



NEVADA LEGISLATURE

LEGISLATIVE COMMISSION'S SUBCOMMITTEE TO STUDY THE PROTECTION OF NATURAL TREASURES

(Senate Concurrent Resolution No. 35 [File No. 101, *Statutes of Nevada 2005*])

SUMMARY MINUTES AND ACTION REPORT

The fifth meeting and work session of the Legislative Commission's Subcommittee to Study the Protection of Natural Treasures (Senate Concurrent Resolution No. 35 [File No. 101, *Statutes of Nevada 2005*]) was held on June 19, 2006, at 1:30 p.m. in Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. The meeting was videoconferenced to Room 2135 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. A copy of this set of "Summary Minutes and Action Report," including the "Meeting Notice and Agenda" ([Exhibit A](#)) and other substantive exhibits, is available on the Nevada Legislature's Web site at www.leg.state.nv.us/73rd/Interim. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (e-mail: publications@lcb.state.nv.us; telephone: 775/684-6835).

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Senator Dina Titus, Chairwoman
Assemblyman Joseph M. Hogan
Assemblyman Harry Mortenson
Assemblyman Harvey J. Munford

COMMITTEE MEMBERS PRESENT IN CARSON CITY:

Senator Mark E. Amodei
Assemblyman Tom Grady

COMMITTEE MEMBER ABSENT:

Senator Dean A. Rhoads

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Marjorie Paslov Thomas, Senior Research Analyst, Research Division
Leslie K. Hamner, Principal Deputy Legislative Counsel, Legal Division
Joel C. Benton, Senior Deputy Legislative Counsel, Legal Division
Kay Graves, Senior Administrative Assistant, Research Division

OPENING REMARKS

Senator Dina Titus, Chairwoman, welcomed members and staff to the fifth and final meeting of the Legislative Commission's Subcommittee to Study the Protection of Natural Treasures. She announced that the Subcommittee will consider recommendations contained in the "Work Session Document" (see [Exhibit B](#)) and said there will be some changes to the document. She reminded everyone that the Subcommittee is allocated five bill draft requests that can be submitted for legislation or resolutions; in addition, she said a final report will include summaries and recommendations by the Subcommittee.

OVERVIEW OF ACTIVITIES OF THE MOUNT CHARLESTON VISITORS IMPACT TASK FORCE

- Becky Grismanauskas, Chairwoman, Mount Charleston Town Advisory Board and member of Mount Charleston Visitors Impact Task Force, gave an overview of activities of the Task Force. She provided information regarding wildlife; fire danger; traffic and vehicle issues; signage; and the Nevada Fire Safe Council. See [Exhibit C](#) for complete details.

Responding to questions, Ms. Grismanauskas advised that Nevada's Department of Transportation (NDOT) recently completed a transportation study, which includes a recommendation for shuttle service for visitors to Mount Charleston. She declared that, if stopping and parking on the mountain can be restricted, it will help alleviate traffic issues, as well as protect the natural environment. Ms. Grismanauskas noted that the objective of the United States Forest Service's (USFS) Middle Kyle Canyon project is to divert some of the traffic from Mount Charleston. She explained that the USFS purchased a former golf course located at mile marker four on the south side and is proposing a village that will offer hiking, picnicking, walking trails, and campgrounds; the hope is that the village will help divert traffic.

OVERVIEW OF THE "NEVADA LAST CHANCE SCENIC PLACES," PROGRAMS OF SCENIC NEVADA

- Charlie Ragusa, Director-at-Large, Scenic Nevada, provided information about Scenic Nevada and the "Nevada LAST CHANCE Scenic Places" program, which began in spring 2006. He advised that the program is designed to focus on endangered areas throughout Nevada. Mr. Ragusa discussed the procedure for assigning scenic place designation referring to a pamphlet titled "2006 Call for Entries, Scenic Nevada" (see [Exhibit D](#)). He said the pamphlet also provides historical background information about Scenic Nevada. He noted that Scenic Nevada received approximately 12 nominations throughout the State including locations in Clark County, Esmeralda County, Mineral County, Storey County, and Washoe County.
- Charles Swezey, Treasurer, Scenic Nevada, further discussed the nomination process. He advised that Scenic Nevada called for nominations in March 2006 with a June 15 deadline. He indicated that, to date, he received eight nominations that include the

following sites: in Clark County, Flat Top Mesa (also partially in Lincoln County) and Red Rock Canyon; in Esmeralda County, Monte Cristo's Castle; in Storey County, Comstock Cemetery; and in Washoe County, Black Rock Desert, Hillside Cemetery, Virginia Street Bridge, and Washoe Valley. He expects to receive three more nominations that include: in Clark County, Upper Las Vegas Wash; in Mineral County, Walker Lake; and in Washoe County, Rosewood Canyon and Wash. Additionally, he indicated there may be a forthcoming nomination for Mount Charleston but he has not yet received it. He stated that the nomination process probably will not occur again for several years; therefore, he wants to allow sufficient time to receive the three previously mentioned nominations that have not yet been submitted.

- Mr. Ragusa noted that "Nevada LAST CHANCE Scenic Places" was designed to be a statewide program, and the reception has been good throughout the State. He indicated that the program shows Nevada citizens are truly concerned about endangered areas being lost and declared that Nevada's natural treasures also are national treasures. He said, after all nominations are received, Scenic Nevada will publish a brochure, which will depict each threatened area and include proposed solutions; he noted the brochure will be distributed in fall 2006.
- Mr. Swezey stated that Scenic Nevada plans to make site visits to each nominated location. He advised that Scenic Nevada received funding in early 2006 for the "Nevada LAST CHANCE Scenic Places" program through the John Ben Snow Memorial Foundation. He said Scenic Nevada received a grant of \$18,000 and to date approximately \$3,000 has been spent, which leaves a substantial amount to be used for the final stage of the selection process.

Responding to questions from Chairwoman Titus, Mr. Swezey explained that the grant is specifically earmarked to fund the "Nevada LAST CHANCE Scenic Places" program, and it is a private sector grant.

- Chairwoman Titus said the LAST CHANCE program sounds worthwhile and suggested that Scenic Nevada may want to apply for a State or federal grant through the Nevada Arts Council or the Board of Museums and History for additional funding.
- Responding to questions, Mr. Ragusa explained that this is the first year in initiating the LAST CHANCE program. He advised that Nevada is only the second state in the country to go public with such a program; additionally, he explained that Scenic Nevada is an affiliate with Scenic America. He is unsure whether the program will be a yearly event or whether Scenic Nevada will spend the next couple of years focusing on the areas that recently have been nominated.
- Chairwoman Titus commented that some sites are both man-made and natural treasures; for instance, she mentioned the charcoal kilns on the backside of Mount Charleston and some ghost towns. She said, during the course of this study, the Subcommittee has

found that sometimes the two components go together and it is hard to separate them, indicating that when one is saved, the other also is saved.

PRESENTATION ON THE PROPOSED TAHOE-PYRAMID BIKEWAY

- Janet R. Carson, President, Tahoe-Pyramid Bikeway, introduced herself and Debbie Shosteck, Legal Counsel, Tahoe-Pyramid Bikeway, and explained that Ms. Shosteck is working for the Bikeway as a volunteer. Ms. Carson gave a Microsoft PowerPoint presentation on the proposed Tahoe-Pyramid Bikeway, which is a nonprofit, private, volunteer group (see [Exhibit E](#)). She emphasized that the Truckee River is a State treasure, historically and environmentally rich, and a major part of the water supply in northern Nevada. She said unfortunately, at present, much of it can be accessed only from Interstate 80.

Ms. Carson indicated the trail consists of both public and private land in two states, five counties, one Indian reservation, and three federal agencies. She stated that the trail ends in east Sparks due to jurisdictional and topographical reasons. She said the project could really use the State's help in gaining access to the areas that are privately owned and inaccessible at present. She mentioned the main challenges to the Bikeway project include private property and railroad refusal to grant access. Ms. Carson pointed out that the railroad follows the Truckee River for its entire length and is the biggest challenge due to railroad representatives' negative attitude about the Bikeway trail. She also mentioned that there are problems with the University of Nevada, Reno (UNR), which owns a piece of property in the middle of the Paiute Reservation; she said UNR representatives are not receptive to a bike trail being formed near that land, but the Bikeway currently is negotiating with the University on that point.

Ms. Carson referred to a section of the bike path along the Emigrant Trail, next to the Truckee River, where the land is completely undeveloped and all privately owned, and one of the few places where the Emigrant Trail remains open to passage in a casual sense but not in a legal sense. She said the Tahoe-Pyramid Bikeway group filed an RS-2477 Historic Road Request that was granted by Washoe County on the south bank of the Truckee River, but declined by Storey County on the north bank. Ms. Carson indicated that about two miles from Sparks, a pedestrian bridge needs to be built across the Truckee River. She said the Bikeway receives funding under a State program called Q-1, and has the engineering and the permits, but it does not have the real estate access to the site due to private landowners who can basically kill the trail.

- Responding to comments by Subcommittee members, Ms. Shosteck said she reviewed other states' statutes regarding recreation use and pointed out that Nevada's statute should be changed to recognize bicycling, both mountain and road biking, as a recreational use that is protected under the statute. In addition, she suggested the statute should explicitly recognize and protect railroads and utilities as private landowners, like the State of Maine's recreation use statute. She declared that the language of Nevada's statute is too broad, and said Union Pacific is not interested in accommodating the Bikeway's trail on railroad rights-of-way due to fear of liability. Ms. Shosteck

commented that the Bikeway would like the Legislature to clarify statutory language indicating that landowners who improve their property for trails are protected from liability. She noted that some states have either created a defense fund for landowners or a mechanism that provides reimbursement to landowners who have to defend lawsuits that are ultimately without merit. Additionally, she mentioned that some states specifically name bicycling as an inherently dangerous activity so bicyclists recognize and assume the risk when using a trail.

- Responding to questions, Ms. Carson advised that the Tahoe-Pyramid Bikeway has been involved in discussions with representatives who are working on flood control issues related to the Lower Truckee River. She indicated that Washoe County has purchased or will purchase some parcels of land for flooding purposes, and that some of those parcels will be where some sections of the bike trail are located. Additionally, she pointed out that, although the Bikeway will continue working with the flood control group, it will not wait for them because each group has a different timeline. She anticipates the Bikeway trail will be completed in ten years or less.

PUBLIC COMMENT

There was no public comment.

WORK SESSION – DISCUSSION AND ACTION ON RECOMMENDATIONS

WORK SESSION DOCUMENT

June 19, 2006

LEGISLATIVE COMMISSION'S SUBCOMMITTEE TO STUDY THE PROTECTION OF NATURAL TREASURES (SENATE CONCURRENT RESOLUTION NO. 35 [File No. 101, *Statutes of Nevada 2005*])

The following "Work Session Document" was prepared by staff of the Legislative Commission's Subcommittee to Study the Protection of Natural Treasures (Senate Concurrent Resolution No. 35 [File No. 101, Statutes of Nevada 2005]). The document contains recommendations within the scope of the study that were presented in hearings or submitted in writing for the Subcommittee's consideration. The document also may contain supplemental information as referenced in this document.

The possible actions listed in this document do not necessarily have the support or opposition of the Subcommittee. Rather, these possible actions are compiled and organized so the members may review them to decide if they should be adopted, changed, rejected, or further considered. Individual or joint sponsors of recommendations may be referenced in parentheses. Please note that specific sponsors of the recommendations may not be provided if the proposals were raised and discussed by numerous individuals and entities during the course of the study.

Pursuant to NRS 218.2429, interim committees conducting a study or investigation are limited to no more than five legislative measures (bill draft requests and requests for the drafting of resolutions). The Legislative Commission shall then submit any recommendations for legislation to the 74th Session of the Nevada State Legislature.

For purposes of this "Work Session Document," the recommendations have been grouped by the type of Subcommittee action requested. Please note that the recommendations are not preferentially ordered. Additionally, although possible actions may be identified within each recommendation, the Subcommittee may choose to recommend any of the following actions: (1) draft legislation; (2) draft a resolution; (3) draft a letter; or (4) include a statement in the final report.

Finally, it should be noted that many of the recommendations may contain an unknown fiscal impact. Subcommittee members should be advised that Legislative Counsel Bureau staff will coordinate with the interested parties to obtain detailed fiscal estimates, where appropriate (for inclusion in the final report), and that all recommendations may be considered within available funding limits.

- Chairwoman Titus stated there are five recommended bill drafts – three are bills and two are resolutions. She indicated that, based on testimony today, the Subcommittee may

want to change the two resolutions to letters of encouragement to free those bill drafts for substantive changes that require legislation.

RECOMMENDATIONS FOR LEGISLATIVE MEASURES

Recommendation No. 1

Draft a bill amending Chapter 459 of the NRS to require the State Environmental Commission to adopt regulations modifying the Chemical Accident Prevention Program. The bill would require the regulations to include provisions regarding the handling and storage of large quantities of mercury related to the consolidation of the national strategic stockpile in Nevada to protect the health, safety, and welfare of the residents of this State. The modification also should allow for regulation of the stockpile only, recognizing its unique qualities in terms of its quantity and long-term storage.

(Recommended by Allen Biaggi, Director, State Department of Conservation and Natural Resources [SDCNR]).

- Chairwoman Titus reminded members that the Subcommittee heard testimony at the Hawthorne meeting about the new proposal to store mercury at the Hawthorne Army Ammunition Depot in Hawthorne. She noted that Mr. Biaggi advised the Subcommittee that Nevada statutes are not complete concerning this type of project.
- Mr. Biaggi stated that the SDCNR's specific recommendation suggested that the Governor continue his efforts to ensure that the State Environmental Commission adopts a threshold value for mercury through the Chemical Accident and Prevention Program to bring the storage of the national strategic stockpile in Nevada into the regulatory fold of the State. He said this does not necessarily require statutory modification and can be done through regulation. He reminded members that, during the 2003 Legislative Session, a major revision to the Chemical Accident and Prevention Program was undertaken and the provisions of what constitutes a threshold quantity was moved out of statutes and placed into regulations.
- Chairwoman Titus stated that this issue is important and the Subcommittee wants assurances that there will be a regulatory change. She said some members believe strongly enough about this recommendation to pursue it through legislation if there is any question about it not happening.
- Mr. Biaggi advised the SDCNR intends to pursue this recommendation but noted that there will be a new Governor in January 2007; he could not ensure that the new Governor will endorse this recommendation. He pointed out that the regulatory process takes approximately six months, and he could not guarantee that this regulation will be in place by January 2007.
- Responding to the Chairwoman, Mr. Biaggi gave a brief update on the status of the mercury and stated that shipments of mercury will begin in spring 2007.

- Assemblyman Grady asked if the regulation would be directed only at the activities at Hawthorne Army Ammunition Depot or broad enough to cover other possible mercury uses and storage.
- Mr. Biaggi responded that the SDCNR's intention is to place the threshold quantity at such a high level, for example, 1,000 tons, that it would bring only the mercury stockpile for storage and not other mercury uses in other industries within the State of Nevada.
- Mr. Biaggi addressed the regulation of mercury that is in the air and water and said that mercury is a separate issue. He indicated the toxic release inventory for the past couple of years has demonstrated that mercury is being emitted by many of the major mines in Nevada. Approximately two years ago, the Division of Environmental Protection undertook a voluntary mercury reduction program, which was very successful resulting in approximately 75 to 80 percent mercury reduction. However, he noted that, within the last few months, a more rigorous regulatory program has been put into place making compliance mandatory instead of voluntary; he anticipates there will be further significant reductions in mercury. He said those regulations were passed by the State Environmental Commission and approved by the Legislative Commission. He commented that Nevada has a long history with mercury contamination and considers it a very serious issue.
- Assemblyman Grady made a recommendation to draft a resolution, instead of a bill, urging strong support that Mr. Biaggi's recommendations be directed to the Hawthorne situation. There was no second.
- The Subcommittee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYMAN MORTENSON MOVED FOR APPROVAL OF RECOMMENDATION NO. 1. THE MOTION WAS SECONDED BY ASSEMBLYMAN MUNFORD, WHICH PASSED WITH ASSEMBLYMAN GRADY VOTING NAY.

Recommendation No. 2

Draft a bill creating an Office of a State Paleontologist within the Executive Branch or the Nevada System of Higher Education. The position would be headquartered in the southern part of the State. According to information provided, the State Paleontologist would systemically inventory the paleontological resources within the State of Nevada and compile a database of fossil resources; coordinate paleontological research activity within the State; promote paleontological research within the State; promote the dissemination of knowledge gained from this research; and use Nevada's paleontological resources to promote tourism within the State. The position could be established in one of the following agencies:

- **An office in Nevada's Bureau of Mines and Geology of the State of Nevada in the Public Service Division of the Nevada System of Higher Education; OR**
- **An office in one of the southern Nevada campuses of the Nevada System of Higher Education; OR**
- **An office in the Nevada State Museum and Historical Society of the Division of Museums and History in the Department of Cultural Affairs.**

(Recommended by Assemblyman Mortenson.)

- Marjorie Paslov Thomas, Senior Research Analyst, Research Division, Legislative Counsel Bureau (LCB), advised that a fourth option for locating the State Paleontologist was brought to her attention by the Chairwoman. She stated the fourth option would have the Director of the Department of Cultural Affairs employ the State Paleontologist with the approval of an officer of the Nevada System of Higher Education, which would be authorized to provide office space; additionally, the State Paleontologist may be employed by the Board of Regents as a teacher and also may accept employment as a consultant.
- Chairwoman Titus noted that option four is how the position of the State Climatologist is structured.
- Assemblyman Mortenson commented that one of the greatest treasures of Nevada is the anthropological remains of prehistoric animals and cited Tule Springs as an example of a wonderful site. He declared that establishing a State Paleontologist is an important step in preserving natural treasures.
- The Subcommittee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYMAN MORTENSON MOVED FOR APPROVAL OF RECOMMENDATION NO. 2. THE MOTION WAS SECONDED BY ASSEMBLYMAN MUNFORD.

- Chairwoman Titus informed the Subcommittee that she directed staff to check into the different options for placing the State Paleontologist and staff determined that the fourth option may be the best approach. She said the fourth option is a combination, which provides that the Director of the Department of Cultural Affairs appoint the State Paleontologist who would be housed on a university campus, have the ability to teach some classes, and operate independently like the State Climatologist does.
- Assemblyman Mortenson indicated he would amend the motion to include option four.
- Chairwoman Titus added that under the Office of Historic Preservation of the Department of Cultural Affairs, cultural resources include historic, prehistoric, archaeological, architectural, or paleontological significance; therefore, it would seem natural to place the State Paleontologist there.

- Helen Mortenson, citizen of Las Vegas, advised that the State museum in Lorenzi Park houses the Columbian mammoth, the Pleistocene horse, and the ground sloth. She said the State museums are the repositories for vertebrate paleontological specimens that are found on federal land. She explained that specimens must go to either the State museum in Carson City or to the State museum in Lorenzi Park. She said there are specimens throughout Nevada and that is why it is important that Nevada have a State Paleontologist.

UPON THE CALL OF THE CHAIRWOMAN, THE SUBCOMMITTEE APPROVED RECOMMENDATION NO. 2 WITH THE INCLUSION OF OPTION 4, WHICH PASSED UNANIMOUSLY.

- Chairwoman Titus directed attention to Recommendation Nos. 3 and 4, which call for a bill draft request (BDR) and a resolution, and indicated they will be changed to letters of support to allow for two BDRs. She said the Subcommittee will revisit the possible recommendations for BDRs.

Recommendation No. 5

Draft a resolution recognizing the month of May as Archeological Awareness and Historic Preservation Month in Nevada. Additionally, the resolution would recognize the importance of Tule Springs in Las Vegas as an area where fossil remains have been found of mammoths, bison, horses, camels, giant sloths, and other Pleistocene fauna. The resolution would further commemorate Tule Springs as well known in the scientific world as one of the best examples of Pleistocene paleontologic sites in Western North America.

(Recommended by Helen Mortenson.)

- There being no discussion on Recommendation No. 5, the Chairwoman called for a motion.
- The Subcommittee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYMAN HOGAN MOVED FOR APPROVAL OF RECOMMENDATION NO. 5. THE MOTION WAS SECONDED BY ASSEMBLYMAN MORTENSON, WHICH PASSED UNANIMOUSLY.

Recommendation No. 12

Draft a letter requesting NDOT to conduct a Performance Speed Study along the “Blue Diamond Highway” (State Route 160). The study should consider restricting weight limits for certain motor vehicles along that route.

- Ms. Thomas, previously identified, explained that Recommendation No. 12 will be changed to a BDR instead of a letter, and stated the study must include consideration of

restricting weight limits for certain motor vehicles to the extent that it is contingent on not losing federal highway funds.

- Chairwoman Titus reviewed Recommendation No. 12 noting that it resulted from testimony concerning construction trucks exiting Interstate 15 and cutting across the Blue Diamond Highway to Pahrump to avoid traffic. She said the trucks were driving the scenic route and killing wild horses, burros, and a number of bicyclists. The Chairwoman pointed out that NDOT is reluctant to get involved with this recommendation; however, she noted that NDOT conducted a study which revealed that putting weight limits in place keeps trucks off certain roads. She said NRS 44.752 includes the ability to set weight limits and suggested that Recommendation No. 12 state that a bill requiring weight limits, not a performance study, be set along scenic highways, as long as it does not interfere with federal funding. The LCB Legal staff indicated that change is acceptable.

- The Subcommittee **APPROVED THE FOLLOWING ACTION:**

SENATOR AMODEI MOVED FOR APPROVAL OF RECOMMENDATION NO. 12, WHICH WAS CHANGED TO A BDR REQUIRING THAT WEIGHT LIMITS BE SET ALONG SCENIC HIGHWAYS, AS LONG AS THE LIMITS DO NOT INTERFERE WITH FEDERAL FUNDING. THE MOTION WAS SECONDED BY ASSEMBLYMAN HOGAN, WHICH PASSED UNANIMOUSLY.

- Ms. Thomas explained that a new recommendation not contained in the “Work Session Document” was submitted by the Tahoe-Pyramid Bikeway project. She advised that the recommendation would be to draft a bill amending Chapter 41 of NRS to clarify the language of the recreational use statute to ensure that bicycling is considered a recreational activity and that landowners do not have a duty of care to trail users if they make trail improvements, as long as those improvements meet accepted design standards. She said a provision also would be included in the statute protecting nonprofit volunteer trail groups from liability for personal injuries incurred by trail users; additionally, she indicated a “Whereas” clause would include legislative intent to encourage the public and private landowners to provide access or easements across their property for the Bikeway.
- Chairwoman Titus said that would be an encouragement for UNR, the railroads, and others to be involved in this project. She restated the recommendation, which would require a BDR, as follows: include a “Whereas” clause that encourages participation of UNR, the railroads, and others; include bicycling as a recreational activity; clarify language that landowners do not have a duty of care if they improve the trail according to design specifications; and offer liability protection for nonprofit volunteer groups.
- Senator Amodei asked if the liability protection would include private landowners who may be adjacent to the trails or who dedicate land for the trails. He supported the recommendation, but commented that the liability protection should include everyone

involved whether it is political subdivisions, nonprofits, private landowners who donate, or whoever has adjacent property.

- Chairwoman Titus agreed with Senator Amodei and noted the existing statute may already cover such landowners through its definition of a landowner. She requested that the LCB Legal staff check the statute, if it is the intent of the Subcommittee to draft the bill as previously stated.
- Senator Amodei concurred and indicated he does not want to hold up the recommendation; if it needs fine tuning, it most likely could be amended during session.
- The Subcommittee **APPROVED THE FOLLOWING ACTION:**

SENATOR AMODEI MOVED FOR APPROVAL OF A BDR ADDRESSING LIABILITY CONSIDERATIONS, BICYCLING, AND ENCOURAGEMENT OF PARTICIPATION IN THE CREATION OF THE BIKEWAY PATH FROM LAKE TAHOE TO PYRAMID LAKE. THE MOTION WAS SECONDED BY ASSEMBLYMAN GRADY, WHICH PASSED UNANIMOUSLY.

**RECOMMENDATIONS TO DRAFT A LETTER OR
INCLUDE A STATEMENT IN THE FINAL REPORT**

Recommendation No. 3

Draft a bill directing the Walker River Irrigation District, in collaboration with other appropriate entities, to submit, on or before January 31 of each odd-numbered year, a report to the Director of the Legislative Counsel Bureau for distribution to the regular session of the Legislature. The report must include the progress of the negotiations regarding the Walker River system and water resources, Walker Lake water quality, and any ongoing litigation and mediation.

- Ms. Thomas, previously identified, explained that Recommendation No. 3 will be changed from a BDR to a letter to the Walker River Irrigation District.
- Chairwoman Titus explained that the Subcommittee asked the Walker River Irrigation District to keep the Subcommittee updated regarding progress of the Walker River system negotiations.
- Assemblyman Grady asked why the Walker River Irrigation District was directed to submit a report. He noted that there are about eight or ten agencies involved in the Walker River negotiations.

- Ms. Thomas advised that during testimony at the Subcommittee's Hawthorne meeting, the Walker River Irrigation District volunteered to provide a periodic report to the Legislature.
- The Subcommittee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYMAN GRADY MOVED FOR APPROVAL OF RECOMMENDATION NO. 3 AS AMENDED TO DRAFT A LETTER TO THE WALKER RIVER IRRIGATION DISTRICT INSTEAD OF SUBMITTING A BDR. THE MOTION WAS SECONDED BY ASSEMBLYMAN HOGAN, WHICH PASSED UNANIMOUSLY.

Recommendation No. 4

Draft a resolution urging the Commission on Tourism and the Division of Tourism of the Commission on Tourism, to include in their program for tourism support for, and information to attract, visitors to Nevada's natural treasures, which include Mount Charleston and Walker Lake. The resolution may specify that a program for tourism should educate and support protecting the threatened and endangered pupfish located at Ash Meadows National Wildlife Refuge.

Recommendation No. 8

Draft a letter to the Division of State Parks of SDCNR, Commission on Tourism, each of Nevada's Boards of County Commissioners, and every local Convention and Visitors Authorities encouraging greater collaboration in an effort to publicize the State park system to residents and visitors.

(Recommended by David K. Morrow, Administrator, Division of State Parks, SDCNR.)

- Ms. Thomas, previously identified, noted that Recommendation No. 4 will be changed to drafting a letter instead of a resolution.
- Assemblyman Mortenson proposed that Recommendation No. 4 be combined with Recommendation No. 8, which includes sending letters to the Division of State Parks, Commission on Tourism, Nevada's Boards of County Commissioners, and all local Convention and Visitors Authorities. He reminded the Subcommittee that Mr. Morrow recommended that Convention and Visitors Authorities, and other entities that influence tourism, should emphasize and publicize Nevada's park system.
- The Subcommittee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYMAN MORTENSON MOVED FOR APPROVAL TO COMBINE AND APPROVE RECOMMENDATION NOS. 4 AND 8 AS A DRAFT LETTER. THE MOTION WAS SECONDED BY ASSEMBLYMAN MUNFORD, WHICH PASSED UNANIMOUSLY.

Recommendation No. 6

Draft a letter urging Nevada's Congressional Delegation to continue their efforts to keep 100 percent of the money from the Southern Nevada Public Land Management Act of 1998 (SNPLMA) in Nevada and the Lake Tahoe area. Testimony indicated that in 2005, President George W. Bush proposed to divert 70 percent of the revenue from SNPLMA to the federal Treasury. However, Nevada's Congressional Delegation successfully kept 100 percent of SNPLMA funds in Nevada and the Lake Tahoe area during Fiscal Year (FY) 2006 and FY 2007.

(Recommended by Chairwoman Titus.)

- Chairwoman Titus reviewed Recommendation No. 6 and noted that testimony from many different sources confirmed how much the SNPLMA money meant for restoring trails, funding water projects, and buying sensitive lands. She remarked that SNPLMA has been a wonderful source of revenue in saving natural treasures. She stated that Recommendation No. 6 would urge Nevada's Congressional Delegation to keep the funds intact and ensure the federal government does not use it pay down the federal debt.
- Assemblyman Mortenson expressed a lack of understanding regarding SNPLMA funds. He commented that SNPLMA is available to local governments, which have more money than State government, but it is not available to the State. If the Subcommittee agrees, he asked if the letter could include a request to allocate SNPLMA money to the State.
- Chairwoman Titus appreciated Assemblyman Mortenson's suggestion, and she pointed out that it would take a change in federal legislation to make revisions to SNPLMA. She advised there was discussion about amending that legislation to use some of the funding for education, but the entire congressional delegation opposed the one member who suggested changing SNPLMA because of the uncertainty of the outcome. The Chairwoman explained that once the legislation is opened, there is no guarantee that the funds would be reallocated within the State of Nevada; she said it is possible some of the money could be redirected to the federal government. She informed the Subcommittee that currently 5 percent of the SNPLMA revenue goes to the State for education and the remainder is distributed primarily for environmental projects.
- The Subcommittee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYMAN MORTENSON MOVED FOR APPROVAL OF RECOMMENDATION NO. 6. THE MOTION WAS SECONDED BY SENATOR AMODEI, WHICH PASSED UNANIMOUSLY.

Recommendation No. 7

Draft a letter to the Division of State Lands, SDCNR, supporting establishment of a State park at Monte Cristo's Castle in Esmeralda County. According to testimony, the State park would be approximately 10 square miles in area. Additionally, Monte Cristo's Castle is a unique, diverse geologic area in need of protection so its natural geologic features are preserved.

(Recommended by Michael Hackett, Alrus Consulting, and Andrea Robb-Bradick, Owner, Jim Butler Hotel, Tonopah.)

- Chairwoman Titus explained the reason a letter was proposed instead of a BDR is because the Legislative Committee on Public Lands (NRS 218.5363) will be recommending a BDR for this park; therefore, she asserted the Subcommittee's letter will supplement that Committee's efforts.
- The Subcommittee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYMAN GRADY MOVED FOR APPROVAL OF RECOMMENDATION NO. 7 AS AMENDED. THE MOTION WAS SECONDED BY SENATOR AMODEI, WHICH PASSED UNANIMOUSLY.

Recommendation No. 9

Draft a letter encouraging the Governor of the State of Nevada to consider reclassifying portions of Great Basin National Park (GBNP) as a Class I area under the federal Clean Air Act (42 United States Code 7474).

(Recommended by Joe Johnson, Toiyabe Chapter Sierra Club.)

- Mr. Biaggi, previously identified, indicated that his reservation with Recommendation No. 9 is outlined in his December 1, 2005, letter to Senator Titus regarding the Subcommittee's hearing on November 7, 2005 (see TAB F of Exhibit B). He said the letter pointed out serious and far-reaching ramifications in designating an area as Class I. He wanted to make sure the Subcommittee understands all implications to economic development and economic diversification before proceeding with such a designation.
- Chairwoman Titus asked Mr. Biaggi to explain some of those implications.
- Mr. Biaggi explained that, before a power plant, industrial development, or other major stationary source could be put into place, impacts to that Class I area would have to be considered. By designating a Class I area, the air quality standards within that area are lowered, which is a good thing from a public health and esthetic standpoint. However, he noted that air pollution can be transported great distances, which would include development in northern Nevada and perhaps in southern Nevada. He gave a good example citing the situation regarding the Grand Canyon. Years ago transport studies were conducted, which identified Nevada as a clean air corridor; in other words,

he pointed out that the wind blowing through Nevada was actually the clean air going into the Grand Canyon. He indicated the unclean air from the southern parts of Nevada and California and Arizona was traded off by virtue of the clean air from Nevada; therefore, that limited Nevada's economic diversification to some extent. He emphasized that it is a very complicated mix of issues and suggested that the Subcommittee be thoughtful and consider all implications.

- Chairwoman Titus asked if he was referring to the proposed power plant in Ely.
- Mr. Biaggi indicated the power plant in Ely would impact the GBNP if it is designated as a Class I area, as well as other power plants within the State of Nevada.
- Chairwoman Titus noted that Recommendation No. 9 was suggested by Joe Johnson, Toiyabe Chapter Sierra Club, and asked whether anyone wanted to pursue, modify, or not consider the recommendation.
- Assemblyman Hogan asked whether it is possible to make a generalized statement that a coal-fired power plant within 100 miles or so of a Class I designation would probably be required to make changes to its emissions.
- Mr. Biaggi replied that the purpose of his previously referenced 2005 letter was not in reference to any one project, but addressed the economic development of the State in general. He remarked that he cannot provide guidance on mileage as it relates to the distance between a power plant and a Class I area, and stressed that the identification and designation of a Class I area is a major step to take with regard to these types of issues. He did not have a problem with the Subcommittee approving this recommendation, but he suggested that qualifiers be included in the recommendation indicating that whoever makes that decision, and it should be the Governor, recognize all of the environmental and economic implications that result from a Class I designation.
- Assemblyman Hogan agreed and it was his opinion that the Subcommittee currently does not have the information to make such a determination. He said if the language in Recommendation No. 9 could include some of Mr. Biaggi's concerns, he suggested the recommendation move forward for the Governor's consideration. He maintained that careful consideration and thought be given to all possible ramifications.
- Chairwoman Titus indicated the Subcommittee has two options: (1) draft a letter; or (2) include a statement in the summary of the Subcommittee's final report, which would include maintaining the air quality at the GBNP, encouraging the Governor to keep a watch on that air quality, and asking the Governor to consider designating the GBNP as a Class I area after careful review of the issues previously mentioned. The Chairwoman agreed with Assemblyman Hogan that the Subcommittee lacks enough information to make the recommendation.
- The Subcommittee **TOOK THE FOLLOWING ACTION:**

ASSEMBLYMAN HOGAN MOVED FOR APPROVAL OF RECOMMENDATION NO. 9 TO INCLUDE TAKING INTO ACCOUNT BOTH ENVIRONMENTAL AND ECONOMIC DEVELOPMENT AND THE IMPLICATIONS OF A CLASS I DESIGNATION. THERE WAS NO SECOND AND THE MOTION FAILED.

ASSEMBLYMAN MORTENSON MOVED FOR APPROVAL OF RECOMMENDATION NO. 9 TO INCLUDE A STATEMENT IN THE FINAL REPORT TO RECLASSIFY THE GBNP TO A CLASS I DESIGNATION, BUT TO RECOGNIZE THE ENVIRONMENTAL AND ECONOMIC IMPLICATIONS THAT WILL NEED TO BE ADDRESSED. IN ADDITION, ASK GOVERNOR KENNY C. GUINN TO CONSIDER RECLASSIFYING THE PARK AFTER CAREFUL REVIEW OF THESE ISSUES. THERE WAS NO SECOND AND THE MOTION FAILED.

- The Subcommittee took no further action on Recommendation No. 9.

Recommendation No. 10

Draft a letter encouraging the Governor of the State of Nevada, the Chairperson of the Senate Committee on Finance, and the Chairperson of the Assembly Committee on Ways and Means to include additional funding to the Division of State Parks, SDCNR, for advertising, maintenance, and operations during the 2007-2008 biennium.

- The Subcommittee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYMAN MORTENSON MOVED FOR APPROVAL OF RECOMMENDATION NO. 10. THE MOTION WAS SECONDED BY ASSEMBLYMAN MUNFORD, WHICH PASSED UNANIMOUSLY.

Recommendation No. 11

Draft a letter requesting Nevada's Department of Transportation (NDOT) and the Regional Transportation Commission (RTC) of Southern Nevada to consider implementing a shuttle service between Las Vegas and Mount Charleston. The shuttle service would be used to ease traffic congestion in Clark County. The NDOT and RTC of Southern Nevada should consider using Zion National Park's shuttle service as a model.
(Recommended by Senator Amodei.)

- Assemblyman Munford asked how Recommendation No. 11 would be funded.
- Chairwoman Titus said, at the Subcommittee's Pahrump meeting, members heard testimony from the engineering company that was hired to conduct a study and complete a report concerning various options for managing traffic at Mount Charleston. She asked Ms. Thomas to provide information about that testimony.

- Ms. Thomas, previously identified, indicated that representatives of the engineering company informed the Subcommittee that NDOT and RTC are currently considering some type of shuttle service, although funding was unknown at that time. In her discussions with NDOT, Ms. Thomas advised that staff informed her that this project is on the drawing board.
- Chairwoman Titus noted for the record that her family owns a little property near Mount Charleston, but she does not see that this recommendation has any effect on it.
- Assemblyman Munford asked if everyone would be required by law to ride the shuttle up to Mount Charleston or could one choose to drive a private car.
- Chairwoman Titus asked Stephanie Phillips, Deputy Forest Supervisor, Humboldt-Toiyabe National Forest, Spring Mountains National Recreation Area, USFS, U.S. Department of Agriculture, to come forward and discuss the shuttle service.
- Ms. Phillips indicated the company that conducted the study is Parsons Brinckerhoff Quade and Douglas, Inc. She said the study's funding came from NDOT and the U.S. Department of Transportation's Federal Highway Administration. She advised that the recommended shuttle service has two parts. The first part is some type of public transit bus shuttle operated by RTC or NDOT traveling from the gateway community, which will be constructed at the intersection of U.S. Highway 95 and Kyle Canyon Road, to the Middle Kyle Canyon complex. She indicated that the second part would involve a separate type of shuttle system, operated by a concessionaire through the USFS, which would transport people to various points in the upper canyons. Ms. Phillips noted that, at this time, the USFS would not require people to take the shuttle system because Kyle Canyon Road is a State highway and NDOT's mission is to allow road access and not prohibit traveling on State highways. In addition, she pointed out that the shuttle system would be on USFS property, and while that agency would encourage people to take the shuttle, it will not require it.
- Senator Amodei commented that, if the shuttle system is already being considered, there is no need to send a letter.
- The Subcommittee took no action on Recommendation No. 11.

Recommendation No. 13

Draft a letter to the U.S. Forest Service (USFS) of the Department of Agriculture encouraging continued collaboration between the USFS, the State of Nevada, the Nye County Board of Commissioners, the Town of Pahrump, and other affected citizens of Nevada as it develops the Spring Mountains National Recreation Area (SMNRA) West Side Master Plan. The Plan should consider the importance of future development along the Pahrump side of the SMNRA. The letter would request that the

USFS submit, on or before, January 31, 2007, a progress report on the development of the West Side Master Plan to the Director of the Legislative Counsel Bureau for distribution to the 74th Session of the Nevada State Legislature.

- Chairwoman Titus stated the recommendation came out of the Subcommittee's Pahrump hearing regarding discussion about possibilities for restoring the back side of Mount Charleston.
- Ms. Phillips, previously identified, testified that the USFS will keep the Nevada State Legislature informed of the status of the restoration of the back side of Mount Charleston.
- The Subcommittee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYMAN HOGAN MOVED FOR APPROVAL OF RECOMMENDATION NO. 13. THE MOTION WAS SECONDED BY ASSEMBLYMAN MUNFORD, WHICH PASSED UNANIMOUSLY.

Recommendation No. 14

Include a statement in the final report urging the USFS to construct a permanent rest stop at Mount Charleston and NDOT to maintain it. The statement should also support an increase in NDOT's budget to maintain a rest stop located at Mount Charleston.

The Subcommittee **APPROVED THE FOLLOWING ACTION:**

SENATOR AMODEI MOVED FOR APPROVAL OF RECOMMENDATION NO. 14. THE MOTION WAS SECONDED BY ASSEMBLYMAN MUNFORD, WHICH PASSED UNANIMOUSLY.

Recommendation No. 15

Include a statement in the final report urging NDOT to consider designating State Route 158 (Deer Creek Road) as a State scenic byway.

- Assemblyman Mortenson asked about the implications of this recommendation and what restrictions are involved.
- Sydnie Platt-Schlachta, State Systems Coordinator, Roadway Systems, Planning Division, NDOT, testified that she recently took over a position in NDOT that oversees the Scenic Byway program. Her discussion included the following points: (1) scenic byways are evaluated every five years from the time of designation; (2) a road that is designated as a scenic byway receives eligibility for some federal funds under the Scenic Byways program; and (3) federal funds can be used for improvements to visitor centers, information kiosks, and other similar resources.

She offered to send information about the Scenic Byway program to the Subcommittee's contact person.

- Chairwoman Titus suggested that the Subcommittee pass on Recommendation No. 15, and asked Ms. Platt-Schlachta to work with LCB staff in providing information about the Scenic Byway program to the Friends of Mount Charleston group and determine if the group wants to pursue this recommendation.
- The Subcommittee took no action on Recommendation No. 15.

Recommendation No. 16

Include a statement in the final report expressing the Subcommittee's support of the Nevada Fire Safe Council. Testimony indicated that the Council serves as a bridge between fire services and public agencies, and communities threatened by wildfire.

(Recommended by Chairwoman Titus.)

- Chairwoman Titus noted that Senator Rhoads supports this recommendation and greatly favored Senate Bill 1 (Chapter 7, *Statutes of Nevada 2005, 22nd Special Session*), which funded the Nevada Fire Safe Council. She emphasized that this is a case where a little investment goes a long way, and it is definitely a public/private partnership where government is helping people to protect themselves, their property, and the environment from fire.
- The Subcommittee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYMAN MORTENSON MOVED FOR APPROVAL OF RECOMMENDATION NO. 16. THE MOTION WAS SECONDED BY ASSEMBLYMAN GRADY, WHICH PASSED UNANIMOUSLY.

Recommendation No. 17

Include a statement in the final report recognizing the need to educate the public concerning Nevada's rural heritage and natural treasures. To achieve this goal, a coordinated system should be established, which involves a broad array of compatible community-based programs and economic services. Such a program may be modeled after Utah's Community Cultural Heritage Coordinating Council, Department of Community and Economic Development.

(Recommended by Tonia Harvey and Margaret B. Klein.)

- Chairwoman Titus stated the recommendation came out of the Subcommittee's Ely hearing regarding discussion about cultural heritage and rural natural treasures.
- The Subcommittee **APPROVED THE FOLLOWING ACTION:**

SENATOR AMODEI MOVED FOR APPROVAL OF RECOMMENDATION NO. 17. THE MOTION WAS SECONDED BY ASSEMBLYMAN HOGAN, WHICH PASSED UNANIMOUSLY.

- Ms. Thomas, previously identified, advised that, based on today's testimony, two additional recommendations were brought forth. She read the first one, which is to draft a letter to the Division of State Lands, Division of State Parks, and Division of Tourism supporting the Nevada LAST CHANCE Scenic Places program.
- Chairwoman Titus reviewed this recommendation indicating it shows support for the efforts made by this nonprofit organization to identify and publicize the last, great places in the State.
- Assemblyman Hogan declared that the Subcommittee may not have enough information about which areas are covered and which types of protections might be advocated. He said the program is probably a good cause and appropriate to endorse, but more information is needed.
- Chairwoman Titus suggested that the Scenic Nevada representatives report back to the Subcommittee when the Legislature convenes for the 2007 Legislative Session. She suggested they provide a status report about all the nominated sites and present the completed brochure previously mentioned in their testimony. She indicated that is a way to keep in touch with Scenic Nevada instead of writing a letter of endorsement, since the Subcommittee does not have additional information. In addition, she stated that the Subcommittee can send a letter to Scenic Nevada requesting that representatives keep the Subcommittee apprised of the scenic places they identify and include in their booklet.
- The Subcommittee agreed with the Chairwoman's recommendation.
- Ms. Thomas read the second additional recommendation from today's testimony, which is to draft a letter to the Division of State Lands, Division of State Parks, Tahoe-Pyramid Bikeway, and UNR supporting the creation of the proposed Tahoe Pyramid Bikeway and to include State ownership, if possible, of trail areas where the city or county is not able to do so.
- Chairwoman Titus asked the LCB Legal staff whether State ownership must be done through statute.
- The LCB Legal staff indicated that requesting State ownership in a letter is acceptable.
- The Subcommittee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYMAN GRADY MOVED FOR APPROVAL OF THE ADDITIONAL RECOMMENDATION TO DRAFT A LETTER SUPPORTING THE TAHOE-PYRAMID BIKEWAY PROJECT, ENCOURAGING STATE OWNERSHIP OF THE TRAIL ONCE IT IS CREATED IF IT IS NOT CLAIMED BY ANOTHER JURISDICTION, AND ENCOURAGING THE PERTINENT ENTITIES TO COOPERATE IN BUILDING THE BIKE PATH. THE MOTION WAS SECONDED BY ASSEMBLYMAN MORTENSON, WHICH PASSED UNANIMOUSLY.

- Chairwoman Titus asked the Subcommittee if anyone had additional recommendations they wished to consider. Hearing none, the Chairwoman thanked Subcommittee members, staff, agencies, and individuals who provided information about Nevada's natural treasures and participated in the hearings.

ADJOURNMENT

There being no further business to come before the Committee, the meeting was adjourned at 3:40 p.m.

Respectfully submitted,

Kay Graves
Senior Administrative Assistant

Marjorie Paslov Thomas
Senior Research Analyst

APPROVED BY:

Senator Dina Titus, Chairwoman

Date: _____

LIST OF EXHIBITS

Exhibit A is the “Meeting Notice and Agenda” provided by Marjorie Paslov Thomas, Senior Research Analyst, Research Division, Legislative Counsel Bureau (LCB).

Exhibit B is the “Work Session Document” of the Legislative Commission’s Subcommittee to Study the Protection of Natural Treasures (Senate Concurrent Resolution No. 35 [File No. 101, *Statutes of Nevada 2005*]), which was prepared by Marjorie Paslov Thomas, Senior Research Analyst, Research Division, LCB, dated June 19, 2006.

Exhibit C is the prepared testimony of Becky Grismanauskas, Chairwoman, Mount Charleston Town Advisory Board and member of Mount Charleston Visitors Impact Task Force.

Exhibit D is a document titled “2006 Call for Entries, Scenic Nevada” provided by Charlie Ragusa, Director-at-Large, Scenic Nevada.

Exhibit E is a Microsoft PowerPoint presentation titled “Tahoe-Pyramid Bikeway, 2006 Overview” provided by Janet R. Carson, President, Tahoe-Pyramid Bikeway.

This set of “Summary Minutes and Action Report” is supplied as an informational service. Exhibits in electronic format may not be complete. Copies of the complete exhibits, other materials distributed at the meeting, and the audio record are on file in the Research Library of the Legislative Counsel Bureau, Carson City, Nevada. You may contact the Library online at www.leg.state.nv.us/lcb/research/library/feedbackmail.cfm or telephone: 775/684-6827.