

BRADLEY CROWELL
Director

Division of Environmental Protection
Division of Water Resources
Division of Forestry
Division of State Parks
Division of State Lands
Division of Natural Heritage
Division of Outdoor Recreation



JAMES R. LAWRENCE
DOMINIQUE ETCHEGOYHEN
Deputy Directors

State Historic Preservation Office
Conservation Districts Program
Sagebrush Ecosystem Program
Off-Highway Vehicles Program
Conserve Nevada Program

Office of the Director
901 S. Stewart Street, Suite 1003/Carson City, Nevada 89701
Phone: 775.684.2700/Fax: 775.684.2715
www.dcnr.nv.gov

Nevada Department of Conservation and Natural Resources

PROPOSED REGULATION OF THE NEVADA DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

NOTICE OF INTENT TO ACT UPON REGULATION AND HEARING AGENDA

NOTICE OF HEARING FOR THE ADOPTION OF PERMANENT REGULATIONS OF
NEVADA ADMINISTRATIVE CODE
LCB FILE No. R025-22
CONSERVE NEVADA PROGRAM

The Nevada Department of Conservation and Natural Resources, 901 S. Stewart St., Ste. 1003 Carson City, Nevada, 89701, is proposing regulations pertaining to the implementation of the [2019 Statutes of Nevada, Chapter 480](#). Proposed text of the regulation is available at [LCB File No. R025-22](#) (<https://www.leg.state.nv.us/Register/2022Register/R025-22P.pdf>). The Nevada Department of Conservation and Natural Resources through its Conserve Nevada Program will hold a public hearing in person and virtually at the following time and location:

Date: Friday, June 3, 2022
Time: 1:30 PM
Location: Virtual Location- This meeting will be held virtually via Lifesize*

Location: Physical Location- Nevada Department of Conservation and Natural Resources
Tahoe Conference Room (Second Floor)
901 S. Stewart St.
Carson City, NV 89701

Remote Meeting Information*:

This meeting is also being held virtually via LifeSize:

To join the meeting virtually, click on the URL and enter the meeting passcode when prompted: <https://call.lifesizecloud.com/13703762>

Passcode: 12345#

Other ways to join the meeting:

Join the Lifesize meeting using Skype for Business:

<https://skype.lifesizecloud.com/13703762>

Click to call from Mobile (audio only)

United States: +1 (877) 422-8614, meeting extension: 13703762#, passcode: 12345#

Call in by Phone (audio only)

United States: +1 (877) 422-8614

Meeting extension: 13703762#

Passcode: 12345#

Additional phone numbers: <https://call.lifesize.com/numbers>

ALL PERSONS WISHING TO ATTEND THE MEETING MAY ATTEND IN PERSON OR VIA THE IDENTIFIED VIRTUAL MEETING PLATFORM OR TELEPHONICALLY. Nevada Revised Statutes Chapter 287 has been amended through AB 253 of the 81st Session of the Nevada Legislature to allow public meetings to be completed by use of remote technology and without a physical location.

This hearing will be conducted in accordance with the Open meeting Law ([NRS 241.020](#))

The purpose of this hearing is to receive comments from all interested persons regarding the proposed regulations pertaining to the implementation of the [2019 Statutes of Nevada, Chapter 480](#). Proposed regulation changes are contained within [LCB File No. R025-22](#). (<https://www.leg.state.nv.us/Register/2022Register/R025-22P.pdf>)

A copy of all materials relating to the notice may be obtained by visiting the Conserve Nevada website at ConserveNevada.nv.gov or by contacting the Conserve Nevada Program at 775-684-2707 or Brandon.Bishop@dnr.nv.gov. Copies may also be requested or inspected by visiting the Nevada Department of Conservation and Natural Resources office located in Carson City or the Nevada State Library and Archives at 100 Stewart Street, Carson City, NV 89701. The notice of the hearing and materials are additionally available at the following locations:

Churchill County Library
553 South Maine Street
Fallon, NV 89406

Douglas County Library
P.O. Box 337
Minden, NV 89423

Elko County Library
720 Court Street
Elko, NV 89801

Eureka Branch Library
P.O. Box 293
Eureka, NV 89316

Humboldt County Library
85 East 5th Street
Winnemucca, NV 89404

Battle Mountain Library (Lander County)
P.O. Box 141
Battle Mountain, NV 89820

Lincoln County Library
P.O. Box 330
Pioche, NV 89043

Lyon County Library
20 Nevin Way
Yerington, NV 89447

Mineral County
P.O. Box 1390
Hawthorne, NV 89415

Carson City Public Library
900 N. Roop Street
Carson City, NV 89701

Pershing County Library
P.O. Box 781
Lovelock, NV 89419

Storey County Community Library
175 Carson Street
Virginia City, NV 89440

Goldfield Public Library (Esmeralda County)
P.O. Box 430
Goldfield, NV 89013

Tonopah Public Library (Nye County)
P.O. Box 449
Tonopah, NV 89049

Washoe County Downtown Reno Library
301 S Center St.
Reno, NV 89501

Clark County Public Library
1401 E. Flamingo Rd.
Las Vegas, NV 89119

White Pine County Library
950 Campton Street
Ely, NV 89301

A reasonable fee for copying or postage may be charged for those requesting a print copy. Members of the public who would like additional information about the proposed regulation may contact the Conserve Nevada program at 775-684-2707 and Brandon.Bishop@dcnr.nv.gov.

Reasonable efforts will be made for members of the public who have disabilities and require special accommodations for assistance at the meeting. Please contact the Department at 775-684-2707 or Brandon.Bishop@dcnr.nv.gov prior to the meeting.

Notice of this meeting was sent to all persons on the Conserve Nevada mailing list for administrative regulations and posted on or before 9:00 am, thirty days before the meeting at the following locations: Conserve Nevada website at ConserveNevada.nv.gov, Nevada Public Notice at <https://notice.nv.gov/> and Nevada Legislative Administrative Regulation Notices at <https://www.leg.state.nv.us/App/Notice/A/>.

The following information is provided pursuant to requirements of NRS 233B.0603:

1. The need for and purpose of the proposed regulation or amendment.

[Assembly Bill No. 84 \(A.B. 84\)](#) of the 80th Legislative Session requires the State Board of Finance to issue state general obligations bonds in the amount of \$217,500,000 for various conservation, outdoor recreation, and resource protection projects. In Section 2, Subsections 8, 9, & 10 the legislation authorizes bond proceeds to support grants issued by the Nevada

Department of Conservation and Natural Resources totaling \$72,500,000. Section 2 and Section 3 of the bill require the adoption of procedures and regulations for the administration of these grant funds. The need for and the purpose of the proposed regulations is as follows:

Sections. 2-28 of the regulation define various terms relating to the Program. These definitions constitute some of the eligibility requirements needed for the administration of the program created through A.B. 84.

Section 29 of this regulation sets forth, in accordance with the requirements of A.B. 84: (1) the entities which are eligible to receive a grant; (2) the purposes for which a grant may be awarded; and (3) the amounts allocated to award grants to these entities for certain purposes.

Section 30 of this regulation provides that the Director of the Department may periodically solicit applications for grants and establish deadlines for the submission of applications for a grant. Section 30 also sets forth the requirements for an application for a grant.

Section 31 of this regulation requires an applicant to provide a matching contribution in order to receive a grant and establishes the eligibility requirements for a matching contribution.

Section 32 of this regulation provides that an entity that wishes to apply for a grant from the Program may submit a preapplication or letter of intent to the Department to determine whether the entity and project are eligible to receive a grant.

Section 33 of this regulation provides that the Director may establish one or more advisory committees to review applications for grants and make recommendations.

Section 34 of this regulation provides that the Program Manager of the Program or an advisory committee, as applicable, will rank applications in order of priority for awarding grants based on certain factors.

Sections 35 and 36 of this regulation require a grant recipient to enter into an agreement with the Department and sets forth various requirements for such an agreement.

Section 37 of this regulation: (1) prohibits, with certain exceptions, converting a project which was awarded a grant from the use or purpose for which the grant was awarded for a period of not less than 20 years; (2) provides that, with certain exceptions, a project which involves developing, acquiring, preserving or protecting property for recreational purposes or to ensure public access, must maintain the public access in perpetuity; and (3) requires that, with certain exceptions, any land or water or any interest in land or water acquired with a grant must be held in perpetuity by the State.

Section 38 of this regulation provides that: (1) the Department may periodically review whether a grant recipient and project are in compliance with the requirements of the Program; (2) if the grant recipient or project are in violation of a requirement of the Program, the Director will send a letter of violation requiring the grant recipient to take corrective

action; and (3) if the grant recipient fails to take corrective action or a grant recipient requests to terminate a project, the Director may pursue various remedies.

2. If the proposed regulation is a temporary regulation, the terms of the substance of the proposed regulation to be adopted, amended or repealed, or a description of the subjects and issues involved.

The proposed regulation is not temporary.

3. If the proposed regulation is a permanent regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation.

Text of the proposed regulation is available on the Nevada Department of Conservation and Natural Resources website at: <http://dcnr.nv.gov/divisions-boards/conservation-nevada>, or by request of digital or hard copy from Brandon.Bishop@dcnr.nv.gov or 775-684-2707. Requests should specify [LCB File No. R025-22](#).

4. The estimated economic effect of the regulation on the business which it is to regulate and on the public.

In development of the regulation impacts on small business were considered; however, given the nature and scope of the authorizing legislation it is not anticipated these regulations will have a direct impact on small business. During the development of the program's regulations, four informal public listening sessions, and one workshop were conducted to help solicit feedback, concerns, and priorities from the public, nonprofits, state agencies, and local governments. During these listening sessions and regional visits program staff did not receive any comments or concerns from small business related to these proposed regulations. As evidenced by economic work conducted to assess the benefit of Nevada's outdoor recreation sector and further supported by data generated through the Nevada Economic Assessment Project (NEAP) it is anticipated that grants will provide needed investment leading to economic benefit for the State. This will include economic development opportunities for both our rural and urban communities. It is probable that indirect benefits through grant investments will help grow industries like Nevada's \$4 billion-dollar outdoor recreation industry. Through other regional studies investment within this sector alone typically generates an economic multiplier of approximately 1.8. It is anticipated that funds leveraged through this program with other investments will have a positive economic impact on small businesses.

In addition, these regulations are similar to the regulations that were adopted to carry out the "Q1" program that was passed by the Nevada voters in 2001. The "Q1" program also provided grants for resource conservation and recreation purposes to various entities. Negative impacts to small businesses were not identified during the administration of that program. Through the Q1 program we received anecdotal information regarding the programs benefit to small businesses. This was typically seen in instance were small businesses benefited from construction contracts, or where they benefited from an increase in visitors as a result of a recreation project.

5. The methods used by the agency in determining the impact on small business.

The adoption of this regulation will not directly impact small business. It is anticipated to that the implementation of this program and investment in projects around the state will likely benefit business through indirect factors. While the program will have direct impact on grant applicants it does not contain provisions that regulate business.

6. The estimated cost to the agency for enforcement of the proposed regulation.

DCNR does not anticipate additional costs for enforcement of the proposed regulations as the regulations are implementing the grant program outlined in the 2019 Statutes of Nevada, Chapter 480.

7. A description of and citation to any regulations of other states or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

The proposed regulations do not directly duplicate federal, state, or local regulations. The proposed regulation is similar in nature to the regulation found in NAC 321.400-NAC 321.466 inclusive. This regulation was for the implementation of the "Q1" program the predecessor to this current program. The prior Conservation Bond Program was established through the general election held on November 5, 2002, the Legislature submitted to the voters of this State and the voters approved a proposal to issue general obligation bonds of the State to protect, preserve and obtain the benefits of the property and natural resources of this State in an amount not to exceed \$200,000,000. The ballot question allocated specific amounts of the bond proceeds to various governmental entities for specified programs and projects. (Chapter 6, Statutes of Nevada 2001, 17th Special Session, at page 104) However, in the program's reauthorization through the 2019 Statutes of Nevada, Chapter 480, the program was moved from the Nevada Division of State Lands to the Department of Conservation and Natural Resources Director's Office. The new legislation additionally had different requirements and structure from the prior legislation. Rather than amending NAC 321.400-321.466 those regulations were allowed to remain as they are directly cited by projects and agreements carried out as part of the previous program and are required for those agreements to stay in place. The proposed regulation in LCB File No. R025-22 will govern this new program now in the Director's Office and conforms to the current authorizing legislation. The prior program is no longer active with the exception of its grant funding agreements and projects, and the regulations maintained for the prior program are not duplicative for the implementation of the current program.

8. If the regulation is required pursuant to federal law, a citation and description of the federal law.

The proposed regulation is not required pursuant to federal law.

9. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

N/A

10. Whether the proposed regulation establishes a new fee or increase and existing fee.

The new regulation does not establish or amend an existing fee.

11. If the proposed regulation is a temporary regulation, each address at which the text of the regulation may be inspected and copied.

The regulation is not a temporary regulation.

Persons wishing to comment upon the proposed action of the Nevada Department of Conservation and Natural Resources may participate virtually or in person at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Nevada Department of Conservation and Natural Resources, 901 S. Stewart St., Ste. 1003, Carson City, Nevada 89701 or by email to Brandon.Bishop@dcnr.nv.gov. Written submissions must be received by the Nevada Department of Conservation and Natural Resources before **5:00 p.m. on May 24, 2022**. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada Department of Conservation and Natural Resources may proceed immediately to act upon any written submissions.

Interested persons may obtain a copy of the text of this Notice of Hearing by contacting:

Nevada Department of Conservation and Natural Resources
Conserve Nevada Program
901 S. Stewart St., Ste. 1003
Carson City, Nevada 89701
Phone: 775-684-2707 Email: Brandon.Bishop@dcnr.nv.gov

This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to [NRS 233B.0653](#), and on the Internet at <http://www.leg.state.nv.us/>. Copies of this notice and the proposed regulation will also be mailed to members of the public at no charge upon request.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

Notice of this hearing was posted on or before 9 a.m. thirty days before the meeting at the following locations: the Nevada Department of Conservation and Natural Resources website at <http://dcnr.nv.gov/divisions-boards/conserves-nevada> and www.notice.nv.gov.

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Nevada Department of Conservation and Natural Resources

ADOPTION HEARING AGENDA NEVADA DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES CONSERVE NEVADA PROGRAM

**JUNE 3, 2022
1:30 P.M. PST**

Note: Items on the agenda may be taken out of the posted order, items may be combined for consideration, and items may be pulled or removed from the agenda.

- I. Call to Order**
- II. Public Comment:** Comments from the public are invited at this time. The program reserves the right to limit to 3 minutes the amount of time that will be allowed for each individual to speak. The program is precluded from action on items raised during Public Comments that are not on the agenda.
- III. For Possible Action:** Discussion and Adoption of Proposed Permanent Regulations
 - a. Adoption and discussion of regulations pertaining to the [2019 Statutes of Nevada, Chapter 480 at page 2860](#) that pertain to the implementation of the Conserve Nevada Program [LCB File No. R025-22](#).
- IV. Public Comment.** Comments from the public are invited at this time. The program reserves the right to limit to 3 minutes the amount of time that will be allowed for each individual to speak. The program is precluded from action on items raised during Public Comments that are not on the agenda.
- V. Adjournment**

A copy of all materials relating to the proposed regulations may be obtained at the hearing or by contacting the Nevada Department of Conservation and Natural Resources, 901 S. Stewart St., Ste. 1003, Carson City, NV 89701, Brandon.Bishop@dcnr.nv.gov, or (775) 684-2707. In your request, please state that you are requesting materials for the adoption hearing on June 3, 2022.

Reasonable efforts will be made for members of the public who have disabilities and require special accommodations for assistance at the meeting. Requests for accommodations or assistance may be submitted to the Department in writing to the address below or by calling 775-684-2707 at least three (3) business days prior to the meeting.

Nevada Department of Conservation and Natural Resources
Attn: Brandon Bishop
901 S. Stewart St., Ste. 1003
Carson City, NV 89701
Via email: Brandon.Bishop@dcnr.nv.gov

Action may not be taken on matters considered during public comment until specifically included on a future agenda as an action item.

Notice of this meeting has been sent to all persons on the agency's mailing list for administrative regulations, posted on the internet through the Department of Conservation and Natural Resource's website at <http://dcnr.nv.gov/divisions-boards/conservation-nevada>, and on the Nevada Public Notices website at <https://notice.nv.gov/> on or before 9 a.m. thirty days (30) calendar days prior to the meeting. Additionally, notice of this meeting was sent to the Nevada Legislative Counsel Bureau for posting at: <https://leg.state.nv.us/App/Notice/A/>.

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**PROPOSED REGULATION OF
THE DIRECTOR OF THE STATE DEPARTMENT OF
CONSERVATION AND NATURAL RESOURCES**

LCB File No. R025-22

April 20, 2022

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§ 1-38, Sections 2 and 3 of Assembly Bill No. 84, chapter 480, Statutes of Nevada 2019, at pages 2861 and 2864.

A REGULATION relating to state resources; establishing requirements for the Nevada Conservation and Recreation Program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

At the general election held on November 5, 2002, the Legislature submitted to the voters of this State and the voters approved a proposal to issue general obligation bonds of the State to protect, preserve and obtain the benefits of the property and natural resources of this State in an amount not to exceed \$200,000,000. The ballot question allocated specific amounts of the bond proceeds to various governmental entities for specified programs and projects. (Chapter 6, Statutes of Nevada 2001, 17th Special Session, at page 104) Assembly Bill No. 84 (A.B. 84) of the 80th Legislative Session: (1) required the State Board of Finance to issue an additional \$217,500,000 in state general obligation bonds to continue to protect, preserve and obtain the benefits of the property and natural and cultural resources of this State; and (2) directed that certain amounts of these bond proceeds be allocated to the State Department of Conservation and Natural Resources to make grants to state agencies, local governments, water conservancy districts, conservation districts and certain nonprofit organizations to protect, preserve and obtain the benefits of the property and natural and cultural resources of this State. (Chapter 480, Statutes of Nevada 2019, at page 2860) This regulation establishes the Nevada Conservation and Recreation Program in the Department to make such grants.

Sections 2-28 of this regulation define various terms relating to the Program.

Section 29 of this regulation sets forth, in accordance with the requirements of A.B. 84: (1) the entities which are eligible to receive a grant; (2) the purposes for which a grant may be awarded; and (3) the amounts allocated to award grants to these entities for certain purposes.

Section 30 of this regulation provides that the Director of the Department may periodically solicit applications for grants and establish deadlines for the submission of applications for a grant. **Section 30** also sets forth the requirements for an application for a grant.

Section 31 of this regulation requires an applicant to provide a matching contribution in order to receive a grant and establishes the eligibility requirements for a matching contribution.

Section 32 of this regulation provides that an entity that wishes to apply for a grant from the Program may submit a preapplication or letter of intent to the Department to determine whether the entity and project are eligible to receive a grant.

Section 33 of this regulation provides that the Director may establish one or more advisory committees to review applications for grants and make recommendations.

Section 34 of this regulation provides that the Program Manager of the Program or an advisory committee, as applicable, will rank applications in order of priority for awarding grants based on certain factors.

Sections 35 and 36 of this regulation require a grant recipient to enter into an agreement with the Department and sets forth various requirements for such an agreement.

Section 37 of this regulation: (1) prohibits, with certain exceptions, converting a project which was awarded a grant from the use or purpose for which the grant was awarded for a period of not less than 20 years; (2) provides that, with certain exceptions, a project which involves developing, acquiring, preserving or protecting property for recreational purposes or to ensure public access must maintain the public access in perpetuity; and (3) requires that, with certain exceptions, any land or water or any interest in land or water acquired with a grant must be held in perpetuity by the State.

Section 38 of this regulation provides that: (1) the Department may periodically review whether a grant recipient and project are in compliance with the requirements of the Program; (2) if the grant recipient or project are in violation of a requirement of the Program, the Director will send a letter of violation requiring the grant recipient to take corrective action; and (3) if the grant recipient fails to take corrective action or a grant recipient requests to terminate a project, the Director may pursue various remedies.

Section 1. Chapter 232 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 38, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 38, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 28, inclusive, of this regulation, have the meanings ascribed to them in those sections.*

Sec. 3. *“Acquisition” means the securing of the right of public use of real property or the benefit thereof by the purchase or donation of an interest in that real property.*

Sec. 4. *“Carson River corridor” includes, without limitation, the 100-year floodplain of the Carson River, land adjacent to the 100-year floodplain of the Carson River, sloughs or*

ponds of the Carson River, old meanders and oxbows of the Carson River and any tributary of the Carson River within its recognized hydrographic basins.

Sec. 5. *“Conservation district” has the meaning ascribed to it in NRS 548.032.*

Sec. 6. *“Credit” has the meaning ascribed to it in NAC 232.410.*

Sec. 7. *“Department” means the State Department of Conservation and Natural Resources.*

Sec. 8. *“Director” means the Director of the Department or his or her designee.*

Sec. 9. *“Easement for conservation” has the meaning ascribed to it in NRS 111.410.*

Sec. 10. *“Historic or cultural resources” means any surviving evidence that relates to the history of the use of the land from the earliest human occupation to recent historical activities. Surviving evidence may include, without limitation, sites, structures, districts, objects, artifacts and historic documents associated with or representative of peoples, cultures, and human activities and events from any period of time, including, without limitation, the present.*

Sec. 11. *“Lake Tahoe Path System” means the pedestrian and bicycle shared use path system that extends from Incline Village, Nevada to Stateline, Nevada, as laid out in the 2020 Regional Transportation Plan of the Tahoe Regional Planning Agency. The term includes, without limitation, trail facilities, support infrastructure, mobility hubs, bicycle and pedestrian counters, trailheads, trail connectors and shared use pathways.*

Sec. 12. *“Local government” means any political subdivision of this State, including, without limitation, a county, city, town, general improvement district, conservancy district, water conservancy district or any other district that performs a governmental function.*

Sec. 13. *“Matching contribution” includes money or anything of value, including, without limitation, the use of personnel, materials or equipment that is expended on a project.*

Sec. 14. *“Nevada Conservation and Recreation Program” or “Program” means the grant program created pursuant to subsections 8, 9 and 10 of section 2 of Assembly Bill No. 84, chapter 480, Statutes of Nevada 2019, at page 2861, and sections 2 to 38, inclusive, of this regulation.*

Sec. 15. *“Nonprofit organization” means an entity or organization that is exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3).*

Sec. 16. *“Project” ” includes, without limitation:*

- 1. The design and construction of outdoor recreational facilities, recreational trails and campsites;*
- 2. The acquisition of land and water rights or interests in land and water rights to protect and enhance wildlife habitat, sensitive or unique vegetation, historic or cultural resources, riparian corridors, floodplains, wetlands, other environmental resources and open spaces;*
- 3. The acquisition of credits to protect, enhance or restore sagebrush ecosystems;*
- 4. The creation of resilient landscapes;*
- 5. Catastrophic wildfire mitigation and restoration;*
- 6. The maintenance or restoration of watersheds;*
- 7. The maintenance or restoration of river corridors; and*
- 8. Those activities, acquisitions, construction, design, planning, studies and environmental, cultural or other reviews that preserve and protect, or obtain the benefits of, the property and natural and cultural resources of the State of Nevada.*

Sec. 17. *“Public benefit” means the outcome of a project that obtains, protects, preserves, supports or enhances the benefits of property, natural resources or cultural resources for current and future residents of the State of Nevada.*

Sec. 18. *“Recreational facility” means a facility for the use and enjoyment of a recreational area or trail that provides an opportunity for the observation, interpretation, outdoor recreation or enjoyment of natural or cultural resources.*

Sec. 19. *“Recreational trail” means:*

1. A trail, pathway, water trail or similar area for walking, hiking, bicycling, horseback riding, exercising or any other outdoor recreational activity;

2. Trail infrastructure that provides public access to outdoor recreational resources, existing trail connections or pathways that facilitate access to natural or cultural resources; and

3. Trail features, including, without limitation, trail junctions, points of interest, recreation stops, scenic points, sites of trail amenities and interpretive signage.

Sec. 20. *“Riparian corridor” means land related to or located on the bank of or adjacent to a natural or artificial waterway, including, without limitation, a river, intermittent or permanent creek or stream, gully where surface water collects, wetland, lake, pond or ditch, if the land exhibits plant types unique to areas with periodic or perennial water sources of a magnitude greater than the surrounding uplands.*

Sec. 21. *“Sensitive or unique vegetation” means any:*

1. Native species, cluster of native species or type of habitat that contains a rare, threatened or endangered native plant species designated by an appropriate federal or state agency;

2. Native species of vegetation in a declining trend;

3. Species of plant or network of vegetation that has characteristics that have been identified as worthy of special consideration; or

4. Species of plant or network of vegetation that is highly restricted in distribution or that occurs only in a specialized habitat or supports another rare, threatened or endangered species.

Sec. 22. "State agency" means any agency, department or division of the Executive Department of this State, including, without limitation, the Nevada System of Higher Education.

Sec. 23. "Trailhead" means a point at which a recreational trail or path system begins, diverts or terminates including, without limitation, restrooms, parking, signage, an interpretive site or any other item that provides public accessibility, information or support for the public utilization of a recreational trail or path system.

Sec. 24. "Truckee River corridor" includes, without limitation, the 100-year floodplain of the Truckee River, the land adjacent to the 100-year floodplain of the Truckee River, sloughs or ponds of the Truckee River, old meanders and oxbows of the Truckee River and any tributary of the Truckee River within the recognized hydrographic basins of the Truckee River.

Sec. 25. "Water conservancy district" has the meaning ascribed to it in NRS 541.020.

Sec. 26. "Wetland" means the transitional lands between terrestrial and aquatic systems, where the water table is usually at or near the surface or the land is covered by shallow water, which have a stable water source and:

- 1. At least periodically, the land supports hydrophytes predominantly;*
- 2. The substrate is predominantly undrained hydric soil; or*
- 3. The substrate is saturated with water or covered by shallow water at some time during the growing season of each year.*

Sec. 27. “Wildlife habitat” means a diverse area with a combination of the necessary resources and environmental conditions that promote a population of at least one wildlife species and allows the wildlife species to flourish and reproduce.

Sec. 28. “Wildlife species” means any native species of animal, including, without limitation, insects, amphibians, reptiles and any other vertebrate or invertebrate.

Sec. 29. In accordance with subsections 8, 9 and 10 of section 2 of Assembly Bill No. 84, chapter 480, Statutes of Nevada 2019, at page 2861, the Director will implement the Nevada Conservation and Recreation Program to award grants of money from the sale of general obligation bonds of this State as follows:

1. An amount not to exceed \$10,000,000 for grants to state agencies, local governments and nonprofit organizations or subdivisions thereof to enhance and restore the Truckee River corridor and watershed and the Carson River corridor and watershed;

2. An amount not to exceed \$5,000,000 for grants to Douglas County, Washoe County, Carson City or other local governments located within those counties to enhance the Lake Tahoe Path System; and

3. An amount not to exceed \$57,500,000 for grants to:

(a) State agencies, local governments or nonprofit organizations for the design, planning or construction of recreational facilities, campsites and recreational trails and trailheads. Any project paid for by a grant awarded pursuant to this paragraph must be for the protection, preservation and sustainable public use of the property and natural resources of this State or for the purposes of obtaining the benefits thereof. The Director will coordinate with the Division of State Parks of the Department and the Division of Outdoor Recreation of the Department when awarding grants pursuant to this paragraph.

(b) Counties and other local governments for the acquisition of land and water rights or interests in land and water rights to protect and enhance wildlife habitat, sensitive or unique vegetation, historic or cultural resources, riparian corridors, wetlands and other environmental resources in accordance with an adopted plan for open spaces. The Director will coordinate with the Division of State Lands of the Department when awarding grants pursuant to this paragraph.

(c) State agencies, local governments and nonprofit organizations for the acquisition and retirement of credits for the protection, enhancement or restoration of sagebrush ecosystems in accordance with NAC 232.400 to 232.480, inclusive. Any credits acquired with grant money awarded pursuant to this paragraph may only be used for the purpose of the retirement of the credits and may not be used to meet environmental mitigation requirements.

(d) State agencies, local governments and nonprofit organizations for carrying out projects to create resilient landscapes by reducing the threat of catastrophic wildfire, improving the condition and ecological health of watersheds or rehabilitating lands damaged by wildland fires. The Director will coordinate with the Division of Forestry of the Department and the Department of Wildlife when awarding grants pursuant to this paragraph.

(e) State agencies, local governments and nonprofit organizations for the inventory, enhancement and restoration of wetlands. The Director will coordinate with the Division of Natural Heritage of the Department and the Department of Wildlife when awarding grants pursuant to this paragraph.

(f) To carry out contracts or agreements under which a nonprofit organization may acquire land and water or interests in land and water for the public benefit to protect and enhance wildlife habitat, sensitive or unique vegetation, historic or cultural resources,

riparian corridors, wetlands and other environmental resources. The State must hold an interest in any property or interest in property acquired pursuant to this paragraph.

Sec. 30. 1. The Director may periodically solicit:

(a) Applications for the grants described in section 29 of this regulation from state agencies, local governments and nonprofit organizations for the grants of money;

(b) Applications from nonprofit organizations for carrying out contracts or agreements to acquire land and water or interests in land and water for the Nevada Conservation and Recreation Program; and

(c) Project lists from state agencies, local governments and nonprofit organizations to help assess the need for projects of the Nevada Conservation and Recreation Program.

2. The Director will establish deadlines for the submission of applications solicited pursuant to subsection 1.

3. An application for a grant must be submitted on a form provided by the Department and include, without limitation:

(a) The total estimated cost of the project which must include, without limitation, the estimated costs for planning, design, acquisitions and construction, as applicable;

(b) A description of the manner in which the project meets the purpose of the grant, as described in section 29 of this regulation;

(c) A proposed schedule for the project which must include, without limitation, the planning and implementation phases of the project;

(d) If the applicant is a nonprofit organization, documentation of the qualifications of the nonprofit organization;

(e) A description of the matching contributions that will be provided by the applicant, including, without limitation, the matching contribution that is required pursuant to section 31 of this regulation;

(f) If the applicant is a nonprofit organization and the project includes the acquisition of land or water or any interest in land or water:

(1) The most current financial statement of the nonprofit organization and a copy of the Form 990 of the nonprofit organization filed with the Internal Revenue Service of the United States Department of the Treasury for the last 3 fiscal years; and

(2) Specific details concerning the manner in which the money of the State will be secured by an interest in the land or water;

(g) A map of the location of the project and a plan for the site of the project indicated in an appropriate scale on the map;

(h) Documentation that the project conforms to any applicable federal, state or local plans;

(i) Documentation and a statement by the applicant that the applicant has made a good faith effort to contact any property owners potentially impacted by the project, including, without limitation, any letters of support or opposition received by the applicant regarding the project;

(j) Documentation that the applicant has contacted any stakeholders, including, without limitation, local governments and federal, state or local land management agencies which must include, without limitation, any statements from any stakeholders affected by the project that details any issues or concerns about the project and whether the stakeholder supports or opposes the project;

(k) Any environmental reviews, site planning documents, archaeological or other site impact statements, reviews or permits required to proceed with the project;

(l) An identification of any known potential adverse impacts to the environment or a cultural site and proposed mitigation measures for such impacts;

(m) A summary of the proposed plan for the operation and maintenance of the project for a period of not less than 20 years, including, without limitation, the identity of the person or entity who will operate the project or provide continued maintenance on the project and any documentation or agreements made with the person or entity that will operate the project or provide continued maintenance;

(n) If applicable, proof that the applicant has:

(1) The necessary interests in land and water to complete the project;

(2) A letter of intent between the property owner and the applicant authorizing the applicant to implement the project on the land; or

(3) A letter of intent between the property owner and the applicant concerning obtaining the necessary interests in land and water to complete the project; and

(o) Any other information required by the Director.

Sec. 31. 1. To receive a grant from the Nevada Conservation and Recreation Program, an applicant must provide an eligible matching contribution to the project of not less than 10 percent of the total cost of the project.

2. A matching contribution is eligible for purposes of this section if the matching contribution:

(a) Is for an expenditure for a project that was made not more than 2 years before receiving the grant from the Nevada Conservation and Recreation Program;

(b) Is directly related to the project; and

(c) Includes one or more of the following:

(1) Cash;

(2) In-kind contributions, including, without limitation, planning, labor, volunteer labor, appraisals, equipment rental and material costs;

(3) Federal or state contributions that are not part of the Program;

(4) Any costs associated with environmental information required for the project, documentation of which must be submitted with the application; or

(5) Any costs incurred in establishing a program to monitor the success of the project.

3. The following contributions do not qualify as eligible matching contributions:

(a) Any costs associated with the preparation of the application for a grant from the Program;

(b) In-kind services that do not relate to the project or the purposes of the Program;

(c) Money expended on the project 2 or more years before the application for a grant from the Program is approved;

(d) Money received from another grant from the Program; and

(e) Any other contribution the Director determines is an inappropriate matching contribution.

Sec. 32. 1. *An entity that is eligible to apply for a grant from the Program may submit to the Department a preapplication or letter of intent to apply for a grant for an initial determination of the eligibility of the project to receive a grant.*

2. In reviewing the preapplication or letter of intent submitted pursuant to subsection 1, the Department will consider, without limitation, whether:

- (a) The entity is eligible to apply for a grant from the Program;*
- (b) The proposed project is eligible for a grant from the Program; and*
- (c) The proposed project will provide a public benefit, as determined by the Department.*

Sec. 33. 1. *The Director will, if practicable, establish one or more advisory committees to:*

- (a) Review applications for grants from the Program;*
- (b) Make recommendations for grants from the Program. Such recommendations may be taken into account when ranking applications pursuant to section 34 of this regulation; and*
- (c) Make recommendations for the ranking system used to rank applications for grants.*

2. *In appointing members to an advisory committee, the Director may consider the diversity, expertise, geographic distribution, community representation and any other elements necessary for the review and ranking of applications.*

Sec. 34. 1. *The Program Manager:*

(a) Will rank applications received pursuant to section 30 of this regulation in order of priority for awarding grants using a ranking system authorized by the Director. Grants will be awarded for projects that, based on the application, are most appropriate for the receipt of a grant within the overall purpose of the Program.

(b) May request that an advisory committee, if established pursuant to section 33 of this regulation, rank applications in accordance with this section.

2. *The Program Manager or advisory committee, as applicable, shall consider the following factors, without limitation, when ranking applications:*

(a) The environmental significance of the project and the degree of conservation and protection of natural resources, including, without limitation, the preservation of a natural,

scientific, cultural, archeological, agricultural, paleontological or historical site or a wetland or riparian corridor resource;

(b) The extent of the public benefit, including, without limitation, an overall advancement in the conservation and protection of the natural resources of this State, the enhancement of recreational opportunities, increased public access to lands and waters of this State and the achievement of the goals identified in an adopted open space, recreation or resource plan;

(c) Whether the objectives of the project are clearly stated in the application and the applicant has the ability to carry out those objectives;

(d) Whether the detail and design of the project is adequate and includes a detailed plan for the management of the project that specifies the manner in which the project will be maintained and how the project will remain consistent with the purposes of the Program;

(e) Whether the projected budget and associated costs of the project are reasonable and detailed, whether the amount and sources of matching contributions are set forth in the application and whether the project will meet the objectives stated in the application in a cost-effective manner;

(f) The extent to which the project is a cooperative effort with other agencies, organizations or persons;

(g) The extent of support for the project from local governments and other public entities;

(h) The extent to which climate resiliency or sustainability practices are incorporated into the project; and

(i) Any other factor that the Director considers important in the ranking process, which may include, without limitation:

(1) The urgency of the need for the project;

(2) Whether the applicant has provided for matching contributions that exceed the requirements of section 31 of this regulation;

(3) Whether any land acquisition associated with the application includes the acquisition of water rights or other interest that will remain with the land in perpetuity;

(4) Whether the project includes the retiring of water rights in a hydrographic basin that is over-appropriated;

(5) If the project does not include the acquisition of water rights, whether the applicant has demonstrated the existence of an adequate water supply to fulfill the purposes of the project;

(6) The existence of a local need for the project that warrants special attention for the project due to a lack of similar opportunities in the local area of the project;

(7) The potential benefits of the project to the residents of this State;

(8) If the project is related to public use, the ability of the public to access the project;
and

(9) The completion and performance by the applicant of previous and similar work.

3. In determining whether to award a grant, the Director may consider any recommendations of the Program Manager or advisory committee, if established pursuant to section 33 of this regulation, and the rankings of the grant applications. The decision of the Director is final.

4. If an applicant is not awarded a grant by the Director, the application may be resubmitted during a future application period.

5. As used in this section:

(a) “Climate resiliency” means the adaptive capacity and ability to anticipate, prepare for and respond to a changing climate.

(b) “Program Manager” means the staff member of the Department who is tasked with administering the daily operations of the Program.

Sec. 35. *For each grant awarded from the Program, an agreement must be executed between the grant recipient and the Department, which must, without limitation:*

1. Authorize the grant recipient to use the grant to pay for:

(a) Except as otherwise provided in this section, all expenses directly related to the project, including, without limitation, any expenses related to the planning, design and construction of the project which must be calculated based on actual costs; and

(b) The administrative costs of the project, which may not exceed 3 percent of the total cost of the project;

2. Prohibit the grant recipient from using the grant to pay for:

(a) Any planning activity that is not directly related to the design and engineering of the project;

(b) The purchase of new equipment, unless the Director has determined that the new equipment is necessary as a one-time purchase specific to the project;

(c) Any work required by a public entity as mitigation or as a condition of approval of any other project;

(d) Any component of the project that the Director determines does not provide a direct public benefit;

(e) Any project that has already been completed; and

(f) Any other expense that the Director determines is not necessary or in compliance with the purposes of the Program; and

3. Set forth the timeline for the use of the grant and the reversion of interest and money not used.

Sec. 36. 1. *In addition to the requirements of section 35 of this regulation, the agreement between the Department and a grant recipient must:*

(a) Require the grant recipient to provide a matching contribution of not less than 10 percent of the total cost of the project for which the grant is awarded.

(b) Provide a plan for the operation and maintenance of the project for a period of not less than 20 years after the date on which the project is completed.

(c) Require the grant recipient to agree to:

(1) Provide the State with the necessary interest in any property not held by the State or a local government that is deemed by the Director to be necessary for the project;

(2) Include any nonrevocable deed restrictions and appropriate reversionary clauses as appropriate in the determination of the Director to:

(I) Ensure that the land, water or other property acquired to preserve or protect the natural or cultural resources of this State is maintained in a manner that is consistent with the purposes of the Program; and

(II) If the grant recipient is a local government or nonprofit organization and the project involves the acquisition of an interest in land or water, secure the interests of the State in the land or water;

(3) Include a stewardship statement that addresses the maintenance, monitoring and enforcement of weed control, dust control and other related issues; and

(4) The requirements set forth in section 37 of this regulation.

(d) Require the grant recipient to obtain any easements for conservation or other interests in land or water in perpetuity as determined by the Director to be necessary to carry out the project.

(e) If the project includes the acquisition of an interest in land or water on behalf of the State, acknowledge that any interest in land or water acquired by the grant recipient must be acquired and held by the Division of State Lands of the Department pursuant to chapter 321 of NRS.

(f) Prohibit the acquisition of any interest in land or water for a project by the grant recipient by condemnation or the power of eminent domain.

(g) Require the grant recipient to maintain an accurate accounting of all expenditures of the grant and allow the Department to require an independent audit or review the accounting upon request.

(h) Provide the Department with:

(1) Expense reports with supporting materials on a quarterly basis, which must include, without limitation, receipts and invoices.

(2) Quarterly project reports and updates on or before each January 31, April 30, July 31 and October 31 during the duration of the project which provides updates on the project schedule and summarizes the actions taken since the previous report and details the expenditures of the project. The report must be in the form prescribed by the Department and include, without limitation, photographs, receipts, invoices and any other project documents agreed upon by the Department and grant recipient.

(i) Provide the Department with a schedule for the implementation of the grant in which, except as otherwise provided in subsection 2, 85 percent of the grant will be spent not later than 3 years after the date on which the general obligation bonds for the grant are issued.

(j) Set forth a date of completion for the project.

(k) Provide that the Director may revoke a grant if the grant has not been spent in accordance with the schedule for implementation.

(l) Except as otherwise provided in section 37 of this regulation, provide that any land or water or interest in land or water that is acquired for public access must remain open to the public in perpetuity.

(m) Authorize visits to the site of the project by the Department for the lifetime of the project.

(n) Provide that the grant recipient agrees to the implementation of the remedies set forth in section 38 of this regulation and any other remedy set forth in the agreement in the case of a violation of the requirements of the Program or a provision of the agreement.

(o) Include any additional conditions the Director determines are necessary to carry out the purposes of the Program.

2. If the grant recipient requests that the entire amount of the grant or a portion thereof be provided in advance of an expenditure, the grant recipient must demonstrate an extraordinary need and the agreement must also require that any grant money provided in advance must be spent not later than 1 year after the date on which the money is received by the grant recipient, unless otherwise authorized by the Director. Any grant money provided in advance that is not spent within 1 year after receipt reverts to the Department.

Sec. 37. 1. *Except as otherwise provided in subsections 2 and 3 or as otherwise authorized by the Director, a project that is awarded a grant from the Program may not be converted from the use or purpose of the project set forth on the application and approved through the grant award, work plan or agreement for a period of 20 years beginning on the date on which the grant is awarded.*

2. *Except as otherwise provided in subsection 3, a project that is awarded a grant from the Program for the development, acquisition, preservation or protection of land or water for recreational purposes or with the express purpose of providing public access must ensure that public access is maintained in perpetuity other than any restrictions to public access established for the stewardship and management of the property to maintain the recreational value of the property.*

3. *Any land or water or interest in land or water that is acquired by the State or a grant recipient pursuant to the Program to preserve, protect or obtain the benefit of the property and natural or cultural resources of the State must be held by the State or the grant recipient in perpetuity unless:*

(a) If the interest in land or water is held by the State, the State Land Registrar, in consultation with the Director, determines that the land or water or interest in land or water no longer meets such purposes; or

(b) If the interest in land or water is held by a local government or nonprofit organization, the Director determines in accordance with a deed restriction acknowledged in the agreement with the grant recipient, the land or water or interest in land or water no longer meets such purposes.

4. Upon a determination made pursuant to subsection 3, the interest in land or water may be disposed of in accordance with subsection 8 of section 3 of Assembly Bill No. 84, chapter 480, Statutes of Nevada 2019, at page 2864, and any applicable deed restrictions.

Sec. 38. 1. The Department may periodically review whether the grant recipient and project are in compliance with all requirements of the Program and the provisions of the agreement executed between the Department and the grant recipient.

2. If the Director determines that a grant recipient or project does not meet any requirement of the Program or is not in compliance with the provisions of the agreement, the Department must send a letter of violation to the grant recipient by certified mail. A letter of violation must, without limitation:

(a) Specify the requirement of the Program or the provision of the agreement that has been violated; and

(b) Explain how the violation may be corrected.

3. If a grant recipient receives a letter of violation pursuant to subsection 2 and fails to take action to correct the violation within 90 days after receiving the letter or a grant recipient requests the termination of a project, the Director may require the grant recipient to do one or more of the following:

(a) Repay to the Department the amount of the grant award received by the grant recipient plus interest thereon at the rate of 10 percent per annum, as calculated beginning from:

(1) If the project is completed, the date the project is completed until the date of repayment; or

(2) If the project is not completed, the date on which the grant was received by the grant recipient until the date of repayment.

(b) Convey for no consideration, any property or interest in property to be used for the intended purpose of the project to the State, a local government, a nonprofit organization or any other entity that the Director determines is authorized to receive the conveyance.

(c) Provide an equivalent property or project that meets the original purpose of the grant award as determined by the Director.

(d) Impose any other remedy set forth in the agreement entered into between the Director and the grant recipient pursuant to sections 35 and 36 of this regulation.

BRADLEY CROWELL
Director

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Division of Water Resources
Division of Forestry
Division of State Parks
Division of State Lands
Division of Natural Heritage
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Nevada Department of Conservation and Natural Resources

SMALL BUSINESS IMPACT STATEMENT AS REQUIRED BY NRS 223B.0608

LCB FILE No. R025-22
March 3, 2022

Proposed amendments to NAC Chapter 321 pertaining to LCB File No. R025-22

- 1. A description of the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.**

These regulations are for the administration of the Conserve Nevada grant program authorized in the 2019 Statutes of Nevada, Chapter 480. These regulations do not include fees or new regulations on small business. These regulations will not impact small businesses in Nevada negatively either directly or indirectly. However, it is expected that the award of grants will provide an economic development opportunity for Nevada's outdoor recreation industry, construction industry, agricultural sector, and hospitality sectors through the award of grants that may create opportunities for business.

- 2. The manner in which the analysis was conducted.**

A business impact survey was not conducted to assess the impact of these regulations as they do not have a direct impact on small business. During the development of the program's regulations four informal public listening sessions were conducted to help solicit feedback, concerns, and priorities from the public, nonprofits, state agencies, and local governments. During these listening sessions and regional visits program staff did not receive any comments or concerns from small business related to these proposed regulations. As evidenced by economic work conducted to assess the benefit of Nevada's outdoor recreation sector and further supported by data generated through the Nevada Economic Assessment Project (NEAP) it is anticipated that grants will provide needed investment leading to economic benefit for the State. This will include economic development opportunities for both our rural and urban communities. It is probable that indirect benefits through grant investments will help grow industries like Nevada's \$4 billion-dollar outdoor recreation industry. Through other regional studies investment within this sector alone typically generates an economic multiplier of approximately 1.8. While not directly

evident it is anticipated that funds leveraged through this program with other investments will have a positive economic impact on small businesses.

In addition, these regulations are similar to the regulations that were adopted to carry out the "Q1" program that was passed by the Nevada voters in 2001. The "Q1" program also provided grants for resource conservation and recreation purposes to various entities. Negative impacts to small businesses were not identified during the administration of that program. Through the Q1 program we received anecdotal information regarding the programs benefit to small businesses. This was typically seen in instance were small businesses benefited from construction contracts, or where they benefited from an increase in visitors as a result of a recreation project.

3. The estimated economic effect of proposed regulation on small business which it is to regulate, including, without limitation:

The proposed regulation does not include regulations on small business.

4. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.

In development of the regulations impacts on small business were considered; however, given the nature and scope of the authorizing legislation it is not anticipated these regulations will have a direct impact on small business.

5. The estimated cost to the agency for enforcement of the proposed regulation.

DCNR does not anticipate additional costs for enforcement of the proposed regulations as the regulations are implementing the grant program outlined in the 2019 Statutes of Nevada, Chapter 480. It is anticipated that current staffing levels provided for in implementation of the program are sufficient to carry out these regulations.

6. If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The proposed regulations do not provide for a fee or an increase in an existing fee.

7. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.

N/A

8. The reason for the conclusion of the agency regarding the impact of a regulation on small businesses.

The adoption of this regulation will not directly impact small business. It is anticipated that the implementation of this program and investment in projects around the state will likely benefit small business through indirect factors. While the program will have direct impact on grant applicants it does not contain provisions that regulate small business as defined in NRS 223B.0382.

I certify that to the best of my knowledge or belief, a concerted effort was made to determine the impact of this proposed regulation on small businesses and the information contained in the statement was prepared properly and is accurate.

A handwritten signature in black ink, appearing to read 'Bradley Crowell', with a stylized flourish extending to the right.

^{for}
BRADLEY CROWELL

Director

Nevada Department of Conservation & Natural Resources