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SENATE MEMORIAL 9

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

INTRODUCED BY

JOSEPH J. CARRARO

A JOINT 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: core protected
16 zone, buffer zone and zone of cooperation; and

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

22 WHEREAS, no land owner within reach or potential reach of
23 the biosphere reserves has input or recourse to land use
24 management policies of the United Nations educational,
25 scientific and cultural organization or the conference of the

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1 parties to the convention on biological diversity; and

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

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

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

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

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

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

23 WHEREAS, the placing of environmental or other
24 restrictions upon the use of private land has been held by a
25 number of recent United States supreme court decisions to

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1 constitute a taking of the land for public purposes; and

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

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

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

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

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

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

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

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

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

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

22 BE IT FURTHER RESOLVED that the legislature urge members
23 of the congress of the United States and especially the New
24 Mexico delegation to the congress of the United States, to
25 oppose ratification of this treaty and the inclusion of any

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1 land within the state of New Mexico in any biosphere program
2 of the United Nations; and

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

1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

3
4
5 February 17, 1998

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7 Mr. President:

8
9 Your RULES COMMITTEE, to whom has been referred

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11 SENATE MEMORIAL 9

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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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17 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 6 For 0 Against

9 Yes: 6

10 No: 0

11 Excused: Aragon, Gorham

12 Absent: None

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