAS, the International Maritime Organization has proposed Annex V of the International Convention for the Prevention of Pollution from Ships 1973 as modified by the Protocol of 1978 (MARPOL 73/78) which would regulate ocean dumping for garbage from ships; and

WHEREAS, Annex V of MARPOL 73/78 has been sent to the United States Senate for ratification;

NOW, THEREFORE BE IT RESOLVED:

That the Western States Land Commissioners Association strongly urges its members to request their senators to ratify Annex V of MARPOL 73/78 at the earliest possible data; and to request their congressional delegations to approve implementation legislation required to implement Annex V at the earliest possible date.

BE IT FURTHER RESOLVED:

This Association believes that because of the special nature of the Gulf of Mexico as a shallow closed basin, the International Maritime Organization should designate the Gulf of Mexico as a "special area" in which no ocean dumping from ships would be allowed.

Adopted this 10th day of January 1987.

President

Secretary

# THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION

*Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Louisiana, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, Wyoming*

NO. 5

## RESOLUTION EXPRESSING APPRECIATION FOR AMENDMENTS TO FEDERAL QUIET TITLE ACT

WHEREAS, uncertainty over the title to lands claimed by both federal and state sovereigns has impaired the orderly management of state lands and caused friction between the federal and state agencies; and

WHEREAS, the resolution of disputes over title to such lands on the merits were seriously impeded by passage of the decision of the United States Supreme Court in Block v. North Dakota holding that the 12-year statute of limitations in the Federal Quiet Title Act applied to sovereign states as well as private parties; and

WHEREAS, Senator Malcolm Wallop and Representatives Howard Berman and Hank Brown successfully sponsored legislation exempting the claims of states to sovereign lands from the statute of limitations and providing a limited exemption to other lands claimed by the United States; thereby greatly facilitating the orderly resolution of title disputes on their merits.

NOW, THEREFORE BE IT RESOLVED:

That this Association expresses its gratitude to Senator Wallop and Representatives Berman and Brown for their prompt and perceptive action in recognizing the problem and acting to resolve it; and

BE IT FURTHER RESOLVED:

That the Association expresses its appreciation to Attorney General Ed Meese, Assistant Attorney General Hank Habicht and Secretary of the Interior Donald Hodel for their support of ameliorative legislation; and

ALSO BE IT FURTHER RESOLVED:

That the Secretary of this Association is instructed to forward copies of this resolution to Senator Wallop, Representative Berman, Representative Brown, Attorney General Meese, Secretary Hodel and Assistant Attorney General Habicht.

Adopted this 10th day of January, 1987.

President

James ? Grant
Secretary

# THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION

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NO. 6

RESOLUTION REGARDING
STATE AUTHORITY WITHIN FEDERAL
ENCLAVES

WHEREAS, the federal government owns extensive amounts of land in the western states; and

WHEREAS, activities and authorities of individual states are severely restricted because the exercise of eminent domain is prohibited on federal lands, regardless of the use or purpose for which the land was acquired; and

WHEREAS, eminent domain is simply a method of allowing an activity which benefits the public health and general welfare to proceed, with full replacement or compensation of the value of the affected property interest; and

WHEREAS, it is unreasonable in many cases for states to be able to exercise state authority on federal land only upon the approval of the appropriate federal agency; and

WHEREAS, exercise of state authority should be allowed on federal lands so long as the federal proprietary interest is protected or replaced.

NOW, THEREFORE BE IT RESOLVED:

That the Western States Land Commissioners Association strongly supports the concept of providing to states the ability to exercise state authority on federal lands, including the right of eminent domain on all lands acquired by the federal government over which the right of eminent domain has not been specifically relinquished by the Governor or Legislature, subject to a procedure for the replacement or compensation of any value to the federal proprietary interest which may be diminished.

Adopted this 10th day of January, 1987.

President

Secretary

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NO. 7

## RESOLUTION ON FEDERAL LAND EXCHANGES

WHEREAS, intermingled ownership in the West of federal and state public lands makes planning and active management difficult; and

WHEREAS, some facilitation of exchanges of lands between the federal agencies (United States Forest Service and Bureau of Land Management) and state land agencies would make exchanges easier to accomplish; and

WHEREAS, HR 4814 was introduced in the 99th Congress, which would provide for such facilitation but which legislation failed passage; and

WHEREAS, legislation should be enacted to provide facilitation of exchanges but which should be enacted only after full Congressional hearings in the West; and

WHEREAS, the Western States Land Commissioners Association believes a facilitated process is necessary for the orderly management of western public lands; and

WHEREAS, such a facilitated process should recognize priorities for the state as sovereigns in making exchanges;

NOW, THEREFORE BE IT RESOLVED:

That the Western States Land Commissioners Association recommends to its member states that they support the concept of a facilitated land exchange process; and

BE IT FURTHER RESOLVED:

That prior to enacting legislation adopting a facilitated process Congress should hold hearings on the matter in the western states; and

ALSO BE IT FURTHER RESOLVED:

That such processes should not operate so as to deprive states of their rightful priority in the federal land exchange process.

Adopted this 10th day of January, 1987.

President

James [signature]
Secretary

# THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION

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NO. 8

## RESOLUTION REGARDING FEDERAL GEOTHERMAL LEASES

WHEREAS, geothermal leases issued by the federal government under the Geothermal Resources Steam Act of 1970 require the lessee to discover geothermal resources within a specified period of time; and

WHEREAS, economic conditions have resulted in a greater supply of electricity and reduced demand for geothermal resources; and

WHEREAS, such reduced demand has discouraged the exploration of federal lands for geothermal resources; and

WHEREAS, federal lessees will lose their federal geothermal leases unless they drill or the lease terms are extended; and

WHEREAS, the loss of federal geothermal leases will result in a tremendous economic loss to the lessees and will likely reduce the amount of investment in exploratory drilling; and

WHEREAS, the extension of federal geothermal leases will provide federal lessees with additional time to weather the tough economic environment and will encourage federal geothermal lessees to invest in exploratory drilling; and

WHEREAS, such exploratory drilling could enhance the value of state-owned lands near the federal lands and could provide alternative energy sources for the future; and

WHEREAS, states cannot select federal lands for indemnity purposes that have leases in a producing or producible status unless these leases terminate;

NOW, THEREFORE BE IT RESOLVED:

That this Association finds that the recognition of the following elements and issues is essential to the sound and prudent management of federal and state lands for geothermal development:

1. The Secretary of the Interior should have the authority under special limits to extend leases for the purpose set forth above;

2. In no event should the extension of such leases apply to federal leases on state lands or in any other way operate to defeat or injure the satisfaction of potential state indemnity selections.

Adopted this 10th day of January, 1987.

President

James P. Grant
Secretary

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NO. 9

RESOLUTION REGARDING
REDUCTION IN SHARED REVENUES
FROM NATIONAL FORESTS AND GRASSLANDS

WHEREAS, receipts from national forests and grasslands have historically provided a major source of revenue in certain western state counties; and

WHEREAS, these counties that have been recipients of revenue from such lands are often heavily reliant on the money because of disproportional federal ownership in the counties; and

WHEREAS, if those lands were in private ownership, they would contribute major tax revenue for local governments, roads and schools; and

WHEREAS, national receipts to western counties, especially those in California, Oregon and Washington would be reduced under current federal proposals from a projected $285 million to $21.6 million from forests; and from a projected $10.4 million to $3.8 million from grasslands.

NOW, THEREFORE BE IT RESOLVED:

That the Western States Land Commissioners Association strongly objects to the federal budget proposal that would so single out western counties for disproportional economic damage; and

BE IT FURTHER RESOLVED

That after careful study and analysis the Western States Land Commissioners Association finds that the proposed reductions in receipts from Federal lands in the Western United States will, in many cases, create an additional unnecessary hardship on local communities, many of which are already suffering from extreme cutbacks in public services, such as schools, etc.

Adopted this 10th day of January, 1987.

President

Secretary

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## RESOLUTION CONCERNING VALUATION OF FEDERAL MINERALS

WHEREAS, the Department of the Interior, Minerals Management Service, is responsible for collection of the mineral royalties earned on federal lands, half of which are payable to the states within which they are earned; and

WHEREAS, the Department has operated for several decades under regulations for determining the valuation of minerals production, without serious objection to the validity of those regulations; and

WHEREAS, there has been no showing of specific inadequacies in these existing regulations, other than the Linowes Commission recommendation that the Department should make provision for more active pursuit of its statutory authority for independently cross-checking industry-reported prices; and

WHEREAS, the Department of Interior is now proposing a wholesale replacement of the existing regulations, substituting a set of new, untried and highly complex regulations, which will not only present a serious obstacle to audit and full collection of the royalties due but will also foreclose effective means of independent cross-check of reported values; and

WHEREAS, states which have participated in the audit of federal mineral royalties estimate that the proposed regulations will not only delay audit and collection of these royalties, but will result in failure to collect the amounts fairly due; and

WHEREAS, the Department's proposals will have heavy impact beyond the valuation of federal production, affecting also the values of state lands and state collection of mineral royalties due thereon;

NOW, THEREFORE BE IT RESOLVED:

That the Western States Land Commissioners Association finds that the current wholesale amendatory process should be suspended and, in lieu thereof, there should be a process of investigation and hearing as to the specific changes in existing regulations which would be essential to carry out the purposes of the Mineral Leasing Act of 1920.

Adopted this 30th day of July, 1987.

President

Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

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## RESOLUTION CONCERNING AMENDMENT OF THE LAND AND WATER CONSERVATION ACT OF 1965

**WHEREAS,** Congress is considering S.735 -- a bill which would amend the Land and Water Conservation Act of 1965 to alter the way mineral receipts are distributed from federal oil and gas leasing within units of the National Wildlife Refuge System; and

**WHEREAS,** pursuant to the Mineral Leasing Act of 1920 and the Reclamation Act of 1902 western states are supposed to receive the equivalent of 90 percent of the revenues from mineral leasing which may occur on public lands. All states but Alaska receive 50 percent of such revenues directly, with another 40 percent contributed to the Reclamation Fund and the remaining 10 percent going into the federal treasury. Because the Reclamation Fund is inapplicable to Alaska, it receives 90 percent of federal mineral leasing revenue; and

**WHEREAS,** S.735, if enacted, would require that 25 percent of all income derived from any new oil and gas leases in units of the National Wildlife Refuge System be deposited in the Land and Water Conservation Fund, 25 percent to the U.S. Treasury, and 50 percent to the state in which the activity takes place. S.735 would therefore reduce the states' share of revenue derived from oil and gas leasing in the National Wildlife Refuges by depositing the revenues which would have gone into the Reclamation Fund under current law into the Land and Water Conservation Fund and the miscellaneous receipts of the U.S. Treasury; and

**WHEREAS,** the provisions of the Mineral Leasing Act and the Reclamation Act embody a compact between the state and the federal government, whereby states affected by federal mineral leasing activity receive a share of the revenue produced from the development of those lands; and

**WHEREAS,** the 90-10 revenue split pertaining to the Mineral Leasing Act is included in Alaska's Statehood Act and is incorporated into the compact by which Alaska was admitted into the Union; and

WHEREAS, S.735's proposed unilateral change to this historic compromise between the federal government and the people of a state would be a breach of an historic compact and represents a precedent which would lead to Congressional alteration of other fundamental provisions of our compacts with the federal government; and

WHEREAS, the federal government has spent far less than the amount authorized for the Land and Water Conservation Fund over the last decade. Therefore, insufficient revenue has not been a barrier to implementation of the Land and Water Conservation Act;

NOW, THEREFORE, BE IT RESOLVED:

That the Western States Lands Commissioners Association finds that S.735 is unnecessary to implement the provisions of the Land and Water Conservation Act and would unnecessarily alter the existing revenue sharing formula for mineral leasing which was intended to compensate western states for federal retention of public lands.

Adopted this 30th day of July, 1987.

President

Secretary

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## RESOLUTION CONCERNING ARCTIC NATIONAL WILDLIFE REFUGE (ANWR)

WHEREAS, in 1986, U.S. domestic oil production dropped nine to ten percent and is expected to drop an additional four to five percent during 1987. At the same time, U.S. oil consumption, which has exceeded domestic production since the 1960's, is expected to increase until oil imports exceed 50 percent of consumption in the 1990's; and

WHEREAS, falling domestic oil and gas exploration, production, and reserves, coupled with an alarming increase in the importation of crude oil and products, indicates an increasing future dependence on foreign sources of supply which could have potentially serious ramifications for national security; and

WHEREAS, this dramatic increase in foreign imports during 1987 (up forty-three percent over the first four months of 1986), underscores the stategic role that domestic oil and gas production plays in America's energy equation; and

WHEREAS, new discoveries are urgently needed to replace rapidly depleting reserves, and the addition of a major new North Slope oil field would significantly reduce our nation's dependence on foreign sources of supply thereby enhancing the nation's economic and military security; and

WHEREAS, the coastal plain of ANWR is estimated by the Department of the Interior (DOI) to contain more than nine billion barrels of recoverable oil, an amount approximately equal to Prudhoe Bay, an area which currently provides one-fifth of U.S. domestic oil production. Furthermore, DOI projects there is five percent probability that the coastal plain contains at least 29.4 billion barrels of recoverable oil; and

WHEREAS, the coastal plain comprises approximately 1.5 million acres (eight percent) of the 19 million acre ANWR of which eight million acres have been designated as wilderness by Congress; and

WHEREAS, the Secretary of the Interior has completed the report to Congress required by subsection 1002 (h) of the Alaska National Interest Lands Conservation Act. This report recommends making available for oil and gas leasing the entire ANWR coastal plain; and

WHEREAS, Congress is considering H.R.39, a bill which would include the coastal plain of ANWR in the national wilderness system;

**NOW, THEREFORE BE IT RESOLVED:**

That the Western States Land Commissioners Association is concerned about the potentially very serious adverse impacts of H.R.39 and believes Congress should immediately expedite consideration of whether to open this highly prospective area to environmentally responsible oil and gas leasing, exploration and development.

Adopted this 30th day of July, 1987.

President

Secretary

ATTACHMENT III

# THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION

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## RESOLUTION CONCERNING FEDERAL LAND EXCHANGE LEGISLATION

**WHEREAS,** the successful management of State Trust lands depend in large part on land exchanges and indemnity selections with the Federal Government:

(a) to consolidate State and Federal land holdings;

(b) to facilitate State and Federal natural resource management and leasing programs;

(c) to facilitate creation of parks, wilderness, wildlife refuges, and other special management areas; and

(d) to satisfy the land debts that are owed to the States; and

**WHEREAS,** the Secretary of the Interior is prevented, by the injunction of the U.S. District Court for the District of Columbia in Civil Action No. 85-2238 (National Wildlife Federation v. Robert F. Burford, et al), from revoking part or all of land withdrawals and classifications so that these beneficial exchanges can be consummated; and

**WHEREAS,** Congress is considering Federal Land Exchange legislation that would provide procedural improvements for land exchanges; and

**WHEREAS,** the land exchange legislation that has passed the House of Representatives and has been introduced in the Senate fails to include a provision to exclude from that injunction Federal-State exchanges and State indemnity selections to enable the Federal government to satisfy the school land debt to the States;

**NOW, THEREFORE, BE IT RESOLVED:**

That the Western States Land Commissioners Association after careful study and analysis finds that:

(1) Federal Land Exchange legislation should be amended to provide the Secretary of the Interior with Temporary Revocation Authority to enable the Federal Government to consummate Federal-State land exchanges where the only impediment is the U.S. District Court Order in the National Wildlife Federation v. Robert F. Burford, et al. lawsuit; and

(2) that the proposed amendment should also include an exemption for State indemnity selections.

Adopted this 15th day of January, 1988.

Rodney W. Sando
President

James ... Grant
Secretary

THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

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*Washington*
*Wisconsin*
*Wyoming*

## RESOLUTION CONCERNING OFFSHORE UNITIZATION

**WHEREAS,** S.1944, a bill to amend the Outer Continental Shelf Lands Act Amendments to require compulsory unitization of offshore mineral producing areas crossing State and Federal boundaries, has been introduced; and

**WHEREAS,** the Western States Land Commissioners Association is aware that this legislation is designed to resolve existing offshore land disputes between certain States and the Department of the Interior; and

**WHEREAS,** S.1944 would substantially erode the principles of Federalism by requiring State officials to submit their State laws and responsibilities to arbitration by a Federal official by preempting, possibly in an unconstitutional manner, State authority over its own lands; and

**WHEREAS,** S.1944 would delegate to Governors of each State matters which under State laws and constitutions are delegated to different agencies, boards, commissions or officers acting independently of the Governor; and

**WHEREAS,** many states currently have no laws comparable to S.1944 requiring compulsory unitization;

**NOW, THEREFORE, IT BE RESOLVED:**

That the Western States Land Commissioners members after substantial study recommend in accord with the principles of Federalism, that:

(1) such legislation apply only to those States with enacted unitization laws, and not preempt existing State laws; and

(2) officers representing States in such matters be those defined in State laws and Constitutions as having appropriate State Land authority; and

(3) the Secretary of the Interior be encouraged to negotiate with the States; and

(4) the Secretary of the Interior be encouraged to establish a Federal-State Task Force to draft a model unitization agreement; and

(5) Federal and State representatives jointly select any arbitrators and that such arbitrators be experienced in equity assignments and unitization.

Adopted this 15th day of January, 1988.

President

Secretary

# THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION

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## RESOLUTION CONCERNING IMPACT OF PRODUCT VALUE REGULATIONS

**WHEREAS,** the Congress, in enacting the Continuing Resolution for appropriations before adjournment of the First Session of the 100th Congress, asked the Minerals Management Service to report quarterly to its committees of jurisdiction on the revenue impacts of its new product valuation regulations; and

**WHEREAS,** detailed data as to minerals production on Federal public lands, particularly in the Western States, is essential to administration of State lands within the same regions; and

**WHEREAS,** such data is not now available except in limited form and on special request; and

**WHEREAS,** the receipt by States of their fifty percent share of Federal revenues under the Mineral Leasing Act has an important impact on State finances; and

**WHEREAS,** the Secretary is now proposing a wholesale replacement of the existing valuation regulations with controversial and untried provisions which establish values as the gross proceeds received by the lessee, without regard to fair market values;

**NOW, THEREFORE, BE IT RESOLVED:**

That after significant study and analysis the Western States Land Commissioners Association recommends that House Interior and Insular Affairs and the Senate Energy and Natural Resources Committees request that the Minerals Management Service issue a quarterly report which shows, on a monthly payment period basis, the total production from each lease, the royalties collected from each lease, the value basis upon which such royalties were calculated, the prices posted or paid in the field in which each lease is located, the transportation and/or processing allowances taken or approved for the production from each lease, and the interest and penalties collected or owing from each lease; and

**BE IT FURTHER RESOLVED:**

That these reports be sent at the same time to the affected States.

Adopted this 15th day of January, 1988.

Rodney W. Sando
President

Secretary

ATTACHMENT VI

# THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION

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## RESOLUTION CONCERNING REVIEW OF PRODUCT VALUE REGULATIONS

WHEREAS, the Western States Land Commissioners Association members have serious concerns about the potential revenue loss to their respective State governments from the valuation regulations for oil and gas recently proposed by the Minerals Management Service of the Department of the Interior; and

WHEREAS, those regulations affect industry operations that are of direct or indirect concern to other Federal agencies and to State government agencies and operations;

NOW, THEREFORE, BE IT RESOLVED:

That the Western States Land Commissioners Association members recommend that before the effective date of those regulations that the Office of Management and Budget seek additional input as to the State and Federal revenue impacts from other Federal departments and agencies, including, but not limited to, the Department of Justice, the Internal Revenue Service, and the Department of Energy; and

BE IT FURTHER RESOLVED:

That after substantial study and analysis the members of the Western States Land Commissioners Association finds that the Office of Management and Budget should require issuance of a federalism assessment pursuant to Executive Order 12612 before allowing the proposed oil and gas valuation regulations to become effective.

Adopted this 15th day of January, 1988.

President

Secretary

WSLCA
The Western States
Land Commissioners Association

# RESOLUTION CONCERNING FEDERAL COMPLIANCE WITH STATE LAWS

WHEREAS, the states acquired their sovereign lands (including the tide and submerged lands and navigable lakes and rivers) as incidents of sovereignty, to be held in public trust for their people; and

WHEREAS, the President, by executive order, has recognized the importance of federalism and directed all federal agencies to recognize and respect the ability of states to hold and administer their lands; and

WHEREAS, the ownership and control of these tidelands, submerged lands, and other sovereign lands has been characterized by the courts as an indispensable attribute of sovereignty; and

WHEREAS, projects initiated by the Navy, the Corps of Engineers, and other federal agencies have seriously impacted state sovereign waters; and

WHEREAS, federal agencies carrying out such projects have, in many of the states within this association, disregarded the necessity to work with appropriate state agencies and seek state permits and authorizations notwithstanding the requirements of the Clean Water Act, the Coastal Zone Management Act, and other federal appropriation bills and statutes; and

**NOW, THEREFORE BE IT RESOLVED,** that this association demands that federal agencies carrying out projects within tidelands, submerged lands, and the beds of navigable lakes and rivers comply with state permitting authority and recognize the states' sovereign authority in such waters pursuant to constitutional principles and congressional directives.

Adopted on this 30th day of September, 1988.

Rodney W. Sando
President

James T. Grant
Secretary

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The Western States
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# RESOLUTION CONCERNING A NATIONAL ENERGY POLICY

**WHEREAS**, national energy policy has drifted into skirmishes of region against region, fuel against fuel, producers against consumers, and environmental protection against jobs, Americans need and deserve an energy policy that is based on a fundamental national consensus; and

**WHEREAS**, we believe that such a policy must assure the dependable energy supplies at reasonable prices; and

**WHEREAS**, we believe that greater use of natural gas and clean coal technology is needed to address environmental problems;

**NOW, THEREFORE, BE IT RESOLVED**, that the Western States Land Commissioners Association recommends that an energy policy be created to achieve national security and to balance economic and environmental imperatives such an energy policy should include such steps to:

1) Fill the Strategic Petroleum Reserve at a rate adequate to protect national security, purchasing a portion of the needed oil from new domestic wells at a special incentive price.

2) Promote the effective and environmentally sound use of our coal reserves by encouraging the movement of coal in the form of electricity and the retrofit and new installation of coal-fired boilers for natural gas coal-fired and other clean coal technologies.

3) Reorient the Department of Energy research and development budget to place greater emphasis upon enhanced recovery of domestic oil and gas, expanded uses for natural gas, basic research in geoscience.

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4) Promote the use of natural gas, methanol, ethanol and oxygenated blends as alternative transportation fuels through such measures as mandating federal vehicle fleet conversions and encouraging state, local and private fleet conversions through granting of clean air attainment credits and increasing manufacturers' credits under the Combined Average Fuel Economy (CAFE) standards.

5) Support and develop renewable and alternative energy sources and energy conservation measures.

6) Reevaluate our reliance on nuclear power and ensure that all plants are safe, environmentally sound and provided with safe waste disposal.

7) Urge that the Federal Energy Regulatory Commission (FERC) ensure natural gas transportation capacity by developing a process for rapid evaluation and decision-making for pipeline project requests.

8) Target new incentives for domestic oil and gas drilling development.

Adopted on this 30th day of September, 1988.

Rodney W. Sande
President

James P. Prout
Secretary

The Western States Land Commissioners Association

# RESOLUTION ON PUBLIC LANDS AND PUBLIC SCHOOLS

WHEREAS, from the earliest days of the Republic, even before the adoption of the Constitution, the United States declared it to be a matter of the highest importance that public lands should be used as a source of support for a system of free public education to be administered by the states; and

WHEREAS, pursuant to that declaration, Congress has consistently granted to states other than the original Thirteen States, specified sections of the public domain land for the support of the public schools, with the grant to be effectuated as soon as the public lands in question were surveyed and the public school lands identified as available; and

WHEREAS, Congress also recognized, in furtherance of that overriding purpose to support a system of state-operated free public schools, that since lands held by the United States were thereby held exempt from school taxation by the states, municipalities and school districts which included such public lands, a share of the revenues of such lands should be given to the states and local governments; and

WHEREAS, effectuation of that consistently declared purpose has been seriously prejudiced by inadequacies in statutory provisions and by unnecessary technicalities in administration of the public lands, such as:

1) Although there are statutory provisions for selection of school lands in lieu of the specified sections granted a state where the designated lands have been previously reserved for other federal purposes, existing statutes do not clearly provide whether such selected lands must be equivalent in value or in acreage, or in both, that it has been used by federal agencies to frustrate the in lieu selection process where the land reserved from selection is of unusual value, or the land available for selection is inadequate in value or area;

2) There are significant amounts of publicly-owned federal lands exempt from state and local school taxes as well as from the general provisions for the sharing of the produce of such lands for school purposes;

3) The Department of the Interior, responsible for the audit and collection of revenues to be realized from the mineral or forest products of all federal publicly-owned lands, has failed for many years to collect or to account adequately for such revenues, or to recognize fully the interest of the states to assist in the auditing and collection of such revenues; and

**WHEREAS,** these problems have prevented full utilization of the full potential of public land revenues for support of the free public school system, although support of that system is more than ever a matter of the highest priority; and

**NOW, THEREFORE, BE IT RESOLVED,** that after lengthy and detailed study and analysis of the grant of school lands, the Western States Land Commissioners Association hereby calls upon its members to urge the adminsitration and the appropriate committees of Congress to undertake immediate action to resolve these problems by enacting new legislation explicitly recognizing that the purpose of the grant of school lands is to provide financial support for the public school system, and that the costs of school support by state and local governments are rapidly outstripping the ability of those governmental units to meet them, and providing, among other things:

1) That all federally-owned lands should be subject to the general provisions for the sharing of mineral or agricultural income which apply to those lands denominated as "public lands";

2) That the states entitled to share in that income be given full opportunity to share in the responsibility for the audit and collection thereof;

3) That where federal reservations containing school land sections are operated for revenue production rather than any express federal purpose, the state involved should be given the option of receiving the revenue from such school lands within

reservations, or where full recognition of state title to the school land sections held in such federal reservation could be given without seriously interfering with the purpose of such reservation, the option of taking such title subject to the purpose for which the federal reservation was asserted;

4) That the process of selecting lands for lieu selection and exchanges should clearly allow the states to select such lands from any unused publicly-owned federal lands, including surplus property held by the General Services Administration, either on an equal acreage or equal value basis, as shall best meet the purpose of the grant; and

5) That periodic review be made of all such federal reservations of public land in order to terminate any such reservation when it is no longer needed or useful for the original purpose.

Adopted on this 30th day of September, 1988.

Rodney W. Sando
President

James P. Grant
Secretary

WSLCA
The Western States
Land Commissioners Association

# RESOLUTION CONCERNING PRODUCT VALUE REGULATIONS

**WHEREAS**, the Western States Land Commissioners Association has many times noted the deep interest which its members have inthe administration and management of the mineral resources on the lands administered by the federal government, both as it affects the member states' management of their public trust land and as it affects revenues long ago committed to the support of state schools and roads, and the consequent need by member states of detailed data concerning mineral sproduction on such federal lands, and their value basis; and

**WHEREAS**, the Congress, in reporting the Department of the Interior's 1989 Appropriation, has directed the Minerals Management Service to submit quarterly reports to the committees of jurisdiciton as to the revenue impacts of the recently adopted royalty product value regulations, showing the asserted "revenue neutrality" of those regulations; and

**WHEREAS**, little incremental effort will be required for the Department of the Interior to include in these reports the detailed information as to production and valuation of minerals production on those federal lands which the states require, and at the same time to provide the same information to each state affected as to operations in each state; and

**NOW, THEREFORE, BE IT RESOLVED**, that after detailed study the Western States Land Commissioners Association strongly recommends that the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs direct that the Minerals Management Service quarterly report show, on a monthly payment period basis, the total production of all minerals from each lease of any lands administered by the Service or by any agency of the United States, the total royalty collected from each such lease; the basis upon which such minerals production was valued for purposes of calculating the royalties due; the prices posted or paid in the general field or mineral production area in which each such lease is located, all allowances taken or approved from each lease for transportation, processing, or any other matter; the total interest collected or owing from each such lease on account of delay in payment and all penalties declared, collected or owing with respect to such lease; and

**NOW, THEREFORE, BE IT RESOLVED,** that the Association also recommends the House and Senate Committees direct that similar reports be provided to each state in which such land is located.

Adopted on this 30th day of September, 1988.

Rodney W. Sander
President

James F. Trout
Secretary

WSLCA
The Western States
Land Commissioners Association

# RESOLUTION CONCERNING TIMBER SALE ROADS

WHEREAS, National Forests and other federal public lands are managed for multiple uses; and

WHEREAS, National Forests and Bureau of Land Management timber sales often include construction of roads built to multiple use standards; and

WHEREAS, the construction of timber sale roads benefits other present and future non-timber uses, including access to state school and lieu lands; and

*WHEREAS, Congress intended that the school land grants include the right of access; and*

WHEREAS, federal multiple use roads often provide fire fighting access to not only federal but state and private lands; and

NOW, THEREFORE, BE IT RESOLVED, that the Western States Land Commissioners Association urges the Departments of Agriculture and Interior to account for non-timber benefits or costs when evaluating timber sale road construction.

Adopted on this 30th day of September, 1988.

President

Secretary

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RESOLUTION CONCERNING ACCESS

WHEREAS, access to federal public land and state school land is a fundamental management need; and

WHEREAS, the Bureau of Land Management has identified over 8000 easements that need to be acquired for access to federal public lands; and

WHEREAS, federal access is often of direct benefit to state school and lieu lands inholdings; and

WHEREAS, Congress intended that federal grants of land to states include the right of access; and

**NOW, THEREFORE, BE IT RESOLVED,** that the Western States Land Commissioners Association urges the Bureau of Land Management and all other federal resource agencies to vigorously pursue the acquisition, with appropriate compensation, of access to lands that will jointly benefit state and federal lands.

Adopted on this 30th day of September, 1988.

Rodney W. Sando
President

James R. Grant
Secretary

WSLCA
The Western States
Land Commissioners Association

# RESOLUTION CONCERNING NOXIOUS WEEDS

WHEREAS, the Western States Land Commissioners Association recognize noxious weeds as a serious problem to all the western states and their resource managers; and

WHEREAS, the problems are usually regional; and

WHEREAS, loss of income to the state land trusts can result from noxious weed infestations; and

WHEREAS, the cost of research and control exceeds the resources of any one state or individual lessee; and

NOW, THEREFORE, BE IT RESOLVED, that the Western States Land Commissioners support regional research and control programs that may result in understanding and management and control programs which will benefit the trust land resources and income.

Adopted on this 30th day of September, 1988.

Rodney W. Sando
President

James L. Grant
Secretary

WSLCA

The Western States Land Commissioners Association

# RESOLUTION CONCERNING THE ROLES OF STATES IN NATIONAL LAND MANAGEMENT

WHEREAS, this association and its members have a continuing and vital responsibility to further state-federal relationships respecting lands and resources; and

WHEREAS, in 1989, a new federal administration will be reviewing and reevaluating the role of the United States as a landowner and a fellow sovereign within the sovereign states; and

NOW, THEREFORE, BE IT RESOLVED, that the president of this association appoint a committee and review its policies with respect to public lands and resources and to propose position papers succinctly summarizing those policies and emphasizing the following points:

1) The principles of federalism as embodied in the United States Constitution should be recognized and respected by all federal agencies. The rights and resonsibilities of states as sovereigns within the federal system to participate in federal land use decisions and projects affecting them should be recognized.

2) The role of states as laboratories in the federal system, to develop and plan for land and water resources must be respected.

3) Meaningful participation by states in major federal land and resources decisions affecting them should be proceeded by the inclusion of state land management agencies in federal advisory groups.

4) The need for adequate access to state lands through federal lands should be recognized and implemented by federal agencies.

5) Federal reservations and withdrawals should not be abused. In the absence of a clear and valid federal purpose, all federal lands should be treated as public lands so as not to impede the "solemn agreement" by the federal government to provide them with representative school lands and the obligation to share mineral leasing, timber and other revenues.

6) The rights of states to manage their vital water resources must be respected. Federal agencies should obtain water rights through state law in order to avoid disrupting state water allocation systems.

Adopted on this 30th day of September, 1988.

Rodney W Sando
President

James L Grant
Secretary

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The Western States
Land Commissioners Association

RESOLUTION ON THE RESEARCH AND CONTROL
OF NOXIOUS PLANTS INFESTING THE WESTERN UNITED STATES

WHEREAS, a noxious plant is defined as follows: "Any plant(s) or seed(s) or part(s) thereof, with one or more of the following characteristics; it is aggressive, difficult to manage, detrimental, destructive, or poisonous; or is a carrier of insect or disease, or is parasitic, or its direct or indirect effect is detrimental to the managment of the desired ecosystem."; and

WHEREAS, the western states derive untold benefit from the varied uses of their respective lands; and

WHEREAS, the general condition and trend of both urban and rural lands is of critical importance; and

WHEREAS, the same lands may become or have become infested to varying degree with noxious plants; and

WHEREAS, prudent resource management would dictate that the massive impact, both economical and ecological, on western lands be acknowledged and addressed, on a regional basis; and

NOW, THEREFORE, BE IT RESOLVED, that the Western States Land Commissioners Association supports those efforts that will bring about research for understanding, managing and controlling noxious plants on our western lands.

Adopted on this 13th day of January, 1989.

President

Secretary

The Western States
Land Commissioners Association

RESOLUTION ON COMPLETING
ALASKA STATEHOOD ACT LAND CONVEYANCES

WHEREAS, the State of Alaska was granted a 104.5 million acre land entitlement as an incident of statehood, to select from certain public lands in Alaska; and

WHEREAS, 30 years have now passed since Alaska was admitted to the Union as the 49th state; and

WHEREAS, the Bureau of Land Management (BLM) has conveyed the State of Alaska to date approximately 84 million acres of its land entitlement, leaving an unfilled entitlement of approximately 20 million acres; and

WHEREAS, Alaska's land selection rights expire on January 3, 1994, and the state has experienced some difficulty in selecting and receiving certain public lands; and

WHEREAS, BLM has a congressional mandate to approve valid state land selections and convey selected land in accord with state land selection priorities; and

NOW, THEREFORE, BE IT RESOLVED, that the Western States Land Commissioners Association support the State of Alaska in its efforts to obtain lands to satisfy its remaining statehood land entitlement. Furthermore, the Association believes that BLM should timely approve and convey Alaska's pending land selections.

Adopted on this 13th day of January, 1989.

Garry Mauro
President

James Grant
Secretary

WSLCA
The Western States
Land Commissioners Association

RESOLUTION CONCERNING RESTRICTIONS
ON FINANCIAL RETURNS FROM TRUST LANDS

WHEREAS, H.R.1587, introduced in the last session of Congress, was intended to allow the states to restrict the exportation of logs harvested from federally-granted trust lands; and

WHEREAS, H.R.1587 died in final mark-up as a result of significant efforts by various members of the Western States Land Commissioners Association, trust recipients and other affected parties; and

WHEREAS, there is the distinct possibility that H.R.1587 will be resurrected for action in the new session of Congress; and

WHEREAS, H.R.1587 was put forth as a state's right issue and a local economic development issue; and

WHEREAS, the intent of the legislation was to allow the legislatures of the various states to restrict the free market return from bids on the sale of logs from trust land products and drawing down the price; and

WHEREAS, H.R.1587 was drafted and promoted without any reference to the enabling acts of the various western states in defiance of historic and legal principles which require the maximum financial return from lands granted to the states for the benefit of common schools, universities and other worthy state institutions; and

WHEREAS, the state Supreme Courts of Arizona, Alaska, Oklahoma, South Dakota, Montana, Idaho and Washington have interpreted the state enabling acts to require undivided loyalty to the trust beneficiaries of such lands and have restricted the legislatures from using the trust assets for other state goals; and

WHEREAS, the passage of H.R.1587, as proposed, could have created legal havoc in the western states at the expense and to the detriment of the trust beneficiaries of the federally-granted lands; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Western States Land Commissioners Association believes its members should oppose any federal legislation in the form of H.R.1587 which raises the possibility of restricting the maximum return from lands entrusted to the states for the support of schools, universities and other institutions, without specific reference to state enabling acts.

Adopted on this 13th day of January, 1989.

Garry Mauro
President

James P. Grant
Secretary

WSLCA
The Western States
Land Commissioners Association

RESOLUTION REGARDING FEDERAL ADMINISTRATIVE COSTS FOR REVENUE SHARING ACTIVITIES

WHEREAS, the difficulties imposed on the states by the presence of substantial amounts of federal land within state and local areas, which are wholly immune to state and local taxing authority although presenting those jurisdictions with public service requirements, have been a recurring problem throughout the history of the United States, but most particularly after federal public land policy was altered more than a century ago, from rapid privatization to the continued holding of vast acreages as public lands; and

WHEREAS, the acquisition of substantial acreages for National Forests and National Grasslands, as well as for additions to various national defense installations during and after World War II have increased the problems; and

WHEREAS, these strains on the federal system have been partially relieved by compromise and settlement through substantive statutes enacted after decades of effort to adjust the state and federal interests involved, on the basis of an equitable sharing of the receipts of agricultural and mineral production on the federal lands with the states and local governments involved, receipts which in most states are dedicated to the public schools; and

WHEREAS, in recent years there have been many attempts by agencies of the federal government to enhance their revenues by seeking as a part of the Budget of the United States, to arrange for the imposition of administrative costs or other charges on the states' share of the public land receipts, thereby effecitvely increasing federal revenues at the expense of the effectively increasing federal revenues at the expense of the long-standing compromise of state-federal problems bny the appropriation process despite the provisions of substantive law; and

WHEREAS, the Departments of the Interior and Agriculture, in the Budget submitted by President Reagan for fiscal year 1990, are asking that a substantial portion of the timber and mineral receipts dedicated to the states should be withheld to compensate these federal agencies for firefighting expenses, which have traditionally been regarded as a part of the federal share; and

WHEREAS, any such change in the basic state-federal rights to public land receipts with its consequent impact on state school funding, should appropriately be done only after careful consideration of the substantive interests of both the states and the federal government, by the appropriate authorizing committees, affording the states full hearing and opportunity to participate; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Western States Land Commissioners Association believes that Congress should reject any effort to enhance federal revenues at the expense of the states by decreasing the share of public lands receipts which statute has long established to be the legal and moral entitlement of the states in the normal operation of the federal system.

Adopted on this 13th day of January, 1989.

Garry Mauro
President

James P. Grant
Secretary

WSLCA
The Western States
Land Commissioners Association

# RESOLUTION ON EXTENSION OF THE UNITED STATES TERRITORIAL SEA

**WHEREAS,** the territorial sea of the United States, the oceanic area which is considered to be within the jurisdiction and sovereignty of the United States, has remained unchanged virtually since the beginning of the Republic; and

**WHEREAS,** the maintenance of the limits of the territorial sea at the traditional three miles of United States' historical experience despite enormous changes in weapons, communications, transportation and all areas of economic activity, raises most serious governmental problems of security, safety, and protection of the environment for both state and federal authorities; and

**WHEREAS,** the nature of governmental jurisdiction within the territorial sea, as between the federal and state governments, has been carefully established by statute, usage and custom over many years; and

**WHEREAS,** the President of the United States, by Proclamation No. 5928, dated December 28, 1988, established the limits of the sovereignty and jurisdiction of the United States at twelve miles, declaring that the action taken by the Proclamation was not intended to alter existing relationships between federal and state law or jurisdiction within the territorial sea; and

**WHEREAS,** the action taken by the Proclamation may, however, raise some legal doubts as to the applicability of particular statutes applying to the territorial sea, whether directly referenced or described in terms of the traditional limitation of three miles, which may lead to protracted litigation seeking judicial settlement, and greatly delay the attainment of the purposes for which the Proclamation was issued; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Western States Land Commissioners Association does hereby declare its full support for the President's extension of the territorial sea of the United States; and

**BE IT FURTHER RESOLVED**, the members of the Association should seek the support of the Congressional delegations of their states for legislative action to be taken in consultation wit the states, providing statutory clarification of the jurisdictional and legal interests in the expanded territory, to insure the maintenance of the long-standing legal role of the states in administering the sovereign territory of the United States.

Adopted on this 13th day of January, 1989.

Garry Mauro
President

James P. Grant
Secretary

WSLCA
The Western States Land Commissioners Association

RESOLUTION CONCERNING BUILDING A NEW COALITION FOR A NATIONAL ENERGY POLICY

WHEREAS, this nation enjoys plentiful reserves of natural gas and coal; and

WHEREAS, the joint use of coal or fuel oil with gas can significantly reduce sulfur dioxide ($SO_X$) and nitrogen oxide ($NO_X$) emissions; and

WHEREAS, economic efficiencies in reducing such emissions can also be realized through the utilization of low sulfur, low ash, high BTU western coal; and

WHEREAS, such emissions are known precursors of acid rain which has been shown to have serious, adverse impacts on our nation's forests, lakes and streams; and

WHEREAS, current developments in natural gas select use technologies such as gas co-firing, natural gas reburn, and enhanced gas reburn/sorbent injection allow natural gas to be burned simultaneously with coal or fuel oil; and

WHEREAS, such technologies can also provide major operational benefits to industry and utilities; and

NOW, THEREFORE, BE IT RESOLVED, that the Western States Land Commissioners Association supports the formation of a coalition between coal and natural gas producing states to promote efforts to clean up national air quality through use of a diversity of fuels and technologies in an environmentally sensitive and economically efficient manner.

Adopted on this 13th day of January, 1989.

Garry Mauro
President

James L. Pratt
Secretary

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## RESOLUTION ON EXPANSION OF WILDERNESS AREAS RECOMMENDED BY THE BUREAU OF LAND MANAGEMENT

WHEREAS, the Congress of the United States in the Federal Land Policy and Management Act of 1976 has established a process for the inventory and evaluation of the wilderness values of the multiple use public lands in the western states that are managed by the United States Bureau of Land Management; and

WHEREAS, this inventory process which has been conducted over the period of more than a decade and which has included resource inventories, land planning, environmental impact studies, detailed mineral studies, and extensive public reviews, public hearings, and coordination with state and local governmental entities and agencies, including state land departments, and with public land user and environmental groups and organizations; and

WHEREAS, the Wilderness Area recommendations being made by the Bureau of Land Management in the western states represent a balanced assessment of wilderness and other multiple use values that have taken into consideration land resources, public values, present and future economic needs of western communities and the nation, and land ownerships, including state trust lands; and

WHEREAS, certain environmental organizations are now attempting to make "end runs" by having legislation introduced to have much larger acreages taken out of multiple use and placed in wilderness in complete disregard of the conclusions reached in the democratic process established by Congress for the evaluation of wilderness; and

*NOW, THEREFORE, BE IT RESOLVED*, that the Western States Land Commissioners Association supports the public process by which the recommendations have been developed and believes that no additions or expansion of wilderness areas recommended by the Bureau of Land Management should be authorized without extensive public hearings and public review in the western states impacted by the proposed changes.

Adopted on this 13th day of January, 1989.

Garry Mauro
President

James F. Hunt
Secretary

WSLCA
The Western States
Land Commissioners Association

RESOLUTION ON BASE CLOSINGS

WHEREAS, the Defense Secretary's Committee on Base Realignment and Closure has recommended closure, partial closure and/or realignment affecting 145 bases in the United States; and

WHEREAS, the legislation authorizing this process requries the Department of Defense to consult with the Governor and local officials before disposal of the properties; and

WHEREAS, in many states the Land Commissioners are independent of their Governors; and

WHEREAS, the Western States Land Commissioners Association has certain states that have not yet received their entire grant of trust lands; and

WHEREAS, land exchanges can meet both state and federal objectives; and

WHEREAS, the base closings and realignments may make available acreage necessary for state-federal exchanges or indemnity selection lands; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Department of Defense, and other federal agencies involved, should consult with the Western States Land Comissioners at the beginning of the closure and realignment process; and

**BE IT FURTHER RESOLVED**, that the Secretary of Defense should give high priority and consideration to using these areas for providing federal acreage for indemnity selections and state-federal exchanges; and

**BE IT ALSO FURTHER RESOLVED,** that the Western States Land Commissioners Association believes that its members should support legislation enabling indemnity selections to be made from Department of Defense lands proposed for disposal under this program.

Adopted on this 13th day of January, 1989.

Garry Mauro
President

James P. Grant
Secretary

The Western States
Land Commissioners Association

RESOLUTION FOR THE PURPOSE OF APPRAISING STATE TRUST LANDS WITH SPECIAL AND UNIQUE ATTRIBUTES

WHEREAS, the enabling acts of various western states require true market value be obtained from the disposal of state trust lands; and,

WHEREAS, the western states have cooperated with federal agencies to allow the federal acquisition by purchase or exchange of state trust lands in and contiguous to federal lands with wilderness or other special status; and,

WHEREAS, state trust lands in and contiguous to such federal lands share with those lands special and unique attributes which cause those lands to be given such special status; and,

WHEREAS, those special attributes have been defined as unique and incomparable in value as compared to other lands;

NOW THEREFORE BE IT RESOLVED that, for the purpose of appraising for federal acquisition state trust lands with wilderness and other special attributes, the Western States Land Commissioners Association finds that an appraisal methodology which determines values based on the unique and special attributes of these lands should be recognized and used by federal agencies.

ADOPTED this 14th day of September, 1989.

Garry Mauro
GARRY MAURO
President

James F. Trout
JAMES F. TROUT
Secretary

WSLCA

The Western States
Land Commissioners Association

# RESOLUTION ON FEDERAL APPRAISALS OF STATE TRUST LANDS

WHEREAS, the enabling acts of various western states require true market value be obtained from the disposal of state trust lands; and,

WHEREAS, the western states have cooperated with federal agencies to allow the federal acquisition of state trust lands which are in and contiguous to federal lands with specialized status, such as wilderness and military lands; and,

WHEREAS, the restrictive designations of the adjacent or surrounding federal lands have been considered by the federal government to artificially reduce the true fair market value of the marketable resources on state trust lands;

NOW THEREFORE BE IT RESOLVED that the Western States Land Commissioners Association finds that state trust lands desired for federal acquisition must be appraised for their true fair market value, without regard for any artificial restrictions imposed by the status of adjacent or surrounding federal lands.

ADOPTED this 14th day of September, 1989.

Garry Mauro

GARRY MAURO
President

James F. Trout

JAMES F. TROUT
Secretary

Alaska • Arizona • Arkansas • California • Colorado • Hawaii • Idaho • Louisiana • Minnesota • Montana • Nebraska • Nevada
New Mexico • North Dakota • Oklahoma • Oregon • South Dakota • Texas • Utah • Washington • Wisconsin • Wyoming

WSLCA

The Western States Land Commissioners Association

RESOLUTION ON FEDERAL RESPONSE TO OIL SPILLS

WHEREAS, due to the increasing amounts of oil being imported and transported daily, the risk of a future oil spill in U.S. waters continues to grow; and,

WHEREAS, the wreck of the Exxon Valdez has demonstrated our lack of effective response strategies to prevent the spread of pollutants and minimize damage to wildlife and the environment; and,

WHEREAS, there are many coastal and marine industries and communities that may be devastated by a major oil spill; and,

WHEREAS, the Valdez disaster has further demonstrated the immense financial resources the responsible party will require to appropriately compensate the damaged industries and restore the environment in the event of a major oil spill; and,

WHEREAS, current federal law is inadequate to ensure that the states are reimbursed for the environmental and economic damage caused by major oil spills; and,

WHEREAS, the individual states are best situated to assess environmental and economic damage and to ensure complete rehabilitation of natural resources after an oil spill;

NOW THEREFORE BE IT RESOLVED that the Western States Land Commissioners Association finds that a Federal Comprehensive Oil Spill Liability and Compensation Act that will ensure financial restitution and natural resource rehabilitation, without pre-empting the states' authority to protect their natural resources and the economic well-being of their citizens, is vitally necessary, and urges its members to work with Congress to enact such legislation.

Adopted this 14th day of September, 1989.

Garry Mauro

GARRY MAURO
President

James F. Trout

JAMES F. TROUT
Secretary

Alaska • Arizona • Arkansas • California • Colorado • Hawaii • Idaho • Louisiana • Minnesota • Montana • Nebraska • Nevada
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The Western States
Land Commissioners Association

RESOLUTION ON LAND OWNERSHIP PATTERN AND
ADVERSE IMPACTS OF CERTAIN FEDERAL POLICY AND LEGISLATION

WHEREAS, State Land Grants were created and authorized by Congress; and

WHEREAS, the State Land Grants constituted a commitment under the bilateral compacts entered into by the federal government and the states at the time of statehood; and,

WHEREAS, the sovereignty and purposes of those grants were intended to be perpetual and unlimited to accomplish the purposes of those trusts; and,

WHEREAS, the land grant states have historically complied with the terms of these compacts; and,

WHEREAS, the grants were numbered sections and subsequent institutional indemnity and in-lieu grants throughout the vacant federal lands; and,

WHEREAS, the State trust lands are now scattered throughout Federal lands, creating the "Checkerboard" land ownership pattern and inholdings within special federal land management units; and,

WHEREAS, Federal legislation, Federal agency policies, and control of all lands in, around, and next to Federal lands adversely affects the sovereignty, purposes, and potential of the State trust lands; and,

WHEREAS, it is the states trust responsibility to protect these trust lands and to ensure they meet their purposes, and, whereas many congressional and federal agency actions defeat the sovereignty and purposes of these state trust lands, contrary to the commitment of the federal government under the bilateral compact; and,

WHEREAS, in absence of Federal efforts to protect trust land assets, the state trust land managers may be obliged to manage lands in a manner that conflicts with Federal land management policy;

NOW THEREFORE, BE IT RESOLVED that the Western States Land Commissioners Association, representing 22 states, is committed to the orderly and reasonable resolution of conflicts arising from Federal land management policies affecting state trust lands;

BE IT FURTHER RESOLVED that the House Committee on Interior and Insular Affairs and the Senate committee on Energy and Natural Resources are requested to conduct oversight hearings on the impacts of Federal land management policy on the beneficial use of school and other trust lands and to investigate approaches to resolving conflicts arising from the checkerboard land ownership pattern and state land inholdings.

ADOPTED this 14th day of September, 1989.

Garry Mauro

GARRY MAURO
President

James F. Trout

JAMES F. TROUT
Secretary