



**STATE OF NEVADA
STATE CONSERVATION COMMISSION**
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MINUTES

STATE CONSERVATION COMMISSION MEETING

Richard H. Bryan Building
Tahoe Hearing Room 2nd Floor
901 S. Stewart Street, Carson City, NV
Friday, March 8, 2019 at 10:00 a.m.

Board Members Present: Chairman Joe Sicking, Paradise-Sonoma CD; Vice-Chairman Eric Rieman, Carson Valley CD; Leland Wallace, Esmeralda County CD; Maggie Orr, Lincoln County CD (by teleconference); Agee Smith, Northeast Elko CD; Dr. Sherm Swanson, UNCE/CABNR; Meghan Brown, NV Dept. of Agriculture (by teleconference), and Randy Emm, Mason Valley CD.

Board Members Absent: Jake Tibbitts, Eureka County CD.

Others Present: Bettina Scherer, Conservation Districts Program Manager; Sandy Quilici, NDCNR Director's Office; Dominique Etchegoyhen, NDCNR Deputy Director; Lori Story, Deputy Attorney General; Tim Rubald, retired CD Program Manager as a volunteer; Marlene Wallace, Esmeralda County CD; Bobby Jones, NDOW/NRCS; Kelly McGowan, Program Manager for the Sagebrush Ecosystem Technical Team; Adam Sullivan, Deputy Administrator, Division of Water Resources; Ed Ryan, Mason and Smith Valley CD's, and Lauren Williams, Ely Conservation Staff Specialist.

I. CALL TO ORDER, DETERMINATION OF A QUORUM

- A. Chairman Sicking called the meeting to order at 10:00 a.m.
A quorum was confirmed and introductions were made.

II. PUBLIC COMMENTS There were no public comments.

III. REVIEW AND CONSIDERATION OF APPROVAL OF MINUTES - * FOR POSSIBLE ACTION*

- A. Chairman Sicking made a motion to approve the November 14, 2018, Meeting Minutes, Commissioner Swanson seconded the motion, there was a vote and the motion passed unanimously. ***ACTION TAKEN***

IV. BRIEF UPDATE ON CONSERVATION DISTRICTS PROGRAM - *FOR DISCUSSION ONLY*

- A. Bettina Scherer said DCNR requested a \$500 increase to the annual operating stipend for each of the 28 CDs for a total of \$14,000. There was a warm reception and Bettina feels confident in the request.

Chairman Sicking asked Adam Sullivan to present next on Agenda Item V.-B. - an update on the Division of Water Resources' water bills.

V. BRIEF LEGISLATIVE UPDATE ON BILLS THAT HAVE BEEN PRESENTED - * FOR DISCUSSION ONLY

B. Adam Sullivan, Deputy Administrator for the Division of Water Resources, said he will review three bills from Water Resources which are A.B. 30, A.B. 51, and A.B. 62. A.B. 30 and A.B. 51 were heard in committee last week.

A.B. 30 is adding a new section to Chapter 533 of Nevada Water Law. It would harmonize some conflicting interpretations and add clarity to when the State Engineer is reviewing a water right application he will condition that application using the 3M plan which is monitoring, management, and mitigation. Currently if a water right application conflicts with an existing water right the State Engineer shall deny that application. There are other portions of the statute which allow the State Engineer to condition an application on the 3M plan or to allow for some mitigatable action. We are trying to clarify under what circumstances those conditions apply to a water right application.

A.B. 51 addresses conjunctive management of surface water and ground water. Two years ago in statute there was a new provision added which stated that the State Engineer shall manage the waters of the state conjunctively regardless of the source. Historically surface water rights have been managed independently of ground water rights. This is taking the new language in the statute and adding some clarity of exactly how that conjunctive management will be implemented. The State Engineer would create conjunctive management regulations that would be specific to a particular area. That would be the mechanism to implement conjunctive management.

Other parts of A.B. 51 specify some constraints on what those conjunctive management regulations could contain. It would allow for the State Engineer to administer a funding mechanism if it were appropriate in a certain area to resolve conflict if that conflict cannot be done with water.

A.B. 62 concerns extensions of time for a permit holder to file a proof of completion. When a water right permit is issued the holder has certain steps to fulfill regarding the water right. The first of those steps is to file a proof of completion which - regarding a ground water right would be constructing a well or piping to show the water will be put to beneficial use. The next step is to file a proof of beneficial use. Once completed the water right permit can be issued. Currently an extension of time can be granted for any reason. What we are trying to do is put a maximum on the number of years extension time can be granted so that if you are not using the water right it can be cancelled. For municipal users the maximum number of years of extension would be 15. For water irrigation projects or large diversions the maximum would be 10 years. For smaller users the maximum would be 5 years.

Chairman Sicking said he has seen abuse of “use or lose water” where a person would let water run unnecessarily to show use. Mr. Sullivan said this does happen and it is a problem. In A.B. 51 there is a provision that says under a conjunctive management scenario if a junior water right holder were not to use their water in order to compensate a senior user that the “use or lose” provision would not apply to that water right holder. They would not lose their water right because they are trying to provide water to a senior holder.

Commissioner Smith asked if Water Resources is going to let the public know and advertise this. Mr. Sullivan said the process would be in a particular area if the conjunctive management strategy was appropriate. Our office would work with the stakeholders, the water right holders, and the county in the area through the regulation process. That’s where the public input and optimization of any locally specific plan would be worked out.

Commissioner Swanson said you mentioned earlier that the junior water right holder by not using their water were to make water available to a senior holder; what would the time frame be? Mr. Sullivan said we are saying immediately with that year.

Commissioner Smith asked if there a movement to change the “use or lose” in the law. Mr. Sullivan said yes there is movement, but under the current Legislative Session there are no pending bills that would make a change. There is conversation that recognizes it can be done better.

A. Bettina said all of the bills in your handout (A.B. 30, A.B. 51, A.B. 62, A.B. 84, S.B. 183, A.B. 70, and S.B. 96) have been heard with the exception of A.B. 84. The two main bills that she has been tracking are S.B. 96 which was formerly BDR 510. S.B. 96 requires the department to create some type of grant program for the purposes of providing funds to local communities and conservation groups for the matching of federal funds and provide an appropriation of \$500,000 for that purpose. It was heard on February 21st and Tim Rubald on behalf of NvACD added an amendment which includes conservation districts as an eligible entity to apply for those funds. It was well received, but it needs to have greater definition.

Tim Rubald said he is redrafting the S.B. 96 bill. It had some issues that were pointed out by NDCNR Deputy Director, Jim Lawrence. Tim said he will work to have these amended by the next hearing or workshop. He will be drafting the language for that this weekend. On Monday after he discusses it with Mr. Lawrence, he will take it to the Legislature and give it to the leadership of the committees and the entities that need it.

Tim said there is bill S.B. 205 which includes commissions that has an appropriation of 5 million dollars to be used similarly to S.B. 96 for matching federal grants. He would like to include CDs in the bill otherwise if it passes as it is currently drafted the SCC could apply and trickle down the funding to the districts.

Bettina said there are two bills about the open meeting law. The bills are S.B. 183 and A.B. 70. S.B. 183 was heard on February 26th and says if you amend an agenda you may repost it within the 3 business days and clearly note on the new agenda what the change was. Also the meeting minutes must have a level of detail that clearly informs the public. A.B. 70 requires that draft minutes must be posted to a website in 30 days. It also extends the complaint period from 60 days to 120 days. The bills are available to read on NELIS - the Nevada Electronic Legislative Information System.

VI. BRIEF UPDATE ON ASSEMBLY BILL 84 - *FOR POSSIBLE ACTION*

A. Bettina said A.B. 84 is a bond authority bill and has a broad area of support. NDCNR would like to see the geographic descriptions changed. There are certain earmarks for the funding. CDs would have to apply with a county. There is a section of the bond authority totaling 67 million dollars and it breaks down to 37 million dollars to be used in Clark County, 20 million dollars in Washoe County, and 10 million in other geographic areas. There are certain match requirements based on the population in the counties of which you reside. It would be a match of 50% in a county of a population of 100,000 or more and 25% in a county of 100,000 or less. *** NO ACTION TAKEN***

VII. REVIEW, RANKING AND DETERMINATION OF FUNDING OF APPLICATIONS FROM CONSERVATION DISTRICTS FOR THE SAGE-GROUSE COMPETITIVE GRANT PROGRAM - *FOR POSSIBLE ACTION*

A. Kelly McGowan, Program Manager of the Sagebrush Ecosystem Technical Team, said we have reviewed the projects and two proposals are similar to ones we have commented on in the past. The two are in good sagebrush habitat and beneficial. There is one in White Pine County that is on the Uhalde property where they would like to get work done on private land the same as what has been done on adjacent public land. This is high value winter habitat and late brood rearing habitat that we would find beneficial.

Kelly said the SETT is working on developing priorities relating to sage-grouse. We want to provide the tools that we use to the local work groups to help them establish their own priorities in their areas.

Chairman Sicking asked for a motion to approve the grant funding for the Eureka CD application. Commissioner Smith made a motion to approve, Commissioner Swanson seconded the motion, there was a vote and the motion passed unanimously. ***ACTION TAKEN***

Commissioner Swanson said the question is do we want to have some money going to the top four or the money going from the top down in order of ranking.

Chairman Sicking said he did not feel White Pine CD should be approved because they had a phone survey to approve this (it was not agendized) and they were past the deadline.

Commissioner Swanson made a motion that we fully fund the top two ranked proposals and fund Lincoln CD with \$31,072.10. Lauren Williams said the White Pine CD is trying, but they are struggling. Bettina said the White Pine CD is one of the CD's that are in the Resource Needs Assessment process through NvACD and that process will give them funding opportunities in the future. It will help provide them a document and move forward. She applauds that they submitted a project to us.

Commissioner Smith said he did not want to send a message to WPCD that we do not support them. He offered a second to the motion with an amendment that we should send a letter to WPCD saying we applaud their efforts, but then explain there are directions that need to be followed. We want to make it clear it is not because it is not a good project, it is because the required details were not followed. Chairman Sicking agreed to send a letter as stated.

Commissioner Swanson said he would accept Commissioner Smith's amendment to his motion and he would like Bettina's wording added to the letter as well and to go on to say that this project fully supports a long understood conservation need in that part of the state because of the risk to ecosystem resilience from the expansion of piñon/juniper trees away from fire safe sites in the sagebrush ecosystem and that is very much a problem for sage-grouse especially in eastern Nevada. Commissioner Orr abstained from voting because she represents the Lincoln County CD. Chairman Sicking asked to have the motion stated again.

Commissioner Swanson said the motion is to fund the top two ranks at 100%, to fund Lincoln County at \$31,072.10, and not fund White Pine, but to send a letter to White Pine that encourages them for submitting this proposal and future proposals based on their needs assessments and based on priority needs in the county where this project would have been a good one. Also WPCD could find more match which may have increased their ranking; there are other entities around that like to fund the kind of projects they proposed. Commissioner Smith seconded the motion, there was a vote and the motion passed with Commissioner Orr abstaining.

ACTION TAKEN

11:15 a.m. Chairman Sicking called a break.

11:30 a.m. Chairman Sicking resumed the meeting.

- B. Chairman Sicking asked for a motion authorizing Bettina to release the funding to the specified districts, Commissioner Smith so moved, Commissioner Wallace seconded the motion, there was a vote and the motion passed unanimously. ***ACTION TAKEN***

VIII. PERIODIC REVIEW OF STRATEGIC PLAN AND ACTION PLAN - *FOR POSSIBLE ACTION*

Chairman Sicking said we will move this item to the next meeting. ***NO ACTION TAKEN***

IX. AGENCY UPDATES - *FOR DISCUSSION ONLY*

A. Nevada Department of Agriculture – Meghan Brown, *Plant Industry Division* Reporting for Commissioner Brown, Bettina said NDA is hosting the 3rd Annual Nevada Native Seed Forum in Sparks at the Sparks Library on Thursday, March 14th from 9:00 a.m. to 4:00 p.m. Registration is free, but RSVP's are due today to Russ Wilhelm.

B. UNR-College of Agriculture Biotechnology and Natural Resources – Dr. Sherm Swanson, *Range and Riparian Extension State Specialist for University of Nevada Cooperative Extension and Scientist for Nevada Agricultural Experiment Station* Commissioner Swanson said we are busy hiring people at the College of Agriculture. Interviews are being held for a replacement for Kent Mcadoo's position in Elko. There are some qualified candidates.

Commissioner Rieman asked if Wolfpack Meats will continue to take outside animals. Commissioner Swanson said he believed that will not change. Bettina said that Amilton de Mello is working on better scheduling of taking outside animals, right now there is a long wait.

C. Natural Resources Conservation Service – *Ray Dotson, State Conservationist* There was no report today.

D. Nevada Department of Wildlife – *Bobby Jones, NDOW/NRCS shared Habitat Biologist* Bobby Jones said right now we are working on fire rehabilitation efforts throughout the state. Chairman Sicking asked if some of the Martin Fire area has been reseeded. Mr. Jones said about 40,000 acres have been treated either by NDOW or BLM. The total number of acres treated for this year will be higher. The government shutdown slowed the process. There was aerial seeding in January and February.

Commissioner Smith asked if crested wheat is used. Mr. Jones said we look at whether the area has burned before, the relative precipitation zones, and the habitat. We focus a little more on the non-native mix. Part of it is what clearances the BLM will allow. There are certain areas of the fire that are native only mixes, it depends on the site. Some of the areas we use the most cost efficient seed because of the large scale. We look for areas with a good seed/soil contact.

A. Meghan Brown for Nevada Department of Agriculture said the Range App is available. We will be offering trainings for groups. We have a new Department Director, Jennifer Ott, who was our former Plant Industry Administrator. If you know anyone interested in the Plant Industry Administrator position please ask them to inquire. We participated in technical skills training on post fire rehab with Bobbie Jones.

E. Nevada Association of Conservation Districts – *Agee Smith, President* Commissioner Smith said NvACD is working on Resource Needs Assessments. There are 7 CDs that signed up for this and we have 3 administrator professionals that are doing the assessments. Rick Orr is working with Lincoln County, Tracey Wolfe is working with Smith and Mason Valleys, and Jim Evans is working with Eureka, Northeast Elko, White Pine, and Southern Nevada. Lincoln County is the farthest ahead and Northeast Elko is behind. Northeast is working hard to get stakeholders to the table. The grant comes up every year and we decided not to reapply this year. We want to get the RNA's we're working on finished. If there are other districts interested we will apply next year. The Technical Needs Assessment Grant from the National Association is available to individual CDs. The Northeast Elko CD applied to help fund positions for the CD.

Commissioner Smith has been at the NCCN (Nevada Collaborative Conservation Network) meetings. There was a workshop in Reno that was well attended. This was set up for different entities in the state to come together to communicate and discuss available opportunities.

F. Sagebrush Ecosystem Technical Team – *Kelly McGowan, Program Manager* Kelly McGowan said the Sagebrush Ecosystem Council will meet on March 19th which coincides with a hearing for the adoption of a temporary regulation associated with the implementation of the state mitigation program which is the Conservation Credit System. You are welcome to attend. The regulation was spurred by an instructional memorandum issued by BLM stating they will no longer require any mitigation for their projects. In December, Governor Sandoval issued an Executive Order ordering the Sagebrush Ecosystem Council to adopt regulation to insure the use of the CCS as a primary means for mitigation for sage-grouse habitat. It is temporary because when the Legislature is meeting we can't have permanent regulations put together because LCB is busy. This temporary regulation will remain until November when we go through the process to make it a permanent regulation within the Nevada Administrative Code.

Kelly said regarding the state solicitation - the program was given 2 million dollars by the Legislature to help with conservation activities in sage-grouse habitat within the sagebrush ecosystem. All 2 million has been obligated and it was obligated in the first two years that it was available. Since that time we have had projects implemented, some reversions, and some that did not follow through and are out of their funding agreement. There have been credit exchanges and we anticipate that within the next two or three months to have our first cash transaction. We have had tremendous response from industry contacting us and letting us know that they propose to do certain activities on public lands. We anticipate that staff will be busy this next year and there will be more credit demand. We are hoping to have another round of solicitation. We don't know the amount yet, it will likely be more than half a million dollars. This is a positive that we can ask for proposals for good conservation projects to fund and get more credits in the system knowing that we are going to have a high demand in the coming years. As soon as we are able

to make those funds available we will send you emails that we will be accepting applications. This will provide more opportunities for the cooperators in your conservation districts.

Verifier Training will be March 25-27. This is for the people that do the field work and run our CCS outside of our program. We certify them to be "certified" verifiers and they are verified to operate the CCS. Each year they go through this process.

When we started the SETT we talked about strategically prioritized areas in the state for conservation. Priority Planning is to offer guidance to local areas and it is specific to sage-grouse. We're looking for ways to identify needed projects in areas that are most beneficial to sage-grouse. We know some of the major issues across central Nevada and eastern central Nevada are piñon/juniper and the lack of late brood rearing habitat due to piñon/juniper encroachment. This is where we need the local input. In the northeast area we have loss of habitat due to fire. In the northwest portion we have problems with fire, medusahead, invasives, and juniper encroachment.

We are working on adopting an MOU (Memorandum of Understanding) with BLM as to what role the SEC, the state, and federal agencies will play when we begin to regulate mitigation. We will provide a draft to be heard at the Council meeting.

Ed Ryan asked is the bi-state sage-grouse included in the Credit System and if not is there talk to include it. Kelly said not at this time and there is no discussion. If the need arose for a type of mitigation for the bi-state we could make it a possibility.

Commission Swanson said concerning fire - what we need is a mechanism for figuring out we have a fuel problem before we have a fire and then doing something ahead of time. We could reduce the size of the burns by putting fuel breaks in place. We would want the fuels people in the federal agencies to provide information and work with us. We could use grazing to create fuel breaks. Commissioner Smith said there are results based grazing projects in the works.

Kelly said he would like to reiterate that we have spent a great deal of time getting the mitigation program started, but mitigation is one component of addressing some of the threats - the main threats need to be addressed. Hopefully the regulation will spur on the activity that's necessary to make our credit producers feel comfortable creating credits. Then we can address some of the major threats in the sagebrush ecosystem which are fire, fuels, and invasives.

Mr. Rubald said NvACD will be hosting Conservation Districts Day at the Legislature on May 14th. We are asking CDs for displays as we will be in Room 3100 which is a large room. We will invite the legislators and their staff to attend and we will have snacks available. We will be there all day. Please pass this on to your CDs to attend. Connie Lee will also send an email to the districts.

Bettina asked if there had been any area meetings. Commissioner Wallace said they had tried to plan one and have NRCS there, but it was at the time of the government shutdown. We have not planned one since then.

Commissioner Smith said Ray Dotson has requested that if we get the area meetings going he will come and make a presentation. He is trying to get more information to the CDs about the NRCS programs.

Bettina said there will be an Elko area meeting at the City Park next to the Museum on Saturday, June 15th at 2:00 p.m. NRCS wants to know what they can do better to inform and demystify the process for the CDs, partners, and landowners. NRCS would like the CDs input for the agenda.

Commissioner Smith said NvACD has a new Executive Director and it is Connie Lee.

G. Others – There were no other reports.

X. COMMISSIONER ITEMS - *FOR DISCUSSION ONLY*

A. Commissioner Swanson said CABNR has been looking at wild horses in riparian areas over the last few years. They have recently reviewed and are cataloging 2 million photographs taken by trail cameras at herd management areas and allotments that are also important to sage-grouse. They have created videos where it is time

condensed and the difference is clear of the changes horses make to an area over time. The areas are shrinking and in areas where there was not a channel there is one now. We need the development of water areas so that we can have the whole herd there and let the other areas recover. Water development is a tool that we need to implement more - would the Commission want to have a voice in the future of this? Commissioner Swanson feels it is an important issue and that CDs could develop better watering facilities for livestock and for more animals.

XI. NEXT COMMISSION MEETING - *FOR POSSIBLE ACTION*

A. Bettina said the Carson Valley CD would like to speak to the Commission as we need to review their annual work plan and their proposed budgets. Commissioner Rieman will ask them to attend the next meeting.

B. Bettina suggested the next meeting in Elko on Friday, June 14th which is the day before the NRCS area meeting. We will try to have the meeting at the Nevada Department of Agriculture. ***NO ACTION TAKEN***

XII. PUBLIC COMMENTS There were no public comments.

XIII. ADJOURNMENT - *FOR POSSIBLE ACTION*

Chairman Sicking asked for a motion to adjourn, Commissioner Smith seconded the motion and the meeting was adjourned at 1:55 p.m. ***ACTION TAKEN***