

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,  
2000**

INTRODUCED BY

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A JOINT MEMORIAL

OPPOSING THE BIOSPHERE PROGRAM AND URGING THAT THE PROPOSED  
BIODIVERSITY TREATY NOT BE RATIFIED BY THE UNITED STATES.

WHEREAS, the united nations has promoted a biosphere  
program throughout the world; and

WHEREAS, the biosphere program threatens to place  
millions of acres of land under the control of the united  
nations via agreements or executive orders; and

WHEREAS, the united nations educational, scientific and  
cultural organization has created a worldwide system of three  
hundred twenty-eight biosphere reserves in eighty-two  
nations; and

WHEREAS, forty-seven united nations-designated biosphere  
reserves are within the sovereign borders of the United  
States and one united nations-designated biosphere reserve is  
within the state of New Mexico; and

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1           WHEREAS, neither the legislature of the state of New  
2 Mexico nor the congress of the United States has considered,  
3 debated or approved such designations; and

4           WHEREAS, such designations require strict land use  
5 management procedures as are set forth in the 1994 strategic  
6 plan for the United States man and the biosphere program, as  
7 published by the United States state department, and further  
8 described in the global biodiversity assessment, published by  
9 the united nations environment program expressly for the  
10 conferences of the parties to the convention on biological  
11 diversity; and

12           WHEREAS, biosphere reserves are, by definition, designed  
13 to continually expand each of the three zones: the core  
14 protected zone, the buffer zone and the zone of cooperation;  
15 and

16           WHEREAS, biosphere reserves are expected to be the  
17 nucleus of the system of protected areas required by Article  
18 8 of the convention on biological diversity as expressed in  
19 the minutes of the first meeting of the conference of the  
20 parties to the convention on biological diversity; and

21           WHEREAS, no landowner within reach or potential reach of  
22 the biosphere reserves has input or recourse to land use  
23 management policies of the united nations educational,  
24 scientific and cultural organization or the conference of the  
25 parties to the convention on biological diversity; and

          WHEREAS, even though the convention on biological  
diversity has not been ratified by the United States senate,

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1 the very presence of the united nations biosphere reserves on  
2 American soil demonstrates the compliance with an  
3 international treaty that has not been ratified; and

4 WHEREAS, the use of land in biosphere areas for ordinary  
5 commercial or agricultural purposes may be severely  
6 restricted or eliminated; and

7 WHEREAS, Jornada has already been designated as a  
8 biosphere reserve; and

9 WHEREAS, none of the current area included within the  
10 biosphere program in New Mexico has been included at the  
11 request of or with the consent of the state legislature of  
12 the state of New Mexico; and

13 WHEREAS, the state legislature does not believe that a  
14 request from the national park service or a tourist and  
15 convention service should be adequate to subject land in New  
16 Mexico to the control of the united nations or any other  
17 foreign parties; and

18 WHEREAS, the area encompassed by this reserve includes  
19 not only public, but private lands; and

20 WHEREAS, the placing of environmental or other  
21 restrictions upon the use of private land has been held by a  
22 number of recent United States supreme court decisions to  
23 constitute a taking of the land for public purposes; and

24 WHEREAS, the proposed biodiversity treaty, if ratified  
25 by the United States, would ultimately lead to the reality  
that New Mexicans could not use their private and public  
lands in the manner to which they have been accustomed; and

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1           WHEREAS, the restrictions contemplated together with  
2 outside control of the land encompassed by a biosphere  
3 reserve constitute an unlawful taking of that land in  
4 violation of the constitution of the United States, to wit:

5  
6           Article 4, Section 3, Clause 2: "...nothing in  
7 this Constitution shall be so construed as to  
8 Prejudice any Claims of the United States, or of  
9 any particular State.";

10          Article 4, Section 4: "The United States shall  
11 guarantee to every State in this union a Republican  
12 Form of Government..."; and

13          Amendment 5 of the constitution of the United  
14 States: "...nor [shall any person] be deprived of  
15 life, liberty, or property, without due process of  
16 law; nor shall private property be taken for public  
17 use, without just compensation."; and

18          WHEREAS, the virtual ceding of these lands to the united  
19 nations leaves the residents who own land, local governments  
20 and the state of New Mexico without any legitimate forum for  
21 redress of grievances or for input into any decision-making  
22 process relating to the biosphere reserve; and

23          WHEREAS, under Article 6 of the constitution of the  
24 United States, this treaty would be given equal footing with  
25 the constitution of the United States, thus effectively  
precluding any legal means of redress; and

        WHEREAS, the legislature of the state of New Mexico does

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1 not wish to have portions of its land area controlled by  
2 foreign powers over which it has no control and that are not  
3 subject to its laws;

4 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE  
5 STATE OF NEW MEXICO that it is unalterably opposed to the  
6 inclusion of any land within the border of the state of New  
7 Mexico within the purview of the biodiversity treaty or any  
8 biodiversity program without the express consent of the  
9 legislature of the state of New Mexico, as provided by the  
10 constitution of the United States and the constitution of New  
11 Mexico; and

12 BE IT FURTHER RESOLVED that the legislature urge members  
13 of the congress of the United States and especially the New  
14 Mexico delegation to the congress of the United States, to  
15 oppose ratification of this treaty and the inclusion of any  
16 land within the state of New Mexico in any biosphere program  
17 of the united nations; and

18 BE IT FURTHER RESOLVED that copies of this memorial be  
19 transmitted to the Honorable Bill Clinton, president of the  
20 United States, the Honorable Madeline K. Albright, secretary  
21 of state, and the New Mexico congressional delegation.