



STATE OF NEVADA
STATE CONSERVATION COMMISSION
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DRAFT MINUTES
STATE CONSERVATION COMMISSION MEETING

Friday, May 16, 2014 at 1:30 p.m.
Tahoe Hearing Room, 2nd Floor, Richard H. Bryan Building
901 S. Stewart Street, Carson City, Nevada 89701

The Nevada State Conservation Commission held a meeting on May 16, 2014, in the Tahoe Hearing Room of the Richard H. Bryan Building, 901 S. Stewart Street, Carson City, NV, 89701. The State Conservation Commission considered and acted on the following items.

Board Members All Present: Chairman Joe Sicking, Paradise/Sonoma CD, Maggie Orr, Lincoln County CD, Leland Wallace, Esmeralda County CD, Dr. Sherm Swanson, CABNR-NAES, Jake Tibbitts, Eureka CD, Agee Smith, Northeast Elko CD (by phone), Robert Little, Nevada Department of Agriculture, Eric Rieman, Carson Valley CD, and Kathy Mort, Stillwater CD.

Others Present: Tim Rubald, Conservation Districts Program Coordinator and Sagebrush Ecosystem Program Manager, Sandy Quilici, DCNR Director's Office, Kevin Benson, Deputy Attorney General, Steve Weaver, Conservation Staff Specialist Winnemucca Area (by phone), Anita Lahey, Conservation Staff Specialist Ely Area (by phone), Doni Bruland, Conservation Staff Specialist Elko Area (by phone), Bruce Petersen, State Conservationist, Natural Resources Conservation Service, Connie Lee, Nevada Dept. of Wildlife (by phone), Dr. Bill Payne, Dean and Director of CABNR-NAES, Cy Ryan, Las Vegas Sun, Geoff Dornan, Nevada Appeal, Jean Stone, DCNR Division of Environmental Protection, Bureau of Water Quality Planning, Jason King, State Engineer, Dave Gaskin, Deputy Administrator, DCNR Division of Environmental Protection, Carl Clinger, Big Meadow Conservation District (by phone), Marlene Wallace, and Nancy Sicking.

I. CALL TO ORDER, DETERMINATION OF A QUORUM

Chairman Sicking called the meeting to order at **1:33 p.m.** A quorum was established with members: Chairman Joe Sicking, Commissioner Jake Tibbitts, Commissioner Maggie Orr, Commissioner Leland Wallace, Commissioner Dr. Sherm Swanson, Commissioner Agee Smith, Commissioner Eric Rieman, Commissioner Kathy Mort, and Commissioner Robert Little.

A. Others present introduced themselves and are noted above.

II. PUBLIC COMMENT There were no public comments.

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

A. Approval of Minutes from March 25, 2014 Meeting. Commissioner Orr made a motion to approve the minutes, Commissioner Swanson seconded the motion; there was a vote and the motion passed unanimously.

B. Approval of Minutes from March 31, 2014 Meeting. Commissioner Orr made a motion to approve the minutes, Commissioner Swanson seconded the motion: there was a vote and the motion passed unanimously.

ACTION TAKEN

IV. BRIEF UPDATE ON CONSERVATION DISTRICTS PROGRAM – *NOT FOR POSSIBLE ACTION*

It was agreed to move this item to later in the meeting.

Chairman Sicking recessed the meeting at 1:36 p.m.

V. RECESS FOR ATTENDANCE AT REGULATION PUBLIC HEARING - *FOR POSSIBLE ACTION*

The State Conservation Commission will hold a Public Hearing to receive input on proposed language changes to the Nevada Administrative Code chapter 548, as follows:

A. LCB File No. R139-13 will provide minimum standards for the Conservation Districts related to the Sage Grouse Habitat Grant Fund, prescribing qualifications and eligibility processes.

1:37 p.m. Chairman Sicking called the hearing to order and read the synopsis. The Chairman called for public comment; there was none. The Chairman adjourned the Public Hearing at 1:38 p.m. ***NO ACTION TAKEN***

VI. RECONVENE REGULAR MEETING - *FOR POSSIBLE ACTION*

Chairman Sicking called the regular meeting back to order at 1:38 p.m. ***NO ACTION TAKEN***

VII. CONSIDERATION AND POSSIBLE ADOPTION OF PERMANENT REGULATIONS AND CHANGES TO NAC CHAPTER 548 - * FOR POSSIBLE ACTION*

Tim Rubald said there were a couple of word changes made; the regulation will go to the Legislative Committee for approval. It is unknown when the Committee will meet next; Tim will encourage them to meet as soon as possible.

Kevin Benson reminded the Commission that “competitive” was changed to “all CD’s that qualify can apply”.

Chairman Sicking said this needs to be approved soon so the money can be allotted before the end of the fiscal year.

Commissioner Orr asked if an application form needs to be written. Mr. Rubald said the regulations provide that the program will create the form.

Mr. Rubald said on page 3, section 2; if LCB agrees to the wording he would like to change the 75% to full funding. Commissioner Tibbitts made a motion to first approve the 75% wording; Commissioner Orr seconded the motion, there was a vote and the motion passed unanimously. ***ACTION TAKEN***

Chairman Wallace made a motion to then change the 75% to full funding. Commissioner Mort seconded the motion; there was a vote and the motion passed unanimously. ***ACTION TAKEN*** Commissioner Orr said since the SET has to approve the project could it be made a priority to expedite? Mr. Rubald said absolutely. ***ACTION TAKEN***

Chairman Sicking asked for any public comment on the regulation – there were no comments.

Chairman Sicking moved to Agenda Item X because Dr. Payne needed to leave for graduation ceremonies.

X. PRESENTATION AND DISCUSSION OF DEVELOPMENTS WITH THE UNR COLLEGE OF AGRICULTURE BIOTECHNOLOGY AND NATURAL RESOURCES (CABNR) AND THE NEVADA AGRICULTURAL EXPERIMENT STATION - *NOT FOR POSSIBLE ACTION*

A. Dr. Bill Payne, Dean of CABNR and the Director of the Nevada Agricultural Experiment Station gave a Power Point presentation. Dr. Payne gave an overview of the college.

Dr. Payne said the mission is to improve the quality of life for Nevadans through education and research programs. CABNR goals are to support agriculture, promote community health and well-being, sustain natural resources, and stimulate economic development.

The college has several fields for undergraduate majors. The annual student enrollment is up; Veterinarian Science is one example. The college has hired more faculty and our programs are expanding.

In 2013 the college acquired about three and a half million dollars in federal grants which resulted in an impact of six million dollars.

Dr. Payne went over the various research and conservation programs.

Chairman Sicking commented that Commissioner Swanson is an asset to this Commission.

Commissioner Orr thanked Dr. Payne for the support of the Youth Range Camp and the staff that the college provides.

Chairman Sicking said we will now hear Agenda Item VIII.

VIII. PRESENTATION AND DISCUSSION ON WATER ISSUES IN NEVADA - *NOT FOR POSSIBLE ACTION*

A. State Water Engineer Jason King spoke of the groundwater management plans. In 2011 there was statutory language passed that gave Water Resources tools to deal with basins that are over appropriated and over pumped. Water Resources has been working in two basins, Pahrump Valley and Diamond Valley. Pahrump now has an Advisory Board and Diamond Valley will shortly. They will put together stakeholders to work with Water Resources to create a groundwater management plan that will work outside of the critical management designation. It is needed to bring the basins back in balance.

One of the BDR's for the next legislative session concerns making language changes to adjudications.

A second BDR is to further define what can be done in a critical management area and a groundwater management plan. Once there is a groundwater management plan for the Pahrump and Diamond Valleys it will be used as a template for other basins statewide.

Water Resources will be holding public sessions to talk about water issues and the potential BDR's. This lets the public know what the agency is doing and obtains public input.

The SNWA pipeline project was granted water in Spring, Cave, Dry Lake, and Delamar Valleys. The rulings were appealed. The rulings were remanded back to the agency. Water Resources has appealed the remand to the State Supreme Court. The Court will determine if Water Resources can appeal the remand.

In the case of General Moly in Kobeh Valley; the issues in the SNWA pipeline project overlap the issues that are in the General Moly decision. This is before the State Supreme Court. There will be oral arguments at the end of June.

There is Order #1169 that former State Engineer Hugh Ricci issued in 2001-2002. In the late 1980's and early 1990's much was made of a carbonate aquifer system in the east side of the state that runs north and south. It was unknown how much water was in the aquifer. Some professionals felt it could be a new water source. There were some water rights issued and then it was decided that a pump test was needed. The pump test data showed impacts with other basins. Since then any pending applications were denied.

Commissioner Wallace said Fish Lake Valley water is dropping. Mr. King said it has been over appropriated and is an example of a need for a groundwater management plan. Mr. King would like to have a management plan with California in the bi-state areas.

Commissioner Tibbitts said perhaps the CD's could partner with DWR when the public sessions are held. Mr. King said it is a good idea and Tim Rubald said he would help with contacts.

XI. DISCUSSION AND POSSIBLE DIRECTION TO STAFF ON DEVELOPING OFFICAL COMMENTS TO THE ENVIRONMENTAL PROTECTION AGENCY REGARDING THEIR PROPOSED RULE – Definition of “Waters of the United States” Under the Clean Water Act - *FOR POSSIBLE ACTION*

- A. Tim Rubald provided a handout of an article from the NV Cattlemen's Association's newsletter. (*See Attachment I*). Mr. Rubald introduced Dave Gaskin, Deputy Administrator of the Nevada Division of Environmental Protection.

Mr. Gaskin said we have programs that implement the Clean Water Act in Nevada. Mr. Gaskin has prepared a briefing that will go to the Governor for the Western Governors Association to give our perspective. We are working with other associations: AQUA (Association of Clean Water Administrators), the Water Committee for ECOS (Environmental Council of the States), and EPA preparing comments. We have provided comments during the development of the proposed rule. These groups are requesting an extension of ninety days for the public comment period which now ends July 31st.

Mr. Gaskin has met with mining groups also to coordinate a combined effort.

There have been meetings with EPA Region IX in San Francisco and they had less to say than we did. This is why we will work directly with EPA headquarters. Mr. Gaskin said he will help with any questions.

Commissioner Tibbitts asked if the division is commenting on the new rule or offering a different one. Mr. Gaskin said the new rule is redefining the jurisdictional boundaries of the EPA regarding water. The EPA said they are trying to clarify and simplify, but we believe they are trying to extend their jurisdiction as much as possible. We are commenting that the new rule is flawed.

Commissioner Orr said they are not including water being delivered through a reclamation system in their definition and want to include that in the new rule. Is that correct? Mr. Gaskin said yes and it is broader than that.

Mr. King said DWR deals with the regulation of the amount of water that can be appropriated and perhaps we would need the federal government's approval before we make a decision. This may not be the case, but it could be the start. Mr. King asked if the Commission would want to comment.

Chairman Sicking said yes. Mr. Gaskin offered to share NDEP's concerns. The new wording includes all tributaries even ones that disappear; we want that changed. If it is not connected on the surface it should not be jurisdictional. These are areas that do not contribute to navigable waters.

The Commission will form a request for an extension of time and also comment on the interpretive rule. Mr. Rubald will help with this.

3:00 p.m. – Break

3:16 p.m. – Chairman Sicking reconvened the meeting.

Chairman Sicking made a motion to ask staff to write a letter asking for a 90 day extension of EPA's proposed rule. Commissioner Tibbitts seconded the motion. There was a vote and the motion passed unanimously.

ACTION TAKEN

Commissioner Tibbitts said we should let the CD's know so they can provide their comments, our comments should reflect our core values, and we should check with our partners for their comments.

Chairman Sicking said to plan the next meeting for July 14, 2014 at 1:30 p.m. in Carson City. Commissioner Tibbitts made a motion to ask the CD's for input on the EPA rule by June 30th, Commissioner Swanson seconded the motion. The motion passed unanimously. ***ACTION TAKEN***

Commissioner Tibbitts made a motion that the comments reflect our values as well as gather input from our partners NDEP, DWR, NACO, NvACD, NACD, and the Farm Bureau. Commissioner Wallace seconded the motion. The motion passed unanimously. ***ACTION TAKEN***

Commissioner Tibbitts made a motion that at the July 14th meeting comments will be formed on the Clean Water Act. Commissioner Wallace seconded the motion. There was a vote and the motion passed unanimously.

ACTION TAKEN

IX. ELECTION OF CHAIR AND VICE-CHAIR - *FOR POSSIBLE ACTION*

Chairman Sicking asked for nominations for Chairman. Commissioner Orr made a motion to re-elect Chairman Sicking, Commissioner Rieman seconded the motion. There was a vote and the motion passed unanimously. Chairman Sicking will remain as Chairman. ***ACTION TAKEN***

Chairman Sicking asked for nominations for Vice-Chairman. Commissioner Orr made a motion to elect Commissioner Rieman as Vice Chairman, Commissioner Tibbitts seconded the motion. After a vote the motion passed unanimously. Commissioner Rieman is Vice-Chairman. ***ACTION TAKEN***

IV. BRIEF UPDATE ON CONSERVATION DISTRICTS PROGRAM – *NOT FOR POSSIBLE ACTION*

Tim Rubald stated there has been an NPD19 submitted to Personnel which is an upgrade request for the CD Coordinator's position to be changed from an MAII to an MAIII. Once approved the recruitment should be completed around August.

The data call for sage grouse is in September. Chairman Sicking thanked Mr. Rubald for the work he has done in managing the SETT and CD's.

XII. DISCUSSION AND POSSIBLE ACTION REGARDING REVIEWING THE CURRENT COMMISSION STRATEGIC PLAN - *FOR POSSIBLE ACTION*

Tim Rubald said the strategic plan is a five year plan which is up in 2015. He asked what the Commission would like for updating. Tim would like to revisit the plan more often in the future as it has not been updated in the five years. Commissioner Tibbitts agreed it would help to work on the plan often.

Commissioner Tibbitts said when we go to the next Legislature we would like the plan to look updated and to list our accomplishments. Commissioner Swanson said we want to mention there are three new employees

helping the districts and ask the CD's for their ideas. Also, establish how much money the CD's would need for new projects including sage grouse.

Commissioner Smith said having SANE with his CD has revitalized the interest and it has involved other operators.

Commissioner Tibbitts made a motion that each Commissioner take the strategic plan and put it on each of their agendas and include their next projects into what is currently in the plan. Commissioner Swanson seconded the motion. There was a vote and the motion passed unanimously. ***ACTION TAKEN***

XIII. DISCUSSION AND POSSIBLE DIRECTION TO STAFF REGARDING CURRENT ISSUES PERTAINING TO THE WILD HORSE AND BURRO ACT (WHBA) AND SITUATIONS ENCOMPASSING THE CURRENT MANAGEMENT OF WHBA BY BLM AND US FOREST SERVICE.

- A. The current lawsuit filed by the Nevada Association of County Officials and the Nevada Farm Bureau- ***FOR POSSIBLE ACTION***

Mr. Rubald provided a handout (*See Attachment II*) from NACO. The SEC sent a letter of support to NACO regarding their lawsuit. Would the Commission like to consider a letter?

Commissioner Tibbitts said the suit asks BLM to follow the directives of the act which he supports.

Commissioner Orr made a motion to draft a letter containing a resolution to support NACO. Commissioner Swanson seconded the motion. There was a vote and the motion passed unanimously. Mr. Rubald said he would draft a resolution for the Commission to review at their next meeting. ***ACTION TAKEN***

- B. Recent action by the Sagebrush Ecosystem Council in the development of the State's Alternative for the BLM/USFS Sub-regional EIS, and their effort in updating the State Plan- ***FOR POSSIBLE ACTION***

Mr. Rubald said the Sagebrush Ecosystem Council approved the Wild Horse and Burro Management and Livestock Grazing part of the State Plan. At the August Council Meeting the Council will be approving the entire State Plan. You may provide any comments to him or Commissioner Swanson. ***NO ACTION TAKEN***

- C. The situation in Pershing County regarding possible trespass of horses on private land- ***FOR POSSIBLE ACTION***

Mr. Rubald said at the next Pershing County Commission Meeting there will be a reading of a draft ordinance dealing with wild horses. Mr. Rubald will provide the Commission with copies of the ordinance when available.

Carl Clinger with Big Meadow Conservation District (by phone) said he would answer any questions. He said the purpose of the ordinance is to protect the sheriff. When the ordinance is passed the sheriff will lead a group to capture horses on private land. When the horses are captured on private ground BLM and the US Marshal will be notified and the horses will be picked up.

Commissioner Orr said BLM will deal with the horses on a case by case basis.

Commissioner Swanson said the part of the problem for BLM is a limited budget to hold the horses. ***NO ACTION TAKEN***

XIV. AGENCY UPDATES - *NOT FOR POSSIBLE ACTION*

- A. Farm Services Administration and Natural Resources Conservation Service – Bruce Petersen will report for Clint Koble, State Executive Director and report for NRCS.

Mr. Petersen provided a report from the Farm Services Agency (*See Attachment III*). There is a new Farm Bill now. The AGI limit has changed from one million to 900 thousand. The payment limit is raised from 300 to 450 thousand dollars.

The EQIP program had about 19 million in requests and the funding level is about 7 and a half million. There is funding for drought programs and sage grouse. Sage grouse has about 2 million in applications.

There has been funding of 6 easements and FSA is looking for an entity match. In the bi-state area there is interest in the programs and there is one application.

In Elko SGI has hired a sage grouse person under the Initiative. SGI moved a position from Ely to Elko so there are now two positions in Elko. There are engineer vacancies in Winnemucca and Elko with NRCS. There are conservationist vacancies in Ely and Caliente which are now one district. Mr. Petersen noted it has been hard to fill vacancies.

Mr. Petersen noted that it is time to form or update MOUs specific with the CD's and the district chairs containing updated content.

- B. Nevada Dept. of Agriculture – Robert Little, Noxious Weeds Coordinator. Commissioner Little said at the last Sagebrush Ecosystem Council Meeting, the Dept. of Agriculture said it will release an RFP by June 2nd totaling about \$85,000 for sage grouse restoration efforts. It will include invasive plant and noxious weed control.

There is a position open for a Rangeland Ecologist.

Ed Foster is recovering, but his future is uncertain. He may retire.

- C. UNR CABNR – Dr. Sherm Swanson. Dr. Payne gave our presentation for today.

- D. NV Dept. of Wildlife – Connie Lee, Landowner Incentive Programs. There was no report today.

- E. NV Association of Conservation Districts – Jake Tibbitts, President. Commissioner Tibbitts said the Annual Meeting of NvACD is November 12th and 13th at the Fallon Convention Center. There will hopefully be an Executive Director soon.

- F. NV Sagebrush Ecosystem Program – Tim Rubald, Program Manager. Mr. Rubald said the team has been working with BLM on the EIS. A final report should be ready by August for the Governor's consistency review. Currently it appears that most of Alternative E will be incorporated into the accepted version.

Fish and Wildlife Service is pushing hard to have BLM implement exclusion zones which are against Alternative E. We will continue to try and find alternatives.

The Conservation Credit System is developing; the technical team is going out to 3 locations to test the metrics. We want to show that the credit system is a better solution than exclusion zones and/or an artificial cap.

At the last SEC meeting Congressman Amodei pointed out that the federal officials have not helped with the grouse in the last 10 years. He will ask for a one year delay in the listing decision so that BLM and Fish and Wildlife Service have more time to request funding, which has not been done.

Grazing monitoring has been discussed; perhaps develop a program that would be self-monitoring for producers. It would include enough checks by trained staff to make it acceptable. This could be an opportunity for CD's to obtain staff by leveraging the funding that might become available.

The Conservation Staff Specialists in Winnemucca, Elko, and Ely continue to develop projects. Anita in Ely has completed five miles of hanging markers with Lincoln County.

G. Other Reports – there were none.

XV. COMMISSIONER ITEMS - *NOT FOR POSSIBLE ACTION*

- A. Chairman Sicking said the Commission should ask for \$10,000 from the Legislature.
- B. Chairman Sicking said the Commission could review the Strategic Plan at the State Commission Meeting before the State Association's Annual Meeting in November.
- C. Chairman Sicking asked about the question of grazing being beneficial to the grouse. Mr. Rubald said it depends on which study you read. Commissioner Swanson said the grouse like the forbs and insects in the grazed areas.

XVI. NEXT COMMISSION MEETING - *FOR POSSIBLE ACTION*

- A. Chairman Sicking said the next meeting will be a phone conference regarding the grant monies. Mr. Rubald said perhaps after June 23rd; we need time to process. It was agreed to plan a tentative teleconference meeting for June 24th starting at 1:30 p.m.

XVII. PUBLIC COMMENTS

Carl Clinger said Pershing County will be writing a letter of recommendation to remove the raven from the migratory bird list. The numbers are up and the birds are a hazard in Pershing County. Mr. Clinger would like the Commission to put this item on the next agenda.

XVIII. ADJOURNMENT

Chairman Sicking made a motion to adjourn; Commissioner Rieman seconded the motion. There was a vote and the meeting was adjourned at 5:13 p.m.