NEVADA LEGISLATURE
LEGISLATIVE COMMITTEE ON PUBLIC LANDS

(*Nevada Revised Statutes* [NRS] 218E.510)

SUMMARY MINUTES
September 22, 2020

The fifth and final meeting of the Legislative Committee on Public Lands for the 2019-2020 Interim was held on Tuesday, September 22, 2020, at 9 a.m. Pursuant to Sections 2 through 9, inclusive, of Chapter 2, *Statutes of Nevada 2020*, 32nd Special Session, pages 9 through 11, there was no physical location for this meeting.

The agenda, minutes, meeting materials, and audio or video recording of the meeting are available on the Committee's meeting page. The audio or video recording may also be found at https://www.leg.state.nv.us/Video/. Copies of the audio or video record can be obtained through the Publications Office of the Legislative Counsel Bureau (publications@lcb.state.nv.us or 775/684-6835).

COMMITTEE MEMBERS PRESENT:

Senator David R. Parks, Chair
Assemblywoman Heidi Swank, Vice Chair
Senator Chris Brooks for Senator Melanie Scheible
Senator Pete Goicoechea
Senator Ira Hansen
Assemblyman Richard (Skip) Daly
Assemblywoman Alexis Hansen
Assemblyman Howard Watts III
Daniel J. Corona, Mayor of West Wendover

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Jered M. McDonald, Principal Policy Analyst, Research Division
Maria Aguayo, Research Policy Assistant, Research Division
Heidi A. Chlarson, Senior Principal Deputy Legislative Counsel, Legal Division
Erin R. Sturdivant, Senior Deputy Legislative Counsel, Legal Division
Nick Steinheimer, Deputy Legislative Counsel, Legal Division

Items taken out of sequence during the meeting have been placed in agenda order.

AGENDA ITEM I—OPENING REMARKS

Chair Parks called the fifth and final meeting of the Legislative Committee on Public Lands for the 2019–2020 Interim to order.

AGENDA ITEM II—PUBLIC COMMENT

Marla McDade Williams, Senior Director, Strategies 360, on behalf of the Reno-Sparks Indian Colony, shared the Colony's support for Recommendations 1 and 6 of the "Work Session Document" (WSD) (Agenda Item IV A).

Patrick Donnelly, Nevada State Director, Center for Biological Diversity, shared the Center's support for Recommendations 1 through 4 and 6 of the WSD. Further, he shared the Center's opposition to Recommendations 5, 10, and 13. He stated the Center was of the opinion that:

- Biomass does not contribute to reducing carbon concentrations in the atmosphere or stopping the burning of fossil fuels;
- Recommendation 5 subverts the intention of the Open Meeting Law (OML) and the National Environmental Policy Act (NEPA); and
- Recommendation 13 is a massive public lands giveaway.

Finally, Mr. Donnelly expressed that the Center is neutral on Recommendation 14.

AGENDA ITEM III—UPDATE ON ACTIVITIES OF THE CENTRAL NEVADA REGIONAL WATER AUTHORITY

Jeff Fontaine, Executive Director, Central Nevada Regional Water Authority (CNRWA), provided an update on the activities of CNRWA and shared its recommendation for amending NRS 534.035 (Agenda Item III).

Committee members and Mr. Fontaine discussed: (1) how many groundwater boards would be created; (2) how to address water basins that overlap multiple counties; and (3) who currently appoints members to the groundwater boards.

MOTION: Senator Goicoechea moved to provide a bill draft request (BDR) to formulate some language creating county groundwater boards. The motion was seconded by Senator Hansen and passed unanimously.

AGENDA ITEM IV—WORK SESSION—DISCUSSION AND POSSIBLE RECOMMENDATIONS RELATING TO:

Jered M. McDonald, previously identified, called attention to the WSD (Agenda Item IV A).

A. LEGISLATIVE COMMITTEE ON PUBLIC LANDS

Mr. McDonald reviewed Recommendation 1 regarding appointing a tribal member to the Committee.

Assemblyman Watts stated the Committee can benefit from having a tribal perspective to discuss the ways local, state, and federal land management decisions interact with tribal communities and law.

Committee members discussed the fairness, logistics, and specifications of appointing a tribal member.

Vice Chair Swank suggested looking at Assembly Concurrent Resolution 4 (2019), the enabling legislation of the Committee to Conduct an Interim Study Concerning Wildfires, whose composition includes a tribal member.

MOTION: Assemblyman Watts moved to approve Recommendation 1. The motion was seconded by Assemblywoman Hansen and passed unanimously.

B. OFF-HIGHWAY VEHICLES

Mr. McDonald directed Committee members to Attachment A of the WSD for background information on Recommendations 2 through 4. He then reviewed Recommendation 2 regarding an annual use decal for off-highway vehicles (OHVs).

Dominique Etchegoyhen, Deputy Director, State Department of Conservation and Natural Resources (DCNR), stated the request was made to simplify the registration process, which would increase compliance with the law and funding for Nevada's OHV recreational infrastructure. Additionally, he said it would enable OHV decals to be sold through retail outlets, online, and on phone apps.

There was dialogue between Committee members and Mr. Etchegoyhen regarding: (1) discussions with or feedback from the Department of Motor Vehicles and the Department of Wildlife; (2) the elimination of the 15-day period for out-of-state users; (3) enforcement; (4) out-of-state OHVs and reciprocity; and (5) registration costs.

In response to questions from Committee members, Heidi A. Chlarson, previously identified, explained Recommendations 2 through 4 can all be included in one BDR or as separate BDRs. However, she noted that if Recommendation 2 (requiring Nevadan OHV users to use a decal) did not pass, then Recommendation 3 (requiring out-of-state OHV users to use a decal) cannot be drafted as a BDR.

MOTION: Assemblyman Watts moved to approve Recommendation 2. The motion was seconded by Vice Chair Swank.

Senator Goicoechea stated that while Recommendation 2 requires more discussion and work, he supports moving the recommendation forward.

Chair Parks echoed Senator Goicoechea's concerns.

The motion made by Assemblyman Watts and seconded by Vice Chair Swank passed. Senator Hansen and Assemblywoman Hansen voted no. Mayor Corona was absent for the vote.

Mr. McDonald reviewed Recommendation 3 regarding an annual use decal for out-of-state OHVs and vehicles registered for street use and modified for off-road riding.

Senator Hansen shared his opposition to the recommendation and stated he was of the opinion that charging out-of-state OHV users a fee and forcing them to add a decal for a single-day use is excessive and bad for tourism.

Mr. Etchegoyhen explained the difficulty in knowing how long an out-of-state OHV will be in Nevada.

Chair Parks called attention to a letter from the Coalition for Nevada's Wildlife, which urges the use of a highly visible identification number and placement of the proposed decal (Agenda Item V E).

Vice Chair Swank shared her support for the recommendation.

Assemblywoman Hansen voiced her concerns with the enforcement of registration and stated that while she does not support this recommendation, she is of the opinion that other solutions to raising money for the OHV fund can be pursued.

MOTION: Vice Chair Swank moved to approve Recommendation 3. The motion was seconded by Assemblyman Watts.

Before the vote, Assemblyman Watts agreed with the statements made previously by Senator Goicoechea that the program needs adjustments but shared his support for the recommendation.

The motion made by Vice Chair Swank and seconded by Assemblyman Watts passed. Senator Hansen and Assemblywoman Hansen voted no. Mayor Corona was absent for the vote.

Mr. McDonald reviewed Recommendation 4, which would require all OHV users under the age of 16 to wear a helmet on all types of OHVs.

Senator Hansen inquired whether the parent or the child would be cited in the event that a user under the age of 16 is not wearing a helmet.

Mr. Etchegoyhen said that had not yet been considered and should be discussed moving forward.

Senators Hansen and Goicoechea shared their opposition to the recommendation.

Senator Brooks stated that while he supports the recommendation, Committee members have raised valid concerns.

Assemblyman Watts said the recommendation creates a positive culture of safety and responsible use of OHVs.

Assemblywoman Hansen commented that while she appreciates the intent of the recommendation, she is opposed.

MOTION: Assemblyman Watts moved to approve Recommendation 4. The motion was seconded by Vice Chair Swank and passed. Senators Goicoechea and Hansen and Assemblywoman Hansen voted no. Mayor Corona was absent for the vote.

Subsequent to the meeting, Mr. Etchegoyhen shared follow-up information regarding OHV registration requirements and campaigns to promote voluntary OHV registration (Agenda Item IV B).

C. OPEN MEETING LAW

Mr. McDonald reviewed Recommendation 5 regarding a proposed exemption to the OML. He directed Committee members to Attachment B of the WSD for background information.

Jake Tibbitts, Manager, Natural Resources, Eureka County, stated agencies would like to preserve Exemption 5 of the Freedom of Information Act (5 U.S.C. § 552), which allows for predecisional nonpublic meetings where there is a work product that is in draft format or documents that contain deliberations between parties leading up to a decision.

Vice Chair Swank inquired about possible models in other states, and Mr. Tibbitts said he would research more information.

Senator Hansen commented that because the request is so narrowly tailored to federal agencies and official cooperating NEPA agencies, he does not oppose it. He further noted that the Legislature excludes itself from the OML.

In response to some concerns brought up by Assemblyman Daly, Mr. Tibbitts explained that language can be considered to make it clear that a public body must disclose its comments and position on a proposed action when they are released to the public.

Assemblyman Daly stated that despite his reservations, he would support moving forward with the recommendation.

Assemblyman Watts echoed Assemblyman Daly's concerns but shared his opposition to the recommendation.

Ms. Chlarson elaborated on other exceptions to the OML within NRS.

MOTION: Senator Goicoechea moved to bring a BDR forward that allows an exemption to the OML if a government agency has a signed memorandum of understanding with a federal agency that allows cooperating agency status that must be kept confidential until those public records are released. The motion was seconded by Senator Brooks and passed. Assemblyman Watts voted no. Mayor Corona was absent for the vote.

D. PUBLIC LANDS, GENERALLY

Mr. McDonald reviewed Recommendation 6 regarding the protection of the Spring Valley population of swamp cedar. He stated Attachment C of the WSD includes a copy of a letter from the Confederated Tribes of the Goshute Reservation, Duckwater Shoshone Tribe, and Ely Shoshone Tribe, as well as background information on the recommendation.

On behalf of the indigenous communities in eastern Nevada and western Utah who want to protect their heritage, Delaine Spilsbury, an Ely Shoshone tribal elder, provided historical information about the swamp cedars and asked the Committee to place the trees on the state's list of fully protected species of native flora in *Nevada Administrative Code* 527.010.

On behalf of the Confederated Tribes of the Goshute Reservation, Duckwater Shoshone Tribe, and Ely Shoshone Tribe, Monte Sanford, Ph.D., provided more information about the swamp cedar trees.

Committee members and Mr. Etchegoyhen discussed the possible consequences of legislatively adding the swamp cedar to the list of fully protected species of native flora versus the process that is already in place in NRS 527.270.

Assemblyman Watts suggested directing the Division of Forestry, DCNR, to undertake a genetic study to indicate whether the Spring Valley population of swamp cedars is a separate species of swamp cedars.

Senator Goicoechea, Senator Hansen, and Mayor Corona agreed they would rather pursue protection of the area of swamp cedars rather than the species.

Vice Chair Swank suggested involving the Office of Historic Preservation, DCNR.

Assemblyman Watts proposed a BDR that would protect the swamp cedar trees under Chapter 527 of NRS, separate from NRS 527.270.

Chair Parks recommended drafting a letter to Nevada's Congressional Delegation regarding the protection of the Spring Valley population of swamp cedars.

Senator Goicoechea, Senator Hansen, and Assemblywoman Hansen shared their concerns with listing the swamp cedar trees under Chapter 527 of NRS.

MOTION: Assemblyman Watts moved to request the drafting of a bill to list the Spring Valley population of Rocky Mountain juniper, known as swamp cedars, as protected under Chapter 527 of NRS. The motion was seconded by Vice Chair Swank.

Before the vote, Committee members and Ms. Chlarson discussed whether lands managed by the Bureau of Land Management (BLM), United States Department of the Interior, can be protected under Chapter 527 of NRS.

Senator Goicoechea stated that while he is in favor of protecting the swamp cedar trees, he is opposed to the motion.

The motion made by Assemblyman Watts and seconded by Vice Chair Swank passed. Senators Goicoechea and Hansen and Assemblywoman Hansen voted no.

MOTION: Vice Chair Swank moved to send a letter to the Office of Historic Preservation requesting a review of the Spring Valley swamp cedar area for a potential listing in the Nevada State Register and send a separate letter to the Division of Forestry encouraging it to review the Spring Valley swamp cedars for possible designation as endangered. The motion was seconded by Assemblyman Watts.

Before the vote, Chair Parks suggested including the Division of Natural Heritage, DCNR.

Additionally, Senator Goicoechea proposed including a resolution to Nevada's Congressional Delegation requesting the designation of historical importance of the Spring Valley swamp cedar area.

MOTION (AMENDED): Vice Chair Swank moved to amend her motion to include Chair Parks's and Senator Goicoechea's recommendations. The motion was seconded by Assemblyman Watts and passed unanimously.

Mr. McDonald reviewed Recommendation 7 regarding the Great Basin National Park federal funding requests.

MOTION: Assemblyman Watts moved to approve Recommendation 7. The motion was seconded by Senator Goicoechea and passed unanimously.

Mr. McDonald reviewed Recommendation 8 regarding a letter about wildfires in Nevada.

MOTION: Senator Goicoechea moved to approve Recommendation 8. The motion was seconded by Mayor Corona and passed unanimously.

Mr. McDonald reviewed Recommendation 9 regarding a position statement in the Committee's final report supporting federal land sales and transfers to local governments and nonprofit agencies.

Mr. Tibbitts shared information about the land sales process.

Chair Parks and Senator Goicoechea shared their support for the recommendation.

Mayor Corona thanked Eureka County for bringing the issue forward.

MOTION: Senator Goicoechea moved to draft a resolution supporting federal land sales and transfers to local governments and nonprofit agencies where they have constructed and operate public and not-for-profit facilities. The motion was seconded by Assemblyman Watts.

Committee members and Mr. McDonald discussed the recommendations and number of BDRs available to the Committee.

Chair Parks suggested making Recommendation 9 a position statement, as originally stated in the WSD.

MOTION (AMENDED): Senator Goicoechea moved to amend his motion to a position statement instead of a resolution. The motion was seconded by Assemblyman Watts and passed unanimously.

Mr. McDonald reviewed Recommendation 10 regarding a letter supporting landscape scale projects utilizing pinyon-juniper woodland biomass and called attention to a presentation about the projects that was shared with the Committee at the March 3, 2020, meeting.

MOTION: Senator Hansen moved to support Recommendation 10. The motion was seconded by Vice Chair Swank and passed unanimously.

Mr. McDonald reviewed Recommendation 11 regarding a letter seeking funds to implement Senate Bill 456 (2015).

Mr. Tibbitts noted that SB 456 had passed unanimously during the 2015 Legislative Session.

MOTION: Senator Goicoechea moved to approve Recommendation 11. The motion was seconded by Mayor Corona.

Before the vote, Assemblyman Watts stated his opinion that it was inappropriate to support funding for SB 456 as a priority when healthcare services, education, and other conservation programs also need funding.

The motion made by Senator Goicoechea and seconded by Mayor Corona passed. Vice Chair Swank, Senator Brooks, and Assembly Members Daly and Watts voted no.

Mr. McDonald reviewed Recommendation 12 regarding seeking a congressional solution to R.S. 2477 roads.

Mr. Tibbitts stated the recommendation was brought forth to get clarity from Congress on the issue and process to document the roads that have existed and had at least five years of continuous use before 1976 and have maintained continuous use after 1976.

Senator Hansen called attention to Senate Bill 316 (2019), which relates to the R.S. 2477 issues, and stated his opposition to the recommendation.

Assemblyman Watts agreed with Senator Hansen's comments.

MOTION: Senator Goicoechea moved to approve Recommendation 12. The motion failed for lack of a second.

E. SCHOOL TRUST LANDS

Mr. McDonald reviewed Recommendation 13 regarding school trust lands and called attention to a presentation the Committee received at the March 3, 2020, meeting, which was included as Attachment D in the WSD.

Paul Johnson, Chief Financial Officer, White Pine County School District, provided information about school trust lands and the intent of the recommendation.

There was extensive discussion among Committee members; Margaret Bird, Treasurer, Advocates for School Trust Lands; Charles Donohue, Administrator, Division of State Lands, and State Land Registrar, DCNR; and Mr. Johnson regarding:

- How much revenue would be generated from school trust lands;
- How other states manage their school trust lands;
- What happened with Sections 16 and 36 of Nevada's land grants; and
- What would prevent the school trust lands from potentially being sold.

MOTION: Senator Goicoechea moved to proceed with the resolution requesting the transfer of Sections 2 and 32 to the State of Nevada from the Federal Delegation or alternate lands in lieu of Sections 2 and 32 equivalent to four million acres. The motion was seconded by Senator Hansen and passed. Assembly Members Daly and Watts and Mayor Corona voted no.

F. STATE WATER ENGINEER

Mr. McDonald reviewed Recommendation 14 regarding expanding the qualifications for the position of state engineer, and he called attention to Attachment E of the WSD for request details and background information.

Bradley Crowell, Director, DCNR, explained the change was requested to amplify the pool of candidates for state engineer.

Senator Goicoechea shared his concern over making changes to the state engineer requirements and recommended that DCNR submit their own BDR to the Legislature, rather than through the Committee.

Vice Chair Swank noted that the proposed change is similar to the structure of the State Public Works Division, Department of Administration.

MOTION: Assemblyman Watts moved to approve Recommendation 14. The motion was seconded by Senator Brooks.

Before the vote, Assemblywoman Hansen echoed Senator Goicoechea's concerns and stated her opposition to the recommendation.

The motion made by Assemblyman Watts and seconded by Senator Brooks passed. Chair Parks, Senator Goicoechea, and Assemblywoman Hansen voted no.

G. WILDLIFE ON PUBLIC LANDS

Mr. McDonald reviewed Recommendation 15 regarding funding to reduce free-roaming wild horses and burros and directed Committee members to Attachment F for the proposed resolution from the Coalition for Healthy Nevada Lands, Wildlife and Free-Roaming Horses.

Rebekah Stetson, Chair, Coalition for Healthy Nevada Lands, Wildlife and Free-Roaming Horses, noted that while *The Path Forward for Management of BLM's Wild Horses & Burros* recommends getting to appropriate management levels (AML) within ten years, the Coalition is seeking to get to AML within six years.

MOTION: Senator Hansen moved to approve Recommendation 15. The motion was seconded by Assemblyman Watts.

Before the vote, Assemblyman Watts suggested amending the recommendation to reflect the Coalition's request of reaching AML within six years, instead of ten.

MOTION (AMENDED): Senator Hansen amended his motion to include Assemblyman Watts's suggestion.

Mayor Corona, Ms. Stetson, and Sherman Swanson, Emeritus Professor and State Specialist, Department of Agriculture, Veterinary and Rangeland Sciences, UNR, discussed birth control methods for wild horses and burros.

The amended motion made by Senator Hansen and seconded by Assemblyman Watts passed unanimously.

Mr. McDonald reviewed Recommendation 16, which urges Nevada's Congressional Delegation to support the BLM's 2020 report to Congress.

MOTION: Assemblyman Watts moved to approve Recommendation 16. The motion was seconded by Senator Hansen and passed unanimously.

Mr. McDonald informed the Committee that, after combining Recommendations 2 through 4 into one BDR, there was still one BDR available to the Committee.

MOTION: Senator Hansen moved to change Recommendation 9 into a resolution. The motion was seconded by Senator Goicoechea and passed unanimously.

AGENDA ITEM V—PUBLIC COMMENT

The following written testimony was submitted for the record:

- Matt Bowman, Nevada resident (Agenda Item V A);
- Robert Coache, P.E., member of the public (Agenda Item V B);
- Patrick File, President, Nevada Open Government Coalition (Agenda Item V C);
- Stephen D. Hartman, Executive Vice President, General Counsel, Vidler Water Company (Agenda Item V D);
- Larry Johnson, President, Coalition for Nevada's Wildlife (Agenda Item V E);
- Shania Marques, Cultural Representative, Ely Shoshone Tribe (Agenda Item V F);
- Austin Osborne, PHR, SHRM-CP, Storey County Manager (Agenda Item V G);
- Hugh Ricci, former Nevada State Engineer (Agenda Item V H);
- Paul Selberg, Executive Director, Nevada Conservation League (Agenda Item V I);
- Dagny Stapleton, Executive Director, Nevada Association of Counties (Agenda Item V J); and
- Jake Tibbitts, previously identified (Agenda Item V K).

AGENDA ITEM VI—ADJOURNMENT

There being no further business to come before the Committee, the meeting was adjourned at 3:17 p.m.

Respectfully submitted,

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Maria Aguayo

Research Policy Assistant

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Jered M. McDonald

Principal Policy Analyst

APPROVED BY:

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Senator David R. Parks, Chair
Legislative Committee on Public Lands
2019–2020 Interim

MEETING MATERIALS

AGENDA ITEM	PRESENTER/ENTITY	DESCRIPTION
Agenda Item III	Jeff Fontaine, Executive Director, Central Nevada Regional Water Authority	Recommendation
Agenda Item IV A	Jered M. McDonald, Principal Policy Analyst, Research Division, Legislative Counsel Bureau	"Work Session Document"
Agenda Item IV B	Dominique Etchegoyhen, Deputy Director, State Department of Conservation and Natural Resources	Follow-up information
Agenda Item V A	Matt Bowman, Nevada resident	Written testimony
Agenda Item V B	Robert Coache, P.E., member of the public	Written testimony
Agenda Item V C	Patrick File, President, Nevada Open Government Coalition	Written testimony
Agenda Item V D	Stephen D. Hartman, Executive Vice President, General Counsel, Vidler Water Company	Written testimony
Agenda Item V E	Larry Johnson, President, Coalition for Nevada's Wildlife	Written testimony
Agenda Item V F	Shania Marques, Cultural Representative, Ely Shoshone Tribe	Written testimony
Agenda Item V G	Austin Osborne, PHR, SHRM-CP, Storey County Manager	Written testimony
Agenda Item V H	Hugh Ricci, former Nevada State Engineer	Written testimony
Agenda Item V I	Paul Selberg, Executive Director, Nevada Conservation League	Written testimony

AGENDA ITEM	PRESENTER/ENTITY	DESCRIPTION
Agenda Item V J	Dagny Stapleton, Executive Director, Nevada Association of Counties	Written testimony
Agenda Item V K	Jake Tibbitts, Manager, Natural Resources, Eureka County	Written testimony

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