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SENATE MEMORIAL 2

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

ROD ADAIR

A MEMORIAL

**OPPOSING THE BIOSPHERE RESERVES DESIGNATION OF THE MAN AND 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 and/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**

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1 and one United Nations-designated biosphere reserve within the
2 state of New Mexico; and

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

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

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

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

23 WHEREAS, no landowner within reach or potential reach of
24 the biosphere reserves has input or recourse to land use
25 management policies of the United Nations educational,

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1 scientific and cultural organization or the conference of the
2 parties to the convention on biological diversity; and

3 WHEREAS, even though the convention on biological
4 diversity has not been ratified by the United States senate,
5 the very presence of the United Nations biosphere reserves on
6 American soil demonstrates the compliance with an
7 international treaty that has not been ratified; and

8 WHEREAS, the use of land in biosphere areas for ordinary
9 commercial or agricultural purposes may be severely restricted
10 or eliminated; and

11 WHEREAS, Jornada has already been designated as a
12 biosphere reserve; and

13 WHEREAS, none of the current area included within the
14 biosphere program in New Mexico has been included at the
15 request of or with the consent of the state legislature of the
16 state of New Mexico; and

17 WHEREAS, the state legislature does not believe that a
18 request from the national park service or a tourist and
19 convention service should be adequate to subject land in New
20 Mexico to the control of the United Nations or any other
21 foreign parties; and

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

24 WHEREAS, the placing of environmental or other
25 restrictions upon the use of private land has been held by a

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1 number of recent United States supreme court decisions to
2 constitute a taking of the land for public purposes; and

3 WHEREAS, the proposed Biodiversity Treaty, if ratified by
4 the United States, would ultimately lead to the reality that
5 New Mexicans could not use their private and public lands in
6 the manner to which they have been accustomed; and

7 WHEREAS, the restrictions contemplated together with
8 outside control of the land encompassed by a biosphere reserve
9 constitutes an unlawful taking of that land in violation of
10 the constitution of the United States, to wit:

11 Article I, Section 8, Clause 17: before any state
12 lands can be purchased, the consent of the state
13 legislature and not the state executive branch must
14 be obtained.

15 Article IV, Section 3, Clause 2: we note that,
16 "{N}othing in this Constitution shall be so
17 construed as to Prejudice any Claims of the United
18 States or of any particular state. "

19 Article IV, Section 4, we note that, "The United
20 States shall guarantee to every State in this union
21 a Republican Form of Government. "

22 Amendment V of the Constitution of the United
23 States: "nor {shall any person} be deprived of
24 life, liberty, or property, without due process of
25 law: nor shall private property be taken for

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1 public use, without just compensation"; and
2 WHEREAS, the virtual ceding of these lands to the United
3 Nations leaves the residents who own land, local governments
4 and the state of New Mexico without any legitimate form for
5 redress of grievances or for input into any decision-making
6 process relating to the biosphere reserve; and

7 WHEREAS, under Article VI of the constitution of the
8 United States, this treaty would be given equal footing with
9 the constitution of the United States, thus effectively
10 precluding any legal means of redress; and

11 WHEREAS, the legislature of the state of New Mexico does
12 not wish to have portions of its land area controlled by
13 foreign minions over which it has no control and that are not
14 subject to its laws:

15 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE
16 OF NEW MEXICO that the legislature of the state of New Mexico
17 be unalterably opposed to the inclusion of any land within the
18 border of the state of New Mexico within the purview of the
19 Biodiversity Treaty or any biodiversity program without the
20 express consent of the legislature of the state of New Mexico,
21 as provided by the constitution of the United States and the
22 constitution of New Mexico; and

23 BE IT FURTHER RESOLVED that the legislature urge members
24 of the congress of the United States and especially the New
25 Mexico delegation to the congress of the United States, to

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1 oppose ratification of this treaty and the inclusion of any
2 land within the state of New Mexico in any biosphere program
3 of the United Nations; and

4 BE IT FURTHER RESOLVED that copies of this memorial be
5 transmitted to the Honorable Bill Clinton, president of the
6 United States, the Honorable Madeline K. Albright, secretary
7 of state, and the New Mexico congressional delegation.

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1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

3
4
5 February 10, 1998

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7 Mr. President:

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9 Your RULES COMMITTEE, to whom has been referred

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11 SENATE MEMORIAL 2

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13 has had it under consideration and reports same with
14 recommendation that it DO PASS, and thence referred to the
15 PUBLIC AFFAIRS COMMITTEE.
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18 Respectfully submitted,

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23 _____
24 Gloria Howes, Chairman
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Adopted _____ Not

1 Adopted _____

2 (Chief Clerk)

(Chief Clerk)

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5 Date _____

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8 The roll call vote was 7 For 0 Against

9 Yes: 7

10 No: 0

11 Excused: Aragon

12 Absent: None

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1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

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4
5 February 18, 1998

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7 Mr. President:

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9 Your PUBLIC AFFAIRS COMMITTEE, to whom has been
10 referred

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12 SENATE MEMORIAL 2

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14 has had it under consideration and reports same with
15 recommendation that it DO PASS.

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17 Respectfully submitted,

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24 Shannon Robinson, Chairman

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. 121700. 1ms

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Adopted _____ Not

1 Adopted _____

2 (Chief Clerk)

(Chief Clerk)

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6 Date _____

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9 The roll call vote was 5 For 3 Against

10 Yes: 5

11 No: Feldman, Robinson, Rodarte

12 Excused: Smith

13 Absent: None

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16 SMO02PA1

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