

Area 51 Research Center
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Rachel, NV 89001
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April 8, 1996

Governor Bob Miller
Executive Chambers
Capitol Complex
Carson City, NV 89710

Dear Governor Miller:

I hereby formally request that the State of Nevada delay its unveiling of the "Extraterrestrial Highway" from April 18 to an unspecified later date. This would allow time for pending issues to be adequately addressed before the state finalizes the new highway designation.

The grounds for this request are given in the attached document and in documents already sent to your office. The attached document outlines the legal, political and procedural errors in the current process. The most important of these errors is that Lincoln County residents and elected officials were never consulted in the "E.T. Highway" designation or the unveiling ceremonies. Although nominally intended to promote economic development, this action was designed and imposed by Carson City without the knowledge and consent of those who must live with it. A delay would permit local residents and officials to be consulted to make sure their concerns have been heard and addressed.

Significant civil rights issues are also raised. In particular, the state has not addressed the effects of its vague trespassing law and the unusually close relationship between the local Sheriff's Department and the unidentified security force which guards the nearby military area. The "E.T. Highway" will inevitably draw more visitors to this tense military border, and the state has failed to consider or address the impact of this.

I hope you will give this request your careful consideration, and I look forward to your on-the-record reply as soon as possible.

Sincerely,

(signed)

Glenn Campbell
Director
Area 51 Research Center

Express Mail # TB857460087US

Reasons for Delay of "E.T. Highway" Unveiling

Submitted To:

The Honorable Bob Miller

Governor, State of Nevada
Executive Chambers
Capital Complex
Carson City, Nevada 89710

Submitted By:

Glenn Campbell Director
Area 51 Research Center
Rachel, Nevada 89001

April 8, 1996

Abstract

This document provides "Points and Authorities" for a request submitted to the governor of the State of Nevada to delay the unveiling of the "Extraterrestrial Highway." This request is contained in a one-page letter (preceding) dated April 8.

The discussion below indicates political, procedural and legal concerns that have not been adequately addressed, and these may have negative effects that go far beyond the highway itself. The purpose of the delay is to give the state time to consult with local residents and county officials regarding the highway plan and investigate any issues raised. Having assured a proper process, the state might then proceed with the unveiling without generating further liability or embarrassment.

Request

The request of the petitioner is simply stated: The state is asked to immediately postpone its official April 18 unveiling date to later date "to be announced." It is then suggested that the state notify county officials of its highway plan and hold a public meeting in Rachel to inform and consult local residents actions that have never been taken in the past. These are the people who must live with the "E.T. Highway" and its effects; yet neither group has yet been consulted, either in the designation itself or in the extravagant plans for the unveiling. (To date, the state's only contact with Lincoln County has been through the single business that stands to benefit the most.)

In granting this request, the state would be confirming that local Nevadans have a right to voice their concerns on any state initiative that directly affects them. The state need not take a stand at this time on any particular issue such as those raised in the petitioner's March 6 report. The state should not evaluate any one issue until it assembles all of the facts, but it is obligated to solicit those concerns and reasonably investigate them. To justify the delay, the state need only announce that prima facie issues have been raised which have not been given adequate opportunity for hearing.

As with any other process supporting a state initiative, if valid concerns are raised by parties-of-interest, the state has a duty to address them by one of three methods: by mitigation, by reversal of the action or by deliberate executive decision that the benefits outweigh the costs. The state is not obligated to make everyone happy, but the standards of democracy do require it to solicit and consider the views of all affected parties before taking action. If it does not entertain this formality, then the state has made itself vulnerable to legal actions and political embarrassments far into the future.

The process of reasonable consultation with affected parties must take place before the state finalizes its action. Otherwise, the question of consultation is moot, since the implementation is no longer subject to modification in response to valid concerns. The state can't say, "We'll unveil the highway now and address the issues later," because then, in all likelihood, the issues will never be addressed, and what has been already done in a thoughtless manner can never be undone.

Position of Petitioner

Petitioner is a Party of Interest. The petitioner has written a book on the highway in question and has worked for over three years in the area as a political activist seeking greater government accountability in the adjoining military area. The petitioner is a Rachel business owner and part-time resident (full-time resident until a few months ago). Thus, he feels qualified as a party-of-interest in this matter.

Petitioner has Preserved his Right of Protest. The petitioner has made every effort to make his interests known within the constraints of the limited public notice for this action. Prior to a May 19, 1996, hearing on the original "Alien Highway" bill before a committee of the Legislature, he submitted his concerns in writing to a member of the committee. This protest was never read into the record as requested. Following the Feb. 1, 1996, announcement that the failed measure had been resurrected and passed by the Transportation Board, the petitioner prepared a lengthy report explaining his safety and civil rights concerns. This report was mailed to the governor on March 6, and a second copy was later sent under certified cover. However, the governor has never acknowledged or responded to this report. When the governor's press assistant was specifically asked in a March 26 letter whether the governor had read this report, the assistant declined to answer (avoiding the topic in her March 28 response). Because he has made every reasonable effort to voice his concerns, even in the face of official disinterest, the petitioner feels that he has preserved his right to protest the unveiling.

Procedural Issues

Local residents and county officials were never notified or consulted on the E.T. Highway or its unveiling ceremonies. Both the "E.T. Highway" and failed Alien Highway Bill were generated solely in Carson City without notice or consultation with local residents or elected officials.

◁ No local public notice was given that such a designation was being considered.

◁ No local public notice was given of the hearings on the matter.

◁ No local public notice was given of the unveiling ceremonies.

◁ No county official was ever informed or consulted on the highway designation or unveiling ceremonies.

◁ No open meeting or hearing was ever held locally to solicit the concerns of residents. ◁ No Lincoln County residents were informed or consulted except those who already support the measure.

◁ Although the governor did not consult with local residents or officials, he did discuss the highway designation with an "alien ambassador" in Carson City ("Ambassador Merlyn Merlin II of Draconis," aka David Soloman), While the "ambassador's" credentials may be questionable, it is clear that he is not a Lincoln or Nye county resident.

In short, residents were never asked whether they wanted an "E.T. Highway" running through their community, and county officials were never asked how this might affect their own plans for economic development. "Local public notice," in the usual functions of government, is a notice printed in the local paper (the Lincoln County Record) and posted in public places. As an alternative, given the small population of Rachel and the limited number of county officials, the state could have mailed each of them a notice at minimal cost, but even this was never attempted.

Although nominally intended to promote "economic development" in Lincoln and Nye counties, the "E.T. Highway" was conceived, passed and implemented entirely by outsiders who consulted only the single business that stands to benefit the most from the designation, the Little A'Le'Inn in Rachel. That business, in turn, distributed information and invited participation only in a manner that served its own interests. Although the "E.T. Highway" was passed in an open session of the Transportation Board, the hearing site was six hours from Rachel by car, so most residents could not have attended even if given notice. As it stands, the "E.T. Highway" is a Carson City production, in conjunction with the Fox movie studio, imposed on Lincoln County without its knowledge or consent.

The state's official designation of the "Extraterrestrial Highway" profoundly changes the character of this community. There were many vague UFO stories prior to the state's action, but now the state is giving the rumors official sanction

and is forcing residents to accept this identity permanently. Since they have to live with the name, shouldn't the opinions and concerns of residents have been considered? Shouldn't they have been allowed some input into the process?

Residents and officials were also excluded in the planning of the lavish and theatrical unveiling ceremonies, which were conceived in private by the governor and the Fox marketing department. The close relationship between the governor and Fox and his lack of contact with Lincoln County officials makes one ask, "Whose party is this?" Is the "E.T. Highway" truly intended to promote Lincoln and Nye counties, or only to promote the governor and Fox studio?

To allow the unveiling to proceed given these procedural inadequacies would have far-reaching effects for the balance between state and county powers. It would mean that executive committees in Carson City could take almost any action they wanted in distant counties without consulting local residents or officials. It would be no different if the State Transportation Board changed the name of The Las Vegas Strip (which is a state highway) to another name chosen by the governor without notifying or consulting the residents or officials of Clark County. That situation would be intolerable there, so why should it be allowed here?

Legal Issues

In his March 6 report, the petitioner described safety and civil rights problems along the tense military border near the highway. If the "E.T. Highway" proceeds without attention to these matters, then the state automatically becomes a party to any civil rights or negligence suits that might be filed in the future. With the March 6 report sent by certified mail to the governor, it can now be clearly shown that the state was informed of the problems prior to the unveiling but failed to acknowledge them. If any of the claims in the report are true, then the state becomes a primary negligent party even if the actual violation was committed by a local deputy or unnamed security guard, or if an injury was a result of the visitor's own naiveté.

The following considerations have been raised:

- 1) The "E.T. Highway" designation will attract naïve visitors who have done little research, unlike the relatively well-informed visitors prior to the state's intervention.
- 2) Visitors to the highway, intent on seeing the UFOs the state has implicitly promised, will inevitably be attracted to the military border to get closer to Area 51. Unless the state can guarantee the UFOs, approaching the border is the only recreational activity for visitors to this highway. Since the land adjoining the border is public, the state has no right or power to keep people away from the border once they are here.
- 3) The state's vague trespassing law allows the border to be marked by only slender orange posts spaced 200 feet apart, without other warning. In some remote areas, even this warning is not given along the border.
- 4) The border is patrolled by unidentified private security guards who are authorized by federal law to kill intruders ("Use of Deadly Force Authorized"). Although they have not killed anyone yet, they have repeatedly used excessive force in the detention of trespassing suspects. Because they refuse to identify themselves or their employer, they can not be held accountable for their actions.
- 5) Although they will not identify themselves when asked, some of these Area 51 security guards have been deputized by the Lincoln County Sheriff. In other jurisdictions, such as Nye and Clark Counties, military security guards have also been deputized, but this is the only known jurisdiction where the private employer is unknown and where the military does not acknowledge the guard's existence or accept responsibility for their actions.
- 6) A visitor who is accused of trespassing is considered "guilty until proven innocent" in the local Justice Court. Uniformed Sheriff's deputies are allowed to testify "in proxy" for the anonymous security guards who actually detain the suspect.
- 7) On public lands near the highway, film and video tape have repeatedly been confiscated from tourists and journalists by Sheriff's deputies without warrant or accounting. Film or video tape seized without warrant is turned over to the

unidentified guards and is never returned or accounted for regardless of what it contains.

To protect itself from liability, the state must exercise a credible investigation of these alleged abuses before proceeding with the highway designation. If any of these claims turn out to be valid, the state must find a way to mitigate them before attracting new visitors to the area.

Political Issues

It is the opinion of the petitioner that the governor is facing grave political consequences if the unveiling proceeds as planned. Consider these issues:

I. The private agreement between Governor Miller and Twentieth Century Fox conveys the appearance of an official commercial endorsement.

This arrangement between Nevada governor and a single private enterprise appears to be a first for a Nevada governor and raises the question of what is really controlling the proceedings: the interests of Nevadans or the interests of the Fox studio.

- 1) In engaging in a joint unveiling ceremony with Fox, the governor appears to be endorsing a commercial product, the movie "Independence Day." The governor has issued a joint press release with Fox on the highway ceremonies.
- 2) The governor has agreed to host a promotional gala for the movie in Las Vegas. While other Nevada governors may have attended, and even spoken at, the openings of Nevada businesses, this appears to be the first time a Nevada governor has specifically **hosted** such a commercial event or been involved in the opening of a primarily out-of-state venture.
- 3) The governor flew to Los Angeles at taxpayer expense to consult with the movie company about the unveiling, yet he never visited the highway itself and has not consulted with local officials or residents on those plans.
- 4) No significant part of the movie, which supposedly takes place at Area 51, was filmed in Nevada. The parts set in Nevada were filmed instead in Utah. Therefore, the governor appears to be endorsing the filming of Nevada scenes in other states.
- 5) In the movie, billions of people are killed by invading aliens whose only motivation is to take earth for themselves. Meanwhile UFO enthusiasts are portrayed as buffoons who fail to see the impending danger. Thus, the movie does nothing to advance the UFO movement.
- 6) On its web site, the Fox studio is publishing the adventures of three "operatives" who it is ostensibly sponsoring to invade Area 51. Whether the account is real or fiction, it encourages people to intrude into military land by romanticizing the effort.
- 7) The press release, on the governor's letterhead, mentions a monument to be erected along the highway, yet no one in state government seems to know where it will be built or what it will say.
- 8) When requested, the governor's office has declined to make public the past correspondence between the governor and Fox.

The suggestion of an unhealthy alliance between the governor and Fox might be partially diffused if the unveiling ceremonies were delayed to a later date. As the situation stands, it is unclear whether the April 18 event is intended to serve the needs of Nevada or the interests of the Fox studio. The repercussions of the April 18 event could be far-reaching and effect the governor's future credibility. A delay, however, would provide an opportunity to re-think the event and return it to the hands of Nevadans.

II. The "E.T. Highway," if imposed without consultation with elected county officials, may further exacerbate the already high tensions between the state and county.

The last official act of the state in Lincoln County was a massive lawsuit to remove most its elected officials in response to their stand on nuclear waste. This act by the Attorney General, backed by the governor, was formally condemned by the state legislature as an intrusion into county powers and first amendment rights. Although the suit has been dropped, there remains great bitterness about it in Lincoln County. The impression of many residents and officials is that the governor is intent on punishing the county for its political positions.

The most notable prior action of the governor in Lincoln County was his appointment of his friend, David Kopelman, to the Lincoln County Commission, replacing a commissioner who had been recalled. In making this choice, the governor ignored the recommendations of the county's Democratic party, which offered different candidates. On the job, Kopelman was seen as paranoid and highly disruptive of commission meetings, throwing the commission into turmoil for the six months in which he served.

These actions by the state, as well as proposed tax changes affecting rural counties, have generated great suspicion of the state's motives. If the governor imposes the "E.T. Highway" on this county without proper consultation, it will seem to confirm those suspicions. The governor, it is perceived, cares nothing about the rural counties because they do not carry the electoral clout of Las Vegas and Reno. The "E.T. Highway" is seen as a publicity stunt by the governor intended only for a big city audience while disregarding the affected county completely.

A delay in the proceedings might allow the state to mend its poor relationship with Lincoln County. This is not a trivial assertion: Local officials need to be consulted on state initiatives that directly affect their county.

III. The "E.T. Highway," as currently presented, promotes ridiculous UFO claims at the expense of more credible ones and takes no apparent interest in the UFO movement beyond its exploitation for economic gain.

The governor claims no interest in UFOs prior to naming the highway, and his comments in public about aliens, UFOs and Area 51 have always been in the form of jokes. He is promoting a movie in which aliens are only interested in killing people and where UFO enthusiasts are portrayed as misguided buffoons who do not recognize the threat. In the UFO movement, which always fighting for credibility, not all publicity is good publicity, and the sort of "little green men" jokes that have dominated these proceedings have done nothing to advance the cause.

This action is ostensibly intended to attract UFO buffs to the area, yet the state has shown no understanding of the UFO movement or its interests. All of the state's dealings with the UFO community have been through the Fox movie studio, which is exploiting the UFO movement only to promote its movie.

A delay would allow time for a more thoughtful approach to the subject.

IV. The "E.T. Highway," as currently presented, appears to trivialize the serious earthly issues at Area 51.

There are dozens of weighty issues regarding this unaccountable military base that could be addressed by the state—including unpaid property taxes, civil rights abuses, alleged environmental abuses, the secret deputization of security guards and the vague trespassing law. The governor, however, has chosen to address only the most trivial of the issues, tourism, which some might say was doing just fine before the state's intervention.

By delaying this action, the state may be able to place it into a better context, where it is not so over-hyped that it detracts from more important issues.

Reason to Not Delay Unveiling

The only significant reason for proceeding with the unveiling on April 18 is the enormous investment in publicity and arrangements already made by the Twentieth Century Fox Film Corp. Fox could charge breach of contract with the state if the event were postponed, but Nevadans might argue that the governor had no right to enter into any contract, whether written or verbal.

The alliance between the governor and Fox conveys the impression that the "E.T. Highway" was created solely for Fox's

benefit. If the unveiling proceeds as Fox has planned it, with the governor appearing to serve as their spokesman, then the governor's credibility will be permanently damaged. Something must be done both to address the unresolved issues of the highway and to reassert Nevada's control over the event.

Conclusion

In taking this action through the State Transportation Board he controls, the governor has deliberately bypassed the State Legislature, where the Alien Highway bill previously failed. In establishing an alliance with Fox while ignoring local residents and officials, the governor has reinforced a perceived disinterest in rural counties. In failing to inform or consult affected parties, the governor has short-circuited the usual hearing process for state initiatives.

Opponents have threatened to make all of these issues painfully clear at the unveiling ceremonies, where press from around the world will be gathered. At this point, all of the questions presented by the petitioner will have to be answered immediately in a public forum. As the flaws and misjudgments accumulate, it would seem wise for the governor to say, "Time Out." Rather than rushing too quickly into a permanent action, it is rarely unwise to take more time to review the options.

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