



STATE OF NEVADA  
**STATE CONSERVATION COMMISSION**  
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**MINUTES**  
**STATE CONSERVATION COMMISSION MEETING**

Friday, February 20, 2015, 1:00 p.m.  
Director's Conference Room, 1st Floor, Richard H. Bryan Building  
901 S. Stewart Street, Carson City, Nevada 89701

The Nevada State Conservation Commission held a telephonic meeting on February 20, 2015, in the Director's Conference 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 Present:** Chairman Joe Sicking, Paradise/Sonoma CD, Maggie Orr, Lincoln County CD, Leland Wallace, Esmeralda County CD, Dr. Sherm Swanson, CABNR-NAES, Kathy Mort, Stillwater CD, and Agee Smith, Northeast Elko CD.

**Board Members Absent:** Vice Chairman Eric Rieman, Carson Valley CD, Jake Tibbitts, Eureka CD, and Tina Mudd, Nevada Department of Agriculture.

**Others Present:** Tim Rubald, Conservation Districts Program Manager, Sandy Quilici, DCNR Director's Office, Kevin Benson, Deputy Attorney General, Jason King, State Water Engineer, and Gerry Miller, Elko Area Conservation Staff Specialist (by phone).

**I. CALL TO ORDER, DETERMINATION OF A QUORUM**

- A. A quorum was established and Chairman Sicking called the meeting to order at 1:05 p.m. The participants introduced themselves.

**II. PUBLIC COMMENT** There were no public comments.

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

- A. Tim Rubald, Conservation Districts Program Manager, said Ben Bolton, formerly with the Division of Forestry, has accepted the Ely Conservation Staff Specialist position and he will start on March 9<sup>th</sup>. Our field staff now consists of a Wildlife Biologist (Steve Weaver), a Range Management Professional (Gerry Miller), and a Forester (Ben Bolton). Mr. Rubald will be in Ely March 9<sup>th</sup> and 10<sup>th</sup>.

Mr. Rubald had sent an email to the Commissioners including the document the State of Nevada Sagebrush Ecosystem Initiative (*See Attachment I*). This is a major budget initiative recommended by the Governor. There is one million dollars for each fiscal year (FY16 and FY17) to capitalize the Conservation Credit System for habitat project work. The CD's will have an opportunity to use these funds.

There is \$125,000 each fiscal year to provide a contractor to do National Environmental Policy Act (NEPA) resource projects. This will help to move projects forward.

Starting July 1, 2015, the three Conservation Staff Specialists positions and the Sagebrush Ecosystem Team positions will change funding to the General Fund. The funding will no longer be from various other agencies.

Commissioner Swanson asked if the NEPA contract money is for consultants or employees within DCNR.

Mr. Rubald said the intent is to contract a consultant with NEPA background and who is familiar with the process.

Commissioner Swanson asked about the Conservation Credit System money – is it just for CD's.

Mr. Rubald said it is available to those doing projects on the ground. The funding is somewhat a revolving fund, so that when credits are generated with that money any cash that is generated from the sale of those credits would return back to the Credit System. It is an opportunity for CD's to be able to do projects, generate credits, sell those credits, and a part of that would be returned to the fund.

Commissioner Swanson asked if there could be leveraging of federal dollars.

Mr. Rubald said yes, but it would not count as credit generation.

Mr. Rubald said the budget hearing on this subject is next week.

Mr. Rubald also emailed the Commissioners a memorandum with maps from the U.S. Fish and Wildlife Service (*See Attachment II*). The purple and dark green areas on the maps are proposed to be the “super core” areas with significant limitations on any activity within. The limitations would include mineral development, energy projects, and possibly mineral withdrawal. At this point it does not affect grazing, but it would be monitored closely. This could be in the BLM/USFS Sage Grouse EIS. This is not what the state wanted. In addition to those areas, it is proposed to add a 3% disturbance cap. Also proposed is a no disturbance area on 3 or 4 miles surrounding leks. This adds more area than what is shown on the maps. The Sagebrush Ecosystem Council had voted against some of these proposals. None of what appears on the maps had been discussed previously.

Commissioner Orr asked if the Commission could comment. Mr. Rubald said when the final draft comes out there will be a comment period. Commissioner Orr said they are not using the Coates (Nevada) maps which have the newer data.

Chairman Sicking opposed the memorandum because it could potentially reduce grazing.

Commissioner Swanson said the objectives could be onerous as they are likely to be applied.

Commissioner Smith said it refers to leaving more standing feed and cover which would restrict grazing.

#### **IV. DISCUSSION AND REVIEW OF LEGISLATION INTRODUCED IN THE CURRENT LEGISLATIVE SESSION - \*FOR POSSIBLE ACTION\***

A. Discussion and review of SB45, a bill assigned to Senate Natural Resources that essentially puts the “competitive” nature into the Commission's Competitive Grant Program (*See Attachment III*). Mr. Rubald said he sent the bill to the Commissioners earlier. This bill will make the grant program “competitive”. This morning Senator Kieckhefer, Chairman of the Senate Finance Committee, referred the bill to Senate Finance. Mr. Rubald will be at the Senate hearing on Monday to testify. Then the bill goes from the Senate to the Assembly. He is confident there will be no problems. Once it passes it becomes effective immediately. Next the Commission will meet to create temporary regulations and then again after July 1<sup>st</sup>. Hopefully this year the \$40,000 grant will be “competitive”.

B. Discussion and review of SB65, a bill assigned to Senate Government Affairs which provides for the “Modification and clarification of Nevada water law, including adjudications.” (*See Attachment IV*) Jason King, State Water Engineer, said SB65 and SB81 have been heard in Senate Government Affairs. SB65 is a housekeeping bill. Forty of the sections within the bill deal with the modernization of adjudication language. After the testimony at Senate Government Affairs, Senator Goicoechea moved the bill to a workshop. The first workshop was held February 17<sup>th</sup> with about 30 participants and was four hours long. Our office is working on redrafting the bill in anticipation of the 2<sup>nd</sup> workshop which will be February 24<sup>th</sup>. The bill will be posted on DWR's website.

Chairman Sicking asked what the concerns were. Mr. King said there were concerns over the adjudication language which said DWR has the ability to adjudicate groundwater. We changed groundwater to surface water or stream systems with surface water stream systems and groundwater.

Another concern was when there is an interbasin transfer of groundwater proposed of 250 acre feet or more of water, there has to be a baseline inventory conducted in that basin of export. In the bill we requested to increase that threshold from 250 acre feet to a threshold of 25% of the perennial yield. The concern was that 25% is too large; we will try for a compromise between the two. Now it is written to be 1000 acre feet or 25% of the perennial yield whichever is less.

Another concern was we took language that is found in NRS 533, which is a surface water chapter, and we tried to put parallel language in NRS 534, a groundwater chapter. It says before a person may obtain a right to the use of groundwater from a basin the person must ensure that wildlife which customarily uses spring sources in the basin will continue to have access to those sources. It appeared to give wildlife a de facto water right. If the springs are dried up then there is a conflict - how do you prove that it is someone pumping groundwater? We have taken the provision out. People will have to file an application for the wildlife and get a permit. Regarding horses: in our water law chapter - it allows for the permitting of wildlife including wild horses in herd management areas.

Another concern was a provision in statute that if a waterline comes to within 180 ft. of a property line where the house is using a domestic well, at such time that domestic well goes bad and requires a drilling rig to repair it, the home owner would have to hook up to city water. In our bill draft we changed that distance from 180 ft. to 1000 ft. This made the hookup fee too high. We are going back to 180 ft.

A wording change was "place" of diversion to "point" of diversion.

Commissioner Wallace asked if there was a provision that would affect current certified water rights. Mr. King said there was not.

Mr. King said there is an added provision that says Water Resources shall quantify all diversion rate only certificates. This is because currently the diversion rate certificates are not quantified and this has caused problems.

Chairman Sicking asked about language on supplemental wells. Mr. King said we are not including that at this time.

C. Discussion and review of SB81, a bill assigned to Senate Government Affairs which "Revises provisions relating to the management and appropriation of water and further defines management areas." (*See Attachment V*) Mr. King said SB81 is the result of DWR working with the water right stakeholders in both Diamond Valley and Pahrump Valley in the context of an active management area. In 2011 there was language passed that provided DWR a tool for basins that were severely over appropriated to work with the stakeholders to bring the basins back into balance. The language needed clarification. There have been tools added to help the stakeholders with their groundwater management plan. There will be a new draft of the bill before the workshop next week.

Chairman Sicking asked about the term 'active management area'. Mr. King said an over appropriated area was referred to as a 'critical' management area and the term was not favorable. The new designation term is 'active' management area (AMA).

Chairman Sicking asked for some of the added tools. Mr. King said one is to limit the quantity of water that may be withdrawn under any permitted certificate. That is written because right now the way to regulate is by priority. Another provision is to limit the drilling of domestic wells in active management areas. Another is to clarify the limit of the quantity of water allowed to be withdrawn from a domestic well. There is a tool to limit the movement of water rights. There is one to impose conservation practices that might otherwise result in forfeiture of the water pursuant to the NRS. It's problematic when people don't use their water rights except once every five years. This is how the forfeiture process works. You will have people pump their full allotment at least once every five years in order not to lose their water rights. What we are saying now is if you do conserve water and become more efficient with the water that you save you should not face a forfeiture of your water right. We want an incentive to conserve water.

Mr. King said on Monday the Pahrump Valley Groundwater Management Plan Committee is submitting their ten recommendations to the Nye County Water District in trying to move a groundwater plan forward. Mr. King will be at that meeting.

D. Possible Discussion of other Bills and Bill Draft Requests appropriate to and possibly affecting the State Conservation Commission or the state's Conservation Districts. There was no more discussion.

**\*NO ACTION TAKEN\***

#### **V. COMMISSIONER ITEMS - \*NOT FOR POSSIBLE ACTION\***

A. Comments and Reports Commissioner Orr said that NRCS is considering changing the title of the 'State Conservationist' to the 'State Director' and she did not agree. She said it would change the connotation of what the agency is directed towards. She would like the Commission to comment on the decision.

Mr. Rubald said he had not heard that yet. Chairman Sicking said we need more information before making a comment.

Chairman Sicking said the Commission would like to continue to receive updates on amendments and bills that relate to Conservation. Mr. Rubald said he will email the commissioners updates.

#### **VI. NEXT COMMISSION MEETING - \* FOR POSSIBLE ACTION\***

Mr. Rubald said depending on when SB45 passes there would need to be a public hearing and the Commission will need to meet. Chairman Sicking we will leave the meeting date open for this.

Commissioner Swanson asked if the Commission wants to comment on the Sage Grouse Final EIS. Chairman Sicking said yes, and it should be on the next agenda. Commissioner Swanson said there should be a 60 day comment period and if the Commission has a regulation meeting it could be added to that agenda.

Mr. Rubald said there needs to be a boundary change between Vya CD and Washoe-Storey CD and he is working on this with Deputy Attorney General Kevin Benson. This should require action from the Commission.

Commissioner Swanson said there is a 60 day comment period now for the Bi-State Decision that the Commission could provide comment. Chairman Sicking said if Commissioner Swanson sees something that he feels the Commission should address to call him and a meeting will be planned.

#### **VII. PUBLIC COMMENTS** There were no public comments.

#### **VIII. ADJOURNMENT - FOR POSSIBLE ACTION\***

Chairman Sicking adjourned the meeting at 2:20 p.m.