

1 **NRCF 71.1 – Proposed**
2 **(Reject Federal Rule; List as Reserved)**

3 **Rule 71.1. Reserved.**

4
5 **Advisory Committee Note—2018 Amendment**

6 NRS Chapter 37 addresses eminent domain, making it unnecessary to adopt
7 FRCP 71.1.

8
9
10 **Subcommittee Report:**

11 FRCP 71.1 governs eminent domain procedure. Eminent domain in Nevada is
12 governed by NRS Chapter 37. Professor Main’s researchers compared FRCP 71.1
13 and Chapter 37, and concluded that, except for one hole in Chapter 37, FRCP 71.1 is
14 largely not applicable to Nevada. A copy of the research and FRCP 71.1 is provided
15 in conjunction with this report. The one apparent hole is that NRS 37.110 provides
16 that “commissioners” may hear proceedings in eminent domain actions regarding
17 property valuation and assessment of damages, but Chapter 37 does not otherwise
18 provide for the procedure in appointing the commissioners or specify what their
19 powers may be. FRCP 71.1(h)(2) is the FRCP provision that deals with
20 commissioners and the recommendation from Professor Main’s researchers is that
21 the Committee may wish to consider adapting FRCP 71.1(h)(2) with modification for
22 use in Nevada.

23 Upon further consideration, however, it appears that FRCP 71.1(h)(2) has been
24 in the FRCP since at least 1951 and was put in substantially its current form in

1 approximately 1985; prior NRCPC committees have thus rejected adapting it for
2 Nevada. Moreover, while NRS Chapter 37 is silent in regard to the appointment of
3 commissioners, there is also no outcry from practitioners or the courts regarding the
4 appointment of commissioners under NRS 37.110. Thus, this appears to be a
5 problem that is not in need of a fix, and the subcommittee recommends that the
6 committee continue to reject FRCP 71.1 in its entirety and leave any fix to the NRS
7 37.110 commissioners to the Legislature.

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24