



# NEVADA'S PUBLIC LANDS: Who Owns and Controls Nevada?

BY RICHARD W. HARRIS, ESQ.

Consider the state of Iowa. It is a *private* land state. Only 2.8 percent of its area is considered public land, and 97.2 percent is owned by private and governmental entities.<sup>1</sup> You can hunt on Iowa's public lands, but you cannot locate mining claims or go four-wheeling through its cornfields. Of key importance, private lands are subject to taxation.

Now consider the state of Nevada. It is a *public* land state. According to the Legislative Counsel Bureau, 85.9 percent of Nevada is owned and controlled by various federal entities.<sup>2</sup> Only Alaska has a greater percentage of public lands (95.8 percent). The public lands are not subject to taxation, depriving Nevada of a main source of revenue.

**So how did Nevada end up with only 14.1 percent of its land in private ownership? Why are our houses, casinos, and commercial structures confined to a small portion of the state? The answer lies in Nevada's odd history.**

## The Comstock Era and Early Statehood

With the discovery of gold in California in 1848, many fortune hunters and a few hardy pioneers crossed through Nevada to the gold fields. Ten years later, a group of disappointed miners returned eastward. They found colors of gold when panning the Carson River and followed these traces upstream. They cursed the bluish-gray clay that clogged their pans until it was assayed and found to be rich in silver. Then followed a huge rush to the silver fields, and the Comstock Lode became a major focus for mineral development. Great fortunes, such as those of John Mackay, were derived from Virginia City. Nevada became a separate territory in 1861 when it was carved out of the Utah and New Mexico territories. It was granted early statehood on October 31, 1864, for two reasons: first, President Lincoln sought the silver wealth of Nevada to help finance the Civil War, and second, he needed another "free" state in support of the Union. Upon achieving statehood, Nevada was entirely public land.

## The Creation of Private Lands

The creation of Nevada's private lands came as a series of "subtractions" from the public domain. These include:

1. The Homestead Act of 1862 allowed private individuals to acquire, develop, and ultimately own 160 acres of land for farming purposes. The first federal official in Nevada was the land commissioner, who governed homestead grants.
2. The Land Grant College Act of 1862 provided grants of land to states to finance the establishment of colleges specializing in "agriculture and the mechanic arts." Upon admission, Nevada was granted sections 16 and 36 of each township. (A section is one square mile, and a township contains 36 sections.) Unfortunately for Nevada, most of these "school sections" were situated on high mountains or arid deserts and had little value. Nevada was allowed to select 2 million acres of "in lieu" lands, mostly situated along rivers and other agricultural lands. The sale of these state-select lands helped finance development of the University of Nevada, Reno.

- Under the Lode Law of 1866 and the Mining Law of 1872, miners could obtain a patent (grant of land) for valuable mines. These lands were heavily clustered on the Comstock, the Tonopah and Goldfield mining districts, and more recently, among the open pit gold mines in northeastern Nevada.
- There have been numerous sales of public lands to private parties, most recently under the Southern Nevada Public Lands Management Act of 1998. Public lands in Clark County are sold for municipal development with the proceeds going to acquisition and preservation of sensitive environmental areas, including Lake Tahoe.

## Reservations and Withdrawals

In addition to the “subtractions” creating private lands, there have been many withdrawals from public lands for specific purposes, including:

- Reservations were granted to Native American Tribes by the U.S. and constitute sovereign territories.
- There have been substantial withdrawals of land for military purposes. These include the “Top Gun” training range near Fallon, the Nellis Air Force Bombing and Gunnery Range in southern Nevada, and the Atomic Test Site.
- National parks and national monuments are withdrawn from mineral entry and most public uses except recreation.
- The beds of all navigable lakes and rivers are owned by the state of Nevada.
- Wilderness areas are closed to all mechanized entry.

## Who Controls the Public Lands in Nevada?

Private owners can utilize their land for almost any purpose, subject to zoning and municipal laws, environmental regulations, tax forfeitures, nuisance

limitations, and so forth. (If you really want to know who owns your private land, don’t pay county property taxes for three years.)

But what about the public lands? Who controls them?

We have two major landlords. The U.S. Bureau of Land Management oversees use of 48 million acres of Nevada’s public lands, and the U.S. Forest Service governs 5.9 million acres.<sup>3</sup> Each of these agencies promulgates regulations governing private use of public land. For example, development of a large mine requires an Environmental

Impact Statement and compliance with the Clean Water Act, the Air Quality Act, Endangered Species Act, and many other statutes and regulations. The agencies are afforded great discretion and can deny

permits that they deem inconsistent with public goals. (I was once told by a Forest Service ranger that “I don’t want mining in *my* forest!”)

The lesser landlords include the National Park Service, the Bureau of Reclamation, the Fish and Wildlife Service, and the Department of Defense, including its Army Corps of Engineers that regulates dams and other large impoundments, and any disturbance of wetlands.

A significant drawback of federal ownership is that these agencies do not

pay property taxes on public land. Instead, the agencies under the Department of the Interior make payments in lieu of taxes

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to local governments to support vital services such as firefighting and police protection, construction of public schools and roads, and search-and-rescue operations.<sup>4</sup>

## What Can We Do on Our Public Lands?

Quite a lot. Many people, both residents and tourists, embrace Nevada because of our access to public lands. Unlike Iowa, we can reach public lands at the edge of our rural towns or within a few miles of our urban areas. Would you like to ride a horse? Take an ATV, a four-wheeler, or motorcycle into the hills? Boat on Lake Tahoe, Pyramid Lake, or Lake Mead? Hunt wild game, fish, or go target practicing? Camp, climb, or get away from it all? Enjoy dark skies or the raucous celebrations of Burning Man?

Another value of our public lands lies in its mineral resources. In 2020, Nevada was ranked as the most attractive jurisdiction in the world for mineral investment.<sup>5</sup> Nevada produces about 6 million ounces of gold per year, ranking our state fourth among all nations. One can still locate mining claims on the open public domain in the manner of prospectors a century ago. The average wage of

Nevada miners is \$68,878 per year.<sup>6</sup> In 2019, the value of mineral and energy production was \$8.1 billion, including geothermal energy.<sup>7</sup>

Welcome to Nevada and its public lands!

## ENDNOTES:




1. "Public and Private Land Percentages by U.S. States," U.S. Bureau of the Census, Statistical Abstract of the United States, page 201 (1991).
2. "Fact Sheet – Geography," Legislative Counsel Bureau (January 2016).
3. "Public Lands Held by the US Forest Service and the Bureau of Land Management," Public Land, Wikipedia.
4. "Payments in Lieu of Taxes," U.S. Department of the Interior.
5. "Nevada [Is World's] Most Attractive Mining Jurisdiction," Fraser Institute Report (March 2021).
6. "Mining Annual Salary in Nevada," [www.ziprecruiter.com](http://www.ziprecruiter.com).
7. "The Nevada Mineral Industry 2019," Nevada Bureau of Mines and Geology, Special Publication MI-2019.

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