

**Minutes of the  
EUREKA COUNTY NATURAL RESOURCES ADVISORY COMMISSION**

The Eureka County Natural Resources Advisory Commission (NRAC) held a public meeting on February 15, 2017, at 6:00 p.m. at the County Administrative Facility, Eureka, Nevada.

**Members Present:** Jim Baumann, Carl Slagowski, Paul Etzler, Jim Wise, Ken Conley, Leo Damele, and Mike Rebaleati (via phone conference at 6:20 p.m.)

**Members Absent:** Mike Protani and Gary McCuin

**Others Present:** Jake Tibbitts- Eureka County Natural Resources Manager, Jessica Santoyo- Natural Resources Secretary, Ari Erikson- Gullsil, and Kyle Hendrix- Public Affairs Officer BLM Battle Mountain District (via phone conference)

**Call to Order**

The meeting was called to order by Chairman Baumann at 6:05 p.m., a quorum was determined to be present.

**Public Comment**

None.

*\*Agenda item moved at the Chairman's discretion.*

**Agency Reports**

*Reports and updates from various natural resources and land management agencies in attendance.*

Kyle Hendrix provided his monthly update on the following: Mining, Oil and Gas Lease Sales, Noxious Weeds, 3-Bars Ecosystem and Landscape Restoration Project, Sage Grouse, Right-of-Way (ROW) Fuel Breaks, ROW's, Wild Horses and Burros (WH&B), and the Argenta Settlement Agreement. *\*A copy of the update is available upon request.*

Mr. Tibbitts stated under the 3 Bars Ecosystem Project update it says the Bureau of Land Management (BLM) Battle Mountain District (BMD) received a request for a State Director Review but there hasn't been a request sent out yet.

Mr. Hendrix stated that he thought a letter was received from Eureka County, he was under the assumption that it was from their group, and he was given this information from the Field Groups Manager today. Nothing has actually been routed to the State Director because Doug Furtado needs sign the paperwork and then it will get emailed up the chain. Mr. Hendrix stated that he will follow up on this by their next meeting.

Mr. Tibbitts stated during a previous NRAC meeting that Mr. Hendrix attended, the board discussed requesting a State Director Review once the Record of Decision (ROD) for the 3 Bar Ecosystem Project became available because the final Environmental Impact Statement (EIS) didn't include all of the promises that were made to Eureka County. Eureka County hasn't submitted anything for the State Director Review, it was only a discussion had during their meeting.

**Commission Business**

*Member Updates and Reports.*

Ken Conley stated that he attended the permittee workshop meeting regarding the Sage Grouse Plan in Elko, NV last month and he could tell that the BLM still doesn't an idea of what they are doing. The BLM and the Forest Service (FS) are two completely different pages.

*Discuss correspondence and natural resource issues affecting Eureka County and consider action items for the next agenda.*

Jake Tibbitts covered the following correspondence and natural resources issues.

- A letter for the Fallon Naval Complex Expansion was received and they recognized that Eureka County should be a cooperating agency at the table. The letter is asking Eureka County to join the discussion and that they will have a chance to review preliminary documents before they are released to the public.
- Montana Congressman Zinke, received his confirmation to be the Department of Interior Secretary from the House but he hasn't made any progress in the Senate. It looks like the senate will not have that hearing until March to consider him.

### **2017 Nevada Legislative Session**

*Review and consider response on natural resources legislation for consideration at the 2017 NV Legislative currently underway.*

Mr. Tibbitts went over the following bills that could affect Eureka County:

- Assembly Bill (AB) 29- Revises provisions governing off-highway vehicles. No Recommendation.
- AB 33- Abolishes certain boards, commissions, and councils relating to natural resources. No Recommendation.
- AB34- Revises provisions relating to state lands. Recommendation: Express concern with section 4 (but no other portions of bill). Just because something is not being accomplished does not justify its removal; this information would be crucially important to local governments if it were actually done. It is understandable that State Lands currently do not have the staff capacity to complete this mandate. When was the last inventory completed and updated? Propose adding "in coordination with the Land Use Planning Advisory Council..." The terms "when available" and "as feasible" could be added instead of striking everything. Also, change from "develop and make available" to "compile and make available" Much of this may be already developed and needs to be put together. Can State Lands work with NACO and SLUPAC to contract with UNCE for this work and have a contract to keep it updated for 10 years or so?
- AB101- Revises provisions governing the management of wildlife. Recommendation: Oppose. Undermines predator fee usage. Counter to County policies in Natural Resources Plan.
- AB112- Requires the Legislative Auditor to conduct an audit of certain fees paid by applicants for game tags for predatory wildlife programs and activities. Recommendation: Support. Many County sportsman pay the \$3.00 application fee and have the right to know that the fee is used for its intended purpose. The public also must have the assurance that the fee is used according to the law.
- AB138- Authorizes the de minimus collection of precipitation under certain circumstances. Recommendation: Support concept but not language as written. Should explicitly authorize, not hold exempt from NRS 533. Rainwater collection from rooftops and guzzlers must still have some oversight by State Engineer to ensure they are not conflicting with water rights. For instance, a guzzler or guzzlers could be placed in a drainage that provides flow to a localized spring and diminishes the water available to the spring. Also, bill uses term "de minimus" but does not define the volume of this water. There should be a limit on the amount of water allowed to be collected on a roof or many roofs collectively. See Utah where use is registered, no registration is required if storage is less than 200 gallons, storage of no more than 2500 gallons per parcel, must be used on same parcel of land in which water is captured and stored.

- AB153- Requires counties to pay impact fees to certain local governments for certain costs incurred as a result of projects of intercounty significance. Recommendation: Oppose. Could have immediate impacts to Eureka County on Carlin Trend Mining Operations. Very tortured process. Would take almost full-time staff just to complete and review impacts analysis required. Will open door for much nit-picking. Any mining project, regardless of size, is considered a significant project under the bill.
- AB159- Prohibits hydraulic fracturing in this State. Recommendation: Oppose. State regulations have been developed, are stringent, and solid. Local ordinances and special use permitting allow another check on the process. Should be no blanket prohibition because all fracking is not created equal. Fracking has occurred for many decades in Nevada without issue.
- AB187- Raises provisions governing the membership of the Board of the Wildlife Commissioners. Recommendation: Oppose. Coming from the anti-consumptive use crowd. They feel the commission is stacked in favor of sportsmen and therefore the Commission ignores non-consumptive view point. Similar to two session ago when No Bear Hunt Nevada came after the composition of the Commission. A major reason for supporting the current composition (and opposing this bill) is that in regulating hunting and fishing they need people who understand and have a background in hunting and fishing. The Commission doesn't regulate "ecotourism" and don't promote "tourism." Bill doesn't recognize hunting and fishing and guiding "ecotourism" but it really if they look at the visitors from in and out of state that hunt throughout the state.
- AB209- Revises provisions governing the forfeiture of water rights. Recommendation: Support. Only applies to extensions in over-pumped basins or CMA's. Likely to reduce additional water being used in fear of not getting an extension, as has been the case in Diamond Valley the last couple years where four additional pivots came online.
- Senate Bill (SB) 47- Makes various changes relating to the appropriation of water. Recommendation: Oppose Section 3 that reduces the benchmark of when an interbasin transfer would trigger a basin inventory. Amendments to consider: 640 acre-feet (would allow for one-pivot worth of water); require a call for taking of proofs of vested right in the basin of origin (without having to finish adjudication process) before an interbasin transfer of any kind is approved. Support concept of Section 7 but voice concern with change in map scale of subsisting stock water rights; need to ensure that those that have already filed maps supporting subsisting claims at 1:100,000 are "grandfathered."
- SB51- Makes various changes relating to the adjudications of vested water rights. Recommendation: Neutral (for now). Modernizes adjudications proceedings. Need understanding how this affects current adjudication proceedings such as in Diamond Valley. Does seem to streamline many processes and should make adjudication simpler (and cheaper).
- SB73- Revises provisions relating to water. Recommendation: Support concept but not current language. Consider amendment language to Section 1 clarifying that "augmentation plans" are only for "conflicts" that occur separate from conflict analyses when applications are being considered for approval. Augmentation plans should not be used as a way to approve applications that will knowingly conflict with existing rights. In Section 21, advocate for language that some priority must be recognized. For instance, while "strict" regulations by priority may be flexible, senior rights MUST receive more than junior rights in any GMP. Also, there should be clear flexibility in being able to quickly adjust POD, POU and MOU in a GMP. Try to pair with language that comes out in BDR 48-367.

- SB74- Revise provisions relating to water. Support concept but express concern with some of the language. Same as AB138 on collecting rainwater from roofs - there should be a limit to how much can be stored. There also needs to be clarity on what would be recognized as official designations (or designators) of drought. Concerns about fine provisions being placed under NRS 540 (Planning and Development of Water).
- SB75- Makes various changes relating to the Department of Wildlife. No Recommendation.
- SB128- Revises provisions relating to the requirements to levy taxes to support certain fire districts. Recommendation: Support. Change “shall” to “may.”
- SB134- Revises provisions concerning water. Recommendation: Support. Would allow mitigation to overcome a conflict in order to approve an application but the mitigation would have to come through formal agreement with those being impacted. Also, explicitly allows for 3M plans and clarifies process to consider 3M plans – must be a hearing and must have clear provisions, triggers, and thresholds. Might need a bit of wordsmithing.
- AB16- Revises provisions relating to agricultural extension programs. No Recommendation. After brief discussion, the board would like to support the concept but not the language.
- AB32- Revises provisions governing pest control. Recommendation: Support. This clarifies requirements already in place and streamlines the effort.
- AB52- Revises provisions relating to dissolved mineral resources. No Recommendation.

Mr. Tibbitts asked the board if were okay with the direction that Mr. Tibbitts is going with the 2017 Legislation. The problem is that half of these bills could be scheduled for a hearing tomorrow and he has to rush over to Carson City to submit testimony because if he doesn't provide testimony they would just push all of these bills through.

Mike Rebaleati stated that he can help with testimony when needed, he works two blocks down from the legislative building.

The board agreed with the direction that Mr. Tibbitts is going with the 2017 Legislation as discussed today.

### **Mining**

*Discuss mining projects and activities in and affecting Eureka County, including but not limited to the GRP Resources Gold Rock Project, Barrick Horse Canyon/Cortez Unified Exploration Project (HCCUEP) Twin Exploration Declines, Gullsil Prospect Project, McEwen Mining Gold Bar Project, Newmont Perry Pit Project, Barrick Cortez Deep South Expansion Project and all Carlin Trend operations and consider response to any related issues.*

Mr. Tibbitts stated the McEwen Mining- Gold Bar Project has passed the process in Washington DC so they will be seeing that Draft Environmental Impact Statement (DEIS) any day now. The Barrick Cortez-Deep South Expansion Project has invited Eureka County to be a cooperating agency and the county will be accepting that invitation. The BLM BMD sent over the Memorandum of Understanding (MOU) for the county to sign and they will consider it at their upcoming meeting. Mr. Tibbitts stated that he is very surprised with the BLM BMD because lately they are doing more than usual in working with the county, usually it a battle over what is in the MOU. Mr. Tibbitts recommended that the board approve signing the MOU in order to be a cooperating agency on the Barrick Cortez- Deep South Expansion. *\*A copy of the MOU is available upon request.*

Mr. Conley moved that the Eureka County Board of County Commissioners (BOCC) sign the cooperating agency MOU with the BLM to be a cooperating agency on the Barrick Cortez- Deep South Expansion Project. Mr. Slagowski seconded, motioned carried unanimously.

Mr. Tibbitts stated that the Gullsil Prospect Project submitted their preliminary plan of operations to the BLM BMD and they are receiving feedback that due to the scoping open scale of their project that an EIS is not necessary.

Ari Erikson stated that BLM BMD is now going through the project and starting to ask them to provide documents that are normally included inside an EIS as standalone studies so there is a potential that they could end up with an EIS.

### **BLM Planning 2.0**

*Discuss and consider response on BLM final planning regulations, "Planning 2.0.", including efforts to repeal through the Congressional Review Act.*

Mr. Tibbitts stated that there was a law that was passed during the first Bush Administration and it's called the Congressional Review Act which allows congress to review any regulation, rule, policy, or guidance document put out by any of the Executive Branch agencies within 60 congressional days of it being passed. Basically, any rule, any guidance, any regulation, any policy anything that the Obama Administration released in the latter half of 2016 can be undone by congress through the CRA and all they do is release a resolution repealing it. Therefore, through the CRA the House passed to repeal BLM Planning 2.0, the Senate hasn't taken this up yet but once the Senate get it done then BLM Planning 2.0 will no longer exist. The CRA also states that if a regulation is repealed by Congress then the agency/agencies cannot bring forward any other regulation that is similar in nature ever again.

### **Water Resources**

*Update on and consider response to water resource issues including but not limited to the Humboldt River Basin and curtailment and Groundwater Management plan in Diamond Valley.*

Mr. Tibbitts stated the Humboldt River Regulations are still being worked on by the State Engineer and he is also working on the modeling to show how pumping is affecting the river. The regulations aren't officially out yet but it will be a mitigation scheme so if an individual is impacting the river they can augment the river as well. Mr. Tibbitts state that the DV-GMP group will met the last Monday of this month and the State Engineer provided direction that even if he gets a GMP plan signed by the majority of the people in Diamond Valley (DV), he won't approve it until after the session ends.

### **Grazing**

*Discuss and consider response on recent grazing actions and decisions affecting Eureka County, including recent BLM grazing closures due to fire.*

Mr. Tibbitts stated that the Animal Unit Month (AUM) fee went down this year to \$187.00. If they remember the Eureka County BOCC sent a letter regarding the Carico Fire Closure and the BLM provided responses to that letter. The BLM also wants to meet face to face to discuss the county's comments and concerns. They still have some outstanding issues to work out with the BLM BMD but once again BLM is getting better at addressing the county's concerns. During their previous meeting they discussed all of the Elko Fire Closures, those decisions are now out, and the Elko BLM did incorporate everything that was agreed on during their meeting regarding those decisions. Mr. Tibbitts stated Eureka County provided some tough decisions on the Targeted Grazing EA and the BLM is currently trying to set up a meeting with Eureka County and the TS Ranch to go over what changes will be made. The TS Ranch is upset at the county because they had already purchased a bunch of steers that they were going to get out once the

EA was finalized but due to the county's comments it has pushed everything back. Basically, the county told the TS Ranch that this is why the county needs to be involved to start with and they wouldn't have these issues this far down the road. *\*A copy of all supporting material is available upon request.*

**Oil and Gas**

*Discuss and consider response to BLM June 2017 Competitive Oil and Gas Lease EA.*

Mr. Tibbitts stated during their last meeting they spoke about the area that the BLM wants to exclude for Oil and Gas Leases. Eureka County provided comments on the EA and the letter requests that BLM should have coordinated better with Eureka County, they should change rangeland resources to livestock grazing, they should include a more detailed discussion on the water rights process, they should offer the center of the DV playa up for lease, and they should include and acknowledge the DV Weed Control District as a local government entity. *\*A copy of the letter is available upon request.*

**Sage Grouse**

*Discuss and consider response to recent activities and issues related to sage grouse including, but not limited to, federal Land Use Plan Amendments and current and potential litigation, NV Sagebrush Ecosystem Program and NV Greater Sage-Grouse Conservation Plan.*

Mr. Tibbitts stated the hearing in front of Judge Dew was on February 1, 2017 and he was informed that the Judge limited the oral argument to only the attorney's arguments. Judge Dew limited the discussion of the attorneys to only matters of standing because of the recent Idaho decision where they rejected Idaho's lawsuit based on standing. Based on the report that he received, Eureka County became a focal point of the hearing because Eureka County provided 150 pages of comments on the EIS, they never missed any deadlines, they protested the Administrative process, they did every single step to ensure they had standing for this and they did. A lot of the entities that the attorney was representing didn't do every single step and Eureka County is the only entity that she represent that exhausted every single avenue before going to litigation. Basically, the job that Eureka County did may hinge on whether the case is thrown out or not. Judge Dew told the attorneys that she would have a written decision out within three months.

**2017 NRAC Priorities**

*Discuss and consider priorities for NRAC to address in 2017.*

No discussion was had on 2017 NRAC Priorities agenda item.

**Next Meeting-**

Items suggested for the agenda include: updates on motions made and ongoing agenda items. The board should get any other desired agenda items to Mr. Tibbitts for the next meeting. The next meeting is scheduled for March 15, 2017 at 6:00 P.M.

**Public Comment**

None.

**Adjourn**— The motion was made by Mr. Slagowski and seconded Mr. Conley to adjourn the meeting. There being no further discussion, the meeting was adjourned at 8:40 p.m.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

Respectfully submitted: \_\_\_\_\_

Jessica Santoyo, Secretary

Approved: \_\_\_\_\_

Jim Baumann, Chairman