

STATE LAND USE PLANNING ADVISORY COUNCIL

MINUTES

April 10, 2015

At the following location:

Elko County Commissioners Meeting Room

Nannini Building

540 Court Street, Suite 102

Elko, Nevada 89801

Members Present

Lee Plemel, Carson City
Terri Pereira for Eleanor Lockwood, Churchill County
Jim French, Humboldt County
Steven Stienmetz, Lander County
Austin Osborne, Storey County
Jeanne Herman for Vaughn Hartung, Washoe County
Jerrie Tipton, Mineral County
Laurie Carson, White Pine County
Roger Mancebo, Pershing
Jake Tibbitts, Eureka County (Chair)
Randy Brown, Elko County
Nancy Boland, Esmeralda County

Members Absent

Dagny Stapleton, NACO
Dr. Don Miner, Douglas
Lorinda Wichman, Nye County (Vice Chair)
Nancy Amundsen, Clark County

Others Present

Dave Marlow, Nevada Division of State Lands
Skip Canfield, Nevada Division of State Lands, State Land Use Planning Agency
Sam Routson, Winnemucca Farms, Inc.

CALL TO ORDER

The meeting was called to order at 9:00 AM and self-introductions were made. A motion was made by **Jerrie Tipton** to approve the agenda. The motion was seconded by **Laurie Carson** and the agenda was approved with a majority vote.

A motion was made by **Jerrie Tipton** to approve the December 12, 2014 meeting minutes, seconded by **Steven Stienmetz** and the minutes were approved with a majority vote.

PUBLIC COMMENTS

None.

AGENCY REPORT

Dave Marlow introduced himself as the new Deputy Administrator of Nevada Division of State Lands (NDSL) and mentioned that **Charles Donohue**, Administrator of NDSL, sent his apologies for missing the meeting due to 2015 Legislative session commitments in Carson City. **Dave Marlow** stated that he had been in the Supervisory Land Agent position at NDSL prior to becoming Deputy Administrator. **Elyse Randles** assumed the Supervisory Land Agent as his replacement. He stated that the expansions (total of 12,000 +/- acres) of

the five state parks in White Pine and Lincoln Counties and the Steptoe Wildlife Management Area, as a result of the recent Congressional land bills in the 2000's, were close to conclusion. He also mentioned that the landfill south of Beatty was expanding by 400 acres. The NDSL "Land Portfolio" is complete. The Portfolio is a compilation of State lands and their status and is in a continuous update process as changes occur. NDSL now has an active public web map page at <http://lands.nv.gov/maps/index.htm>.

APPOINTMENT OF NEW MEMBER TO THE SLUPAC EXECUTIVE COUNCIL – NRS 321.755

A discussion was held on the nomination of a new member of the Executive Council due to the departure of **Virgil Arellano**. **Jake Tibbitts** stated that it was his desire to maintain the "broad geographic distribution of the membership and suggested it would be appropriate for northeastern Nevada to be represented, then he suggested **Randy Brown**. Motion was made by **Roger Mancebo**, seconded by **Laurie Carson**, to nominate **Randy Brown** to the SLUPAC Executive Council for a term of two years ending on April 10, 2017. The motion passed unanimously with the statement that the membership represents a broad geographic distribution. The other members of the Executive Council (terms expire May 23, 2016) include **Charles Donohue**, **Jim French**, **Austin Osborne**, and **Nancy Amundsen**.

BILLS OF THE 2015 LEGISLATIVE SESSION

Members of SLUPAC reviewed a summary of pertinent bills. Members chose to focus on certain bills, first up was **AB 144**, addressing changes to SLUPAC as a result of the Sunset Committee report to the Legislature. The bill would expand the role of SLUPAC to consider creation of Areas of Critical Environmental Concern (ACECs). Consensus was reached that a future task for SLUPAC was to develop procedures for consideration and possible designation of ACECs.

AB 217 was discussed pertaining to removing the requirements for registering certain off-highway vehicles (OHVs). **Randy Brown** said the issue is that some OHVs don't meet DMV definitions and rules for registration. The bill would clarify OHV classifications. **Jim French** said that most OHVs are not titled and this creates a problem for registration. **Randy Brown** mentioned that Elko County has adopted an ordinance allowing OHVs on County roads if they are registered, but not on State highways.

Skip Canfield gave an update on **AB 377** which addressed the historic, educational and commercial future of the closed Nevada State Prison in Carson City. He said that it was an important asset, recognized in the 2013 Legislative session by **Assemblyman Pete Livermore** who unfortunately passed away recently. The bill would create an endowment account for future operation and maintenance of the site tourism, historical interpretation and economic development. The bill would also specify a State agency, in concert with a non profit called the Nevada State Prison Preservation Society www.nspps.org to administer and run things.

AB 398 (SB 456 similar) were discussed. AB 398 deals with RS 2477 road issues and would involve SLUPAC, NACO and the State Attorney General's office to "*work cooperatively to develop, maintain and assist in the implementation of a legal protocol whereby a county may perfect its rights to and finalize title to an accessory road or a public road*". SB 456 is similar, "*directs the Attorney General, the Land Use Planning Advisory Council and the Nevada Association of Counties to work cooperatively to develop, maintain and assist in the implementation of a 24 legal protocol whereby a county may perfect its rights to and finalize title to an accessory road or a public road*". **Jake Tibbitts** stated that AB 398 includes other language that Eureka County does not support and does not think the bill will be approved. The language within SB 456 is specific to the roads issue and is supported.

AB 408 relates to public lands ownership and regulation by the Federal government and proposed prohibitions. **Jake Tibbitts** stated that the bill is out of committee but the wording and intent has been diminished to just addressing a sheriff authority component (joint jurisdiction on Federal lands). States that in unincorporated areas the County sheriff is the lead law enforcement officer. What passed out of committee was significantly different than the original format, that was nicknamed the "Bundy Bill". **Randy Brown** stated that Elko County supports the latest version of the bill addressing the authority of the County sheriff.

AJR 2, Skip Canfield mentioned that in the past, SLUPAC had supported joint resolutions through letter of support or SLUPAC resolution. **Jake Tibbitts** agreed that would be a good idea for discussion on the

resolutions to be discussed today. AJR 2 “*Urges the United States Congress and the United States Fish and Wildlife Service to take certain actions to reduce the impact of common ravens on the greater sage grouse and desert tortoise populations in this State*”. A motion by **Randy Brown**, seconded by **Jim French** directed **Skip Canfield** to write a letter of support for AJR 2, signed by the Chair, to be sent to the Governor and Congressional Delegation. Motion was unanimous with the addition of the Desert Tortoise as part of the resolution support.

Lee Plemel had a question regarding **AB 202**, a bill that among other things, proposed a land transfer in Mineral County. **Jerrie Tipton** replied that the property is an old National Guard armory that Mineral County has used as a juvenile protection facility for years and has maintained with County funds. The bill will transfer the land and improvements from the Nevada Division of State Lands to the County, for its continued use, including offices and the Lyons Club. **Dave Marlow** stated that it was a benefit to both the State and the County, as the National Guard had not been in the facility for over 15 years.

Austin Osborne mentioned **AB 427**, the “Comstock Mine Bill”. The bill is dead. It was proposed by Comstock Mining and would have stripped the County’s ability to regulate mining. Storey County was opposed to this bill and was disappointed with Comstock Mining for proposing it, after what the County had thought was a positive collaborative effort between them and the mine to avoid such a bill.

Dave Marlow mentioned **AB 34**, a bill to transfer four fire stations to the counties (Elko, Washoe and Clark).

Jake Tibbitts discussed **AB 198**. He said this is a very important bill for Eureka County. The bill would require the Legislative Committee on Public Lands to conduct a study concerning water conservation, alternative sources for Nevada’s counties. The bill would also clarify the definition of perennial yield. **Laurie Carson** asked if there was funding for the study and **Jake Tibbitts** clarified that there was not any funding but the study was important for the counties. **Jim French** commented that this State-level effort needed county involvement for it to be successful. **Jake Tibbitts** replied that SLUPAC, NACO and the counties would be participating. There is the need for a strong local voice.

Speaking of local voice, **Jake Tibbitts** stated that **SB 157** passed out of committee with amendments and would help foster better coordination between local governments and the State. **Skip Canfield** stated that he saw a strong role in this coordination effort by SLUPAC and the Nevada State Clearinghouse.

Members expressed concerns about **SB 277** which did not appear to be moving forward (Nevada Environmental Policy Act). **Nancy Amundsen** said that the proposed process would be inefficient and **Terri Pereira** said that the proposal would be costly to the counties. **Jake Tibbitts** said that efforts like this will continue but are not necessary in Nevada.

The members discussed **SB 456** (RS 2477 roads) that directs the Attorney General, the Land Use Planning Advisory Council and the Nevada Association of Counties to work cooperatively to develop, maintain and assist in the implementation of a legal protocol whereby a county may perfect its rights to and finalize title to an accessory road or a public road. Since 1993 there has been a lot of case law out of Utah. Also, the 2005 10th circuit court found that BLM and US Forest Service do not have the authority to recognize roads and they can’t acknowledge that a county has title to a road. Only process the court found was for a quiet title.

SLUPAC directed **Skip Canfield** (motion by **Jerrie Tipton**, second by **Laurie Carson**, all in favor) to write letters of support with the Chair’s signature for **SJR2**, urging Congress to require the sharing of federal receipts from commercial activity on certain public lands with the State of Nevada and its counties, and **SJR 5** expressing support for the 2014 Nevada Greater Sage-Grouse Conservation Plan developed by the Sagebrush Ecosystem Council and urges the United States Fish and Wildlife Service not to list the greater sage-grouse as endangered or threatened under the Endangered Species Act of 1973.

THE NEVADA SAGEBRUSH ECOSYSTEM TECHNICAL TEAM - SETT

Melissa Faigeles, Environmental Scientist and Watershed Restoration Specialist, SETT

Melissa Faigeles updated the members on the activities and status of the Sagebrush Ecosystem Technical Team (SETT) and efforts to address the Greater sage grouse listing. In March 2010 the US Fish and Wildlife Service (USFWS) determined the Greater sage grouse was “warranted but precluded” from ESA listing and became a candidate species. The USFWS entered into a court-approved settlement to make a decision on sage grouse listing by September 2015. The BLM and US Forest Service developed a strategy to revise existing Land Use Plans in late 2011 and Secretary Salazar invited states to develop EIS alternatives.

Nevada’s response:

March 2012 – Governor created the Sage Grouse Advisory Committee (EO 2012-09).

July 2012 – Recommendations to the Governor for sage grouse conservation in Nevada approved and recommendation for creation of Sagebrush Ecosystem Program.

November 2012 – Governor established Sagebrush Ecosystem Council (EO 2012-19).

February 2013 – SETT and Sagebrush Ecosystem Council (SEC) start work.

June 2013 – AB 461 passed & signed into law (NRS 232.162); the first of its kind in any state

SEC has nine voting members from a broad expertise background and six ex-officio (BLM, USFWS, USFS, Department of Conservation and Natural Resources, Nevada Department of Wildlife, Nevada Department of Agriculture).

State’s 2014 Greater Sage Grouse Conservation Plan submitted as an alternative in the USFS/BLM FEIS and Land Use Plan Amendment.

As part of the State’s proposal is the Nevada Conservation Credit System:

Goal: Achieve *net benefit* to sage-grouse habitat

- Measure habitat value in units of *functional acres* (quality and quantity)
- Credits are used to offset debits

Habitat Quantification Tool:

- Quantitative method for calculating sage-grouse habitat function based on scientific literature
- Same method for calculating debits and credits
- Quantifies habitat value at multiple spatial scales Site scale
- Local scale
- Landscape scale

Site scale:

- Vegetative characteristics at location of proposed activity (ex sagebrush cover)
- Different attributes for breeding, late brood-rearing, and winter habitat

Local scale:

- Habitat surrounding a proposed project site
- Purpose to quantify the extent to which the surrounding landscape affects the site’s ability to perform up to its full potential – “putting the site in context”
- Local scale quantifies: Anthropogenic Disturbances
- Habitat Suitability Index
- Distance to Lek (Breeding)
- Distance to Late Brood-Rearing (Breeding)

Landscape scale:

- Provides information for targeting management actions (credits and debits)
- Mitigation Ratios: Management Importance (Core, Priority, General)
- Limiting Seasonal Habitat
- Proximity Factor (debits only)

Conservation Credit System (CSI) Manual:

- Policies and procedures document
- Key policies: SEC serves as the Oversight Committee
- SETT serves as the Administrator
- Price of credits are market driven
- Reserve account contribution required for credit projects
- Credits and debits verified by third-party Verifiers
- Credits must be “on the ground” before used to offset debits
- Credits duration must match debit duration

Laurie Carson expressed concerns that some reporting by USDA was not accurate because the data obtained did not reflect analysis of the bird’s full 18-month life cycle, since USDA was trying to meet certain listing deadlines. **Jim French** stated that 80% of the birds die on annual basis and this should be recognized. **Melissa Faigeles** stated that lek attendance varies yearly and widely based on many environmental factors. The count data is therefore based on a rolling average over 5 years. **Jim French** stated that the number of birds at any one time on a lek is not indicative of brood habitat and recruitment. To tie specific management guidelines and strategies to bird numbers or lek counts is missing the point. We should not base all of our management scenarios solely on bird counts. We need to determine what causes the long term decline of the bird in terms of habitat type. Humboldt County has lost 60% of the standing sage grouse habitat due to fires. Lands are not being successfully rehabilitated by the Federal agencies, noxious weeds are proliferating and we are losing the chance to improve bird habitat. Regulating mining, agriculture, access, etc is the norm but there is not enough emphasis on reclamation. **Melissa Faigeles** stated that there recently is an elevation in the priority for fire suppression, fuels reduction and reclamation in the Resource Management Plans.

FEDERAL LANDS AND NEVADA

Demar Dahl, Elko County Commissioner

Demar Dahl discussed the **SJR 1** issue, transferring federal lands to Nevada and stated that there are a lot of “scare tactics” underway to dissuade people from supporting the transfer. He said that the proposal would occur in two phases, the first one being 7 million acres of lands that are already identified for disposal. Within 10 years an additional amount would be transferred, but no specially designated lands would be included in a transfer. He said that there is a lot of opposition including a strong opposition by the Sierra Club, which he said does not trust county or State management of the lands. **Austin Osborne** stated he had questions about the cost to manage the lands if they were transferred to the State. **Lee Plemel** was curious of the State could even afford management of the lands. Would revenues offset the costs? **Demar Dahl** replied that the Public Lands Task Force Report showed cost calculations that resulted in net positive revenues to the State. **Laurie Carson** expressed concerns about fire management costs and stated that she felt Nevada Division of Forestry could not even afford fire management on lands they have now. **Terri Pereira** asked what would happen to county PILT payments. **Jerrie Tipton** asked what State statutes would have to be amended to allow these transfers. **Jake Tibbitts** felt that the phased approach was a good compromise and that phase one would be a revenue generator. Nevada public lands would remain public, just the manager would change. All valid existing rights would transfer. **Jim French** was concerned that the new management would not represent all existing users but felt that the State could evolve to be a good steward.

SLUPAC GOALS FOR THE NEXT TWO YEARS

Jake Tibbitts stated a primary goal of SLUPAC is to take on RS2477 road issues as directed in **SB 456**. SLUPAC should develop a protocol and bring in experts, to help outline what every county in Nevada can do regarding roads. Nye County has taken a huge lead in addressing RS2477 roads but there are still some additional things that should be done. **Jim French** stated that Humboldt County is just coming out of a large lawsuit against BLM regarding 87 RS2477 roads centered on minor county roads that had been maintained over many years and how they were affected by a wilderness bill. The County was assured back then that the roads would not be affected and the maps would be cleaned up, but that is not the case, access as denied and landowners were fined. The settlement involves the use of FLPMA rights-of-way as a compromise. **Jake Tibbitts** stated that Eureka County supports a friendly quiet title action on those roads that make sense, but the BLM D.C. position is to wait until the decision by the 10th Circuit Court. **Laurie Carson** expressed concern about travel management planning by BLM and BLM's possible requirement for White Pine County to apply for rights-of-way on all of the roads. The County should not have to apply for a right-of-way on roads that have been maintained for years and have been on the maps for years. Also, this could now create costs associated with cultural clearances and trespass violations on existing County maintenance activities, especially during emergencies. Other members concurred that they have the same issues. **Nancy Boland** stated that any road maintained by use is not a road to the Federal agencies and this is a concern. Also, the RS2477 right-of-way is only the historical disturbance, if you go beyond that doing any activity you are in trespass.

A second goal for SLUPAC is providing County NEPA assistance and consistency review through the Clearinghouse. More needs to be done to make sure the preferred alternative is consistency with local plans and policies.

Third, public land policy assistance and updates by the State Land Use Planning Agency (**Skip Canfield**) and SLUPAC when necessary should be encouraged. **Jake Tibbitts** said that the counties should use their public land policy plans more as leverage during the NEPA process. **Skip Canfield** stated that it is important to adopt the public land policy plans as elements of the County Master Plan.

Fourth, **Jim Shirk** stated that through SLUPAC and overall, counties should have a stronger role in water planning and he expressed his support for **AB 198**, previously discussed, and also the Governor's newly-created Drought Forum. SLUPAC should help support county involvement in development of a statewide water management plan.

Jake Tibbitts asked that a standing item on future SLUPAC agendas would be a check-in on SLUPAC goals.

COUNTY PLANNING ISSUES

Jake Tibbitts – Eureka

There continues to be a water problem in Diamond Valley where 2/3 of the County's population gets their water. The valley is 400% over appropriated and 200% over consumed.

Steven Stienmetz – Lander

Sales tax is flat in Lander County. The new courthouse is completed. There is a concern with the Battle Mountain BLM office shutting down grazing allotments.

Jeanne Herman – Washoe

Washoe County is currently over-built with residential units. Truckee Meadows Water Authority has taken control as water purveyor. There is a need for volunteer fire fighters.

Nancy Boland - Esmeralda

Concern about Bi-State sage grouse listing impacts to the County. Silver Peak Road is being paved from Goldfield west.

Laurie Carson – White Pine

Midway Gold project is ongoing. Due to the Ruth mine expansion, the cutoff road between US50 and US6 is closed. The 2017 Legislature will potentially see a bill to disincorporate Ely.

Lee Plemel – Carson City

City is reviewing the BLM Carson City Resource Management update.

Roger Mancebo – Pershing

Rye Patch reservoir is dry and here is no water allocation for agriculture. County Water Plan almost complete.

Austin Osborne – Storey

As a result of economic success at the Tahoe Reno Industrial Center and elsewhere in the County, Storey County is no longer a “fair share” county. Sales tax is tied to zip codes, so TRI Center sales taxes end up going to Sparks. Comstock Mining paid \$2.8 million to restore the State highway near their operation where a historic mine shaft beneath the road had failed. USA Parkway is now an NDOT road and will be completed to US50 by 2017. A new fairgrounds is being built in Virginia City. The County is working on getting the “title cloud” off of properties in Virginia City and Gold Hill. A new Planner has been hired and the Master Plan update will be completed this year.

Jim French - Humboldt

County struggling with water problems, metering and curtailment orders. Allied Nevada (Hycroft) filed bankruptcy and that has County impacts. Net proceeds are flat. Tax abatements are hurting the County.

Jerrie Tipton - Mineral

Net proceeds are flat. Disappointed that not much money is coming to County from geothermal plant at Deadhorse. County is reviewing BLM Carson City Resource Management Plan update.

Terri Pereira – Churchill

County reviewing multiple EIS's and RMP's. Development is flat. NAS Fallon Joint Land Use Study is concluding. Irrigation district has reduced available water and will only allow one irrigation this summer. 100 domestic wells have gone dry. Plans for new jail and senior center.

Randy Brown – Elko

Records of Decision have been signed for Long Canyon gold mine, creating 250 permanent jobs and 1,200 construction jobs. The County faces a similar water problem to Eureka County. County proceeds are currently flat and there is a new regulation that requires purchase of water rights for a parcel map.

PUBLIC COMMENT

Sam Routson, Winnemucca Farms, Inc., discussed the recently created Governor's Nevada Drought Forum and how there will be stakeholder meetings this summer. He stated that **Cory Hunt**, the Governor's chief policy advisor, will be overseeing the Forum. The counties should contact Cory and make sure he knows there is interest in participating as stakeholders. The Western Governors' Association website also notes the Forum. He said he participated in California's Drought Forum and what they found was California has failed for probably the last fifty years to develop their water system to allow them to maintain and store their water. Nevada has to reconsider how it looks at water both in storage and how it is looked at in terms of Nevada water law.

ADJOURNMENT FOR FIELD TRIP

The meeting was adjourned at 1:00pm to attend a field trip to the California Trail Interpretive Center.

Respectfully submitted,

Skip Canfield

/s/

Meeting Recorder

Nevada Division of State Lands

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Please note that minutes should be considered draft minutes pending their approval at a future meeting of the State Land Use Planning Advisory Council. Corrections and changes could be made before approval.

The meeting was digitally recorded. Anyone wishing to receive or review the recording may call (775) 684-2723. The recording will be retained for three years.