



NEVADA LEGISLATURE SUBCOMMITTEE ON PUBLIC LANDS OF THE JOINT INTERIM STANDING COMMITTEE ON NATURAL RESOURCES

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

MINUTES

June 27, 2022

The third meeting of the Subcommittee on Public Lands of the Joint Interim Standing Committee on Natural Resources for the 2021–2022 Interim was held on Monday, June 27, 2022, at 9 a.m. in Pyramid Lake Paiute Tribal Administration, Tribal Chambers, 208 Capitol Hill, Nixon, Nevada.

The agenda, minutes, meeting materials, and audio recording of the meeting are available on the Subcommittee's [meeting page](#). The audio 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 (LCB) (publications@lcb.state.nv.us or 775/684-6835).

SUBCOMMITTEE MEMBERS PRESENT IN NIXON:

Assemblywoman Maggie Carlton, Chair
Senator Pete Goicoechea
Assemblywoman Alexis Hansen
Clifford Banuelos, Tribal-State Environmental Liaison, Inter-Tribal Council of Nevada, Incorporated

SUBCOMMITTEE MEMBER ATTENDING VIA REMOTELY:

Senator Fabian Doñate (Alternate for Senator Melanie Scheible, Vice Chair)

SUBCOMMITTEE MEMBERS ABSENT:

Senator Melanie Scheible, Vice Chair (Excused)
Justin Jones, Clark County Commissioner (Excused)

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Jann Stinnesbeck, Senior Policy Analyst, Research Division
Maria Aguayo, Research Policy Assistant, Research Division
Allan Amburn, Senior Deputy Legislative Counsel, Legal Division
Kimbra Ellsworth, Senior Program Analyst, Fiscal Analysis Division

Items taken out of sequence during the meeting have been placed in agenda order.
[Indicate a summary of comments.]

AGENDA ITEM I—OPENING REMARKS

[Chair Carlton called the meeting to order. She welcomed members, presenters, and the public to the third meeting of the Subcommittee on Public Lands of the Joint Interim Standing Committee on Natural Resources.]

Chair Carlton:

Good morning, everyone. Welcome to Nixon. We have a full agenda today and we will be hearing several interesting presentations. You will see that the agenda has been revised and we will *not* be having a work session today. The work session will be held separately on August 22, 2022. Unfortunately, Senator Scheible is not able to be here today, but we have Senator Doñate with us via Zoom as the alternate. Lastly, Commissioner Jones was also not able to make the meeting today. Our next order of business will be to call roll.

[Roll call reflected in Subcommittee Members Present.]

[Chair Carlton reviewed virtual meeting and testimony guidelines.]

AGENDA ITEM II—PUBLIC COMMENT

Chair Carlton:

Our second order of business this morning is to take public comment. Is there anyone in the chamber who would like to come forward and make public comment? Please remember to identify yourself and push the button for the microphone.

Scott H. Carey, AICP, State Lands Planner, Division of State Lands, State Department of Conservation and Natural Resources (DCNR):

I am the State Lands Planner with the Division of State Lands. One of my roles with the state is that I run the State Land Use Planning Agency. We are proud to be partnering with the Nevada Chapter of the American Planning Association to host the Nevada Rural Planning Conference, which will be held in Elko, Nevada, on August 18 and 19, 2022. This is the first time we have had a conference like this in this state since 2007 and, given the nature of this Subcommittee and the folks here in the room and listening around the state, I want to extend a special invitation to everyone to join us for this conference. We have some good sessions lined up about affordable housing, agriculture, mining, transportation, and land use planning in general. I submitted public comment ([Agenda Item II A](#)). Thank you to the LCB staff for posting it on the meeting page where there is more information about the Nevada Rural Planning Conference. Thank you, Madam Chair, for allowing me to put a quick plug in and have a good meeting.

Chair Carlton:

Always happy to help advertise what the state's work is doing.

Christine Saunders, M.S.W., Policy Director, Progressive Leadership Alliance of Nevada (PLAN):

At PLAN we believe that everyone has the right to live in a clean and healthy environment regardless of their race, income, or immigration status addressing our dependence as a nation, especially in Nevada, on an extractive economy central to our environmental justice campaign. Currently, poor and marginalized communities are disproportionately affected by pollution and climate change, while dirty fossil fuel and mining corporations rake in millions in profits. Mining has come a long way from the nineteenth century pick and shovel operations, instead, having moved to industrial scale open-pit mining operations.

Outdated regulations at the federal level also remain from 1872, leaving Nevadans without strong protections against the harmful impacts of mining, including: degradation of land, air, and water; water over allocation; pit lakes; water that needs to be treated in perpetuity; destruction of indigenous sites; and negative public health outcomes, particularly women's reproductive health. We recognize that moving away from fossil fuel dependence is not only long overdue but critical to mitigating the current climate crisis; however, rushing through the production of minerals such as lithium and copper will cause devastating and irreversible damages to frontline communities in rural and tribal areas of Nevada.

While mining operators may say that they have a strong relationship with tribes and other local communities, recent examples, of which you will hear more about on your agenda, have proved otherwise. The proposed Thacker Pass Lithium Mine would be on the traditional Paiute lands of the people now residing at the Fort McDermitt Paiute Shoshone Indian Reservation. It is adjacent to the ranching and agricultural communities of the Kings River Valley and Quinn River Valley. Despite significant concerns raised by both communities, the mine project is advancing. Some of these concerns include lack of transparency and permitting; inadequate consultation with tribes in the local community; destruction of graves, as the proposed site was the location of a massacre enacted upon Paiute people; groundwater depletion; impacts on wildlife and endangered species; and the risk of man camps to both the environment and safety.

Tomorrow, the State Environmental Commission, DCNR, will be meeting about a mine water permit disregarding very concerning third-party analysis from community groups. It is time for Nevada to prioritize the needs of communities and directly impacted individuals rather than corporations so that we can ensure the next seven generations of Nevadans have all they need to thrive in dignity.

Zoë Houghton, Associate, Tom Clark Solutions:

I am here today representing the Nevada Outdoor Business Coalition (NVOBC) on their behalf in supporting the designation of Avi Kwa Ame as a national monument. The NVOBC is the voice of the outdoor industry in Nevada with the goal of promoting regulations and policies that will contribute to building a more robust outdoor industry in Nevada. Our coalition includes a variety of outdoor businesses including the large outdoor retailers from Patagonia and REI to the restaurants that feed our hungry enthusiasts who enjoy Nevada's outdoor spaces. The Avi Kwa Ame National Monument is a 450,000-acre area with a diverse ecology and significant cultural and natural landscape and is considered sacred by over a dozen Native American tribes, including the Fort Mojave who will be presenting on it today.

The NVOBC supports the effort to designate Avi Kwa Ame as a national monument because it will protect the culture and history of the land for the tribes who considered it sacred and for the progeny who deserve to enjoy the natural beauty, rich history, and outdoor recreation opportunities of the area. Designating the Avi Kwa Ame as a national monument is not just a public lands policy, it is an important economic policy. The designation will create new jobs and bring in revenue to the state while preserving important land and wildlife habitats. Nevada's vast open landscapes set the perfect stage for booming outdoor recreation industry. In 2020, the Bureau of Economic Analysis, United States Department of Commerce, reported that outdoor recreation economy directly supported nearly 50,000 jobs, which is 3.8 of the state's labor force; provided \$2.2 billion in wages and salaries; and added \$4 billion to the state's GDP.

A growing outdoor economy reflects the diverse values of our community, protection of our public lands and wildlife, increasing access to natural spaces, and improving public health and a strong economy. More than four in five Nevadans support creating national parks, national monuments, national wildlife refuges, and tribal protected areas. Avi Kwa Ame National Monument keeps Nevada's call for protected natural areas and serves as a prime example of how future investments can protect public lands, fight against the climate crisis, and support economic growth. We have submitted written public comment as well. ([Agenda Item II B](#))

AGENDA ITEM III—PRESENTATION ON PYRAMID LAKE AND ITS INDIGENOUS PEOPLE

Chair Carlton:

Agenda Item III is a presentation on Pyramid Lake and its indigenous people.

Stephen Wadsworth, Vice Chair, Pyramid Lake Paiute Tribe:

I do not know if a lot of you know the history of where you are sitting, but I do not think you will find a much older tribe. All the tribes in Nevada have definite claim to all of Nevada, but as far as written record is concerned and testing, we have the oldest petroglyphs in North America on this reservation and we are very proud of that. We all stand together behind that. As you just now saw, we were all ready to come up here because we stand together; we all have something to say. Thank you for providing this forum for us to get that out to the community.

We are so tied to this land. You know all the natives in Nevada as either Washoe, Paiute, or Shoshone, but these terms do not really define who we are as people—they are just a generalized term. Every tribe has their own special name that they call themselves. For example, here, we are basically fish eaters, Cui-ui fish eaters. You can see our gorgeous lake that some of you may have driven by, and if not, I recommend you take that trip back to wherever you live and enjoy the scenery. We have two main fish here that we will talk about. Mervin Wright is our fisheries director, and he will explain some more of that. I will turn it over to Mr. Frazier.

Richard W. Frazier, Tribal Land Manager, Pyramid Lake Paiute Tribe:

I am the tribal land manager for the Pyramid Lake Paiute Indian Reservation, and we will go through my short slide show. ([Agenda Item III A](#)) My first slide is on the Pyramid Lake Paiute Tribe tribal lands. Contrary to the Committee's name, none of our lands are public,

they are all tribally owned. The second slide I have is Pyramid Lake Reservation, located about 35 miles northeast of Reno; take I-80 East to Wadsworth North on Highway 447 to the tribal headquarters of Nixon, where we are today. The reservation was originally 475,000 acres in the Nevada Native Lands Act, which is the green area on the slide. We were granted an additional 6,357 acres of that, which was incorporated into the reservation, bringing the total acreage to 481,357. Tribal members use the majority of the reservation for irrigation and farming. The green area is the irrigation fields in the two communities of Wadsworth and Nixon. We have a community, at Sutcliffe, on the lake boundary, which does not have irrigation; that is where our fisheries operations are located. The farmlands are primarily in the Truckee River corridor, which provide the major source of irrigation water for the farms. The tan color is tribal land assignments, which are approved for use by tribal members for the necessary needs of their family.

These three images represent the land use plans and they are primarily only in the three communities of the reservation. The land use communities mainly consist of agricultural, commercial, industrial, municipal, and a couple of cemeteries uses. The majority of the plans is the yellow area, which is residential. That is where the houses for the community are being conserved.

This slide shows the majority of the reservation land, which is comprised mainly of grazing units for tribal members' livestock. The units are used on a rotating basis to conserve and not overgraze any particular area. The Nevada Cattlemen's Association have set parameters for their members' use, which, as you can see, consists of the bulk of the reservation in acreages.

This slide is the only involvement with Pyramid Lake into public lands. This is primarily the Truckee Meadows Public Land Management Act; this is a preliminary slide for the tribal requests of the Washoe County tribal lands. I brought this up to primarily show the purple area on the southwest border of the reservation; that is what Pyramid Lake has always asked for since the inception of the Washoe County Public Lands Bill in 2016. We have never changed our request for this area. We have not been successful in the progress of the bill; but, as it is making its headway, we are again asking for the same amount of acreage, which consists of basically 26,000 plus acres. Primarily this is all ancestral land. As you can see in the slide on the right, that is just a development of the different groups in the northern Paiute bands. Again, this lands bill request is in the preliminary stages, so this is still being discussed at initial levels. That is all I have for today.

I have a question. What is the connection between this Committee and the tribal lands that we have here? What is the purpose?

Chair Carlton:

For years, the state has had a Public Lands Committee through its Joint Interim Standing Committee on Natural Resources. We feel it is very important for the different representatives of these areas and the surrounding areas—and even those of us from Las Vegas—to really understand the makeup and different components of the state. It is hard for us to make informed decisions when we do not understand the dynamics of the whole state. So, even though I am from Las Vegas, I think it is very important that I understand what goes on in Senator Goicoechea's neighborhood or Assemblywoman Hansen's district. A long time ago, the state decided that having a good handle on what was going on with the public lands by keeping all the members informed would help keep something from going wrong when we have to make decisions. That is basically it. We

understand that tribal lands are separate from public lands, but we think it is very important for the Legislature to know and be involved.

And, if we are having conversations, my question to you is about the ancestral lands bill that you are talking about. Is that through a county? Is that going to be state? Is it going to be proposed to Washoe County?

Mr. Frazier:

I do not know if we have had that discussion at this level yet. I would assume so; it would probably be the state.

Chair Carlton:

Okay and that way we can have conversations and be on the same page as we move forward. The more information we have the better decisions we can make as a Legislature.

Mr. Frazier:

I agree.

Senator Goicoechea:

In reference to the Washoe County Lands Bill, of course, again that is Washoe County submitting that bill to the federal government. Our part in that would probably be to support it as the Legislature.

Chair Carlton:

That is why I wanted to understand it; in case it would be a letter from our Subcommittee moving forward, we could have that conversation and possibly get involved.

Assemblywoman Hansen:

I represent this part of the state, which is an honor. It is nice to be back in the tribal headquarters. During the Coronavirus Disease of 2019 (COVID-19), we needed to keep our distance, so it is nice to be able to meet here again.

I had a thought or a question regarding that Washoe County Lands Bill. The Lands Bill is certainly going through its processes. My concern is about your request on those ancestral lands in the Pah Rah. I have only been in the Legislature since 2019 so I know this has probably been an ongoing discussion. Is there any way to not be connected to the Lands Bill? Is there a way to have this request done maybe outside of that so you are not tied to some of the arguments and the baggage that has been a part of the Lands Bill?

Mr. Frazier:

Yes, a discussion on the tribe having its own lands bill was kicked around probably in 2017 or 2018 after the Washoe County Lands Bill first came out. Prior to that, we were approached by Washoe County. We were not approached in the early stages; we were approached in the latter stages. I had the feeling that was probably why we were not getting any success. But yes, the discussion had been whether the tribes could propose their own lands bill.

Assemblywoman Hansen:

Thank you for that clarification, and perhaps we could have a conversation offline. If that is what the tribes would like to do, I am curious as to why that approach cannot be taken.

Senator Goicoechea:

Clearly you can bring a federal bill. Congressman Mark Amodei (R-Nevada) has introduced one for the Duckwater Shoshone Tribe that expands it. It is just a federal withdrawal, so clearly it could happen. And I agree with Assemblywoman Hansen that the Washoe County Lands Bill is going to be controversial, to say the least, so it might be a better path for the tribe to go directly for a federal bill that we could sign on and support.

Donna Marie Noel, Natural Resources Director, Pyramid Lake Paiute Tribe:

I am going to speak today on the importance of water on the Pyramid Lake Reservation. ([Agenda Item III B](#)) As you can see, the reservation includes the entirety of Pyramid Lake, and the water is important to the culture, the world class fishery, and recreation for the Pyramid Lake members.

I want to first talk about surface water quantity. The water for Pyramid Lake comes from snowmelt and it fills up Tahoe and the other reservoirs; it flows down the Truckee River and ends at Pyramid Lake, which is a desert terminus lake with no outlet. Along the Truckee River, water is diverted for municipal, industrial, and irrigation. The Pyramid Lake loses approximately 400,000 acre-feet per year due to evaporation.

The Newlands Project is one of the biggest diversions from the Truckee River. It was authorized in March of 1903. The primary water source is the Carson River, but Truckee River is used supplementally and for the irrigation section of Fernley. Originally the project was planned for 200,000 acres to be irrigated but no more than 60,000 acres have ever been irrigated. It diverts Truckee River water to the Carson Basin via the Derby Dam and the Truckee Canal, which was all completed in 1905.

The Newlands Project had a major impact on Pyramid Lake. Between 1918 and 1970, the Newlands Project took an average of 250,000 acre-feet or 50 percent of the average annual flow of the Truckee River. By 1967, the Pyramid Lake dropped 80 feet. This affected both the Lahonton Cutthroat Trout and Cui-ui spawning as the delta became impassable. The lake lowering left the access to the Truckee River nonexistent and the fish need a substantial spring flow for spawning. The last spawning run for the native species was in the 1930s and they were extirpated from Pyramid Lake by the 1940s.

Pyramid Lake Paiute Tribe tried many times to help recover the lake, and in 1969 the Operating Criteria and Procedures (OCAP) were adopted, and this restricted flows for the Truckee Canal. In 1970, *Pyramid Lake Paiute Tribe of Indians v. Morton*, 354 F. Supp. 252 (D.D.C. 1973) decided that OCAP was not stringent enough and that the secretary must ensure to the extent of his power that all water not obligated by the court decree or a contract goes to Pyramid Lake. In 1974, in *Nevada v. United States*, 463 U.S. 110 (1983) the tribe was denied additional water rights specifically for fishery under the federal Truckee River decree.

In 1990, the Fallon Paiute Shoshone Indian Tribes Water Rights Settlement Act of 1990, Pub. L. 101-618, 104 Stat 3289 (1990) was adopted, and this provided all the

unappropriated water left in the basin to go to Pyramid Lake, which was approximately 377,000 acre-feet. The Truckee River Operating Agreement (TROA) was also adopted and that allowed all unused water to be stored upstream as fish credit water. Also, the TROA Memorandum of Agreement was the mechanism for the Tribe to become primary managers of all the off-reservation water held in the upstream reservoirs. Stampede Reservoir was dedicated to Pyramid Lake fish, and it held 226,000 acre-feet of water.

In 1992, the Cui-ui Recovery Plan specifically said that the increase of flow to Pyramid Lake needs to be 110,000 acre-feet for the fish to recover. You will hear more about this from Mervin Wright.

In 1996, the Water Quality Settlement Agreement provided \$24 million for instream flow water rights acquisitions for the Pyramid Lake.

So, today we currently are always monitoring the levels in Pyramid Lake and still are looking for more water purchases. We monitor diversions and other TROA management from the other TROA parties. We use upstream storage to maximize flow for Pyramid Lake especially during spawning season; and we utilize all the tribal water efficiently and effectively.

The other part of the water importance is the quality of the water, and in 1981, Pyramid Lake started monitoring the water on the reservation. From 1989 to 1993, a complete limnological study was conducted by the University of California, Davis to help support future standards. In 1990, the tribe received treatment in a similar manner as a state from the U.S. Environmental Protection Agency (EPA) over the Clean Water Act (33 U.S.C. § 1251 et seq. [1972]). In 2001, the Pyramid Lake Paiute Tribal Council adopted the tribe's water quality control plan. In 2008, the EPA and the Tribal Council approved the tribe's water quality standards. And in 2015, the EPA and the Council approved the revision of those standards under a triennial review.

Some of the major elements of the water quality standards are important for culture, the community, and recreation uses of the water, and to establish criteria to protect beneficial uses. The other major element is the antidegradation policy, which says they must conserve, maintain, and protect the existing uses of the water body by maintaining a high water quality. Our water quality program monitors both lake and river sites. We do quarterly samplings, and at the end of the year, we also do an annual assessment of the water quality of the reservation. We have a tribal laboratory that is used to test our water quality.

Some effects from the historic hydromodification of the Truckee River include channelization and deforestation of many of the legacy cottonwoods, which ended up increasing temperatures; upstream water diversions became more prevalent; and flooding and stormwater runoff adds nutrients to the system. Temperature and dissolved oxygen are one of the major problems with the Truckee River. Grazing and agriculture tends to put nutrients in the river, and we have had a big introduction of invasive species, both plant and animal. Plants such as whitetop, tamarisk, and Russian olive tend to push out native species, and things like carp, bull frog, and New Zealand mud snails tend to compete with the fish for nutrients. There is effluent discharge coming from the sewer treatment plants, and that adds phosphorus, nitrogen, and total dissolved solids. The gradient of Fernley groundwater enters the river in Wadsworth, and we see arsenic, nitrogen, and total dissolved solids from that naturally. Recreation on the lake from people and visitors attending Burning Man must be watched.

Some of the improvement projects that we currently have in the program are:

- Continued monitoring for water quality, riparian habitats, and aquatic invasive species;
- Truckee River fencing;
- Livestock water improvements on the range;
- Various revegetation projects;
- Stream bank stabilization projects;
- Construction of wetlands; and
- Development of a tribal plant library; and
- A native seed collection for our revegetation.

The newest water threat we have is groundwater threat. Since all this surface water in the Truckee watershed is fully appropriated, most development is coming from groundwater use for both municipal and industrial development. Rural areas in the State of Nevada, especially ones in small populations, seem to be the target for interbasin transfers to feed water to cities. Pyramid Lake lies in three water basins that do not fully fall within the reservation boundaries, which makes these water basins and tribal water vulnerable.

There is a lot of industrial and residential development. As Mr. Frazier said, the Washoe County Lands Bill could make available development right up to the tribal borders. There is an increase of population and urban sprawl in the cities. There seems to be some promotion of development along the Truckee corridor and up to the reservation boundary. This is even industrial, and this increased industrial and effluent discharge to the Truckee River and these industrial sites tend to have air pollution and those particles would deposit into the watershed and all be washed into Pyramid Lake. The ground water piping from surrounding basins to meet some of these higher demands in these growing cities and aquifer storage and release projects also tend to create or at least convert paper water to real water.

Another threat to the groundwater is geothermal development. There has been a big national push for converting energy services to green energy. The government funding has aided this geothermal resource development. We have a large geothermal reservoir in the north end of the Pyramid Lake Reservation that we have been exploring and identifying for at least ten years. The U.S. Bureau of Land Management (BLM) has offered and granted a geothermal lease surrounding almost three-quarters of the reservation boundaries and there are two projects that are currently being developed on the eastern and western borders of the reservation.

That is all I have, and I am available for any questions.

Senator Goicoechea:

The three groundwater basins that are shared with the outside, do you have those numbers?

Ms. Noel:

I do not have those.

Senator Goicoechea:

I will pull those up. Clearly, we know with Smoke Creek Desert and what has happened up at the Hualapai Basin and some of those groundwater basins as you get further north have been problematic.

Mr. Banuelos:

Regarding the water in those rural areas with small populations and limited rights that are now targeted for interbasin transfers, can the state introduce legislation that could help protect those areas?

Ms. Noel:

I think they could. We are seeing it already toward Gerlach and those areas. I would hope they could since they control the ground water, supposedly.

Assemblywoman Hansen:

Thank you for your presentation; it was very informative. I have a question regarding your invasive species that might be along the Truckee River corridor. I know the State Department of Agriculture has some invasive species programs and they work together with communities. Since the tribes are sovereign and you have your own land, do you have access to those programs or maybe with programs from the U.S. Department of Agriculture (USDA)? Do you get any kind of help with the whitetop and the other invasive species along the river corridor?

Ms. Noel:

Yes, our department is completely grant-funded. We have a rigorous noxious weed program that addresses the river corridor and also the delta and some of the agricultural (ag) lands. And we also have an aquatic invasive species program that we are just beginning and we monitor and control both of them. But along the river corridor, the upstream people are the ones who dominate what happens downstream to us, so we must keep up on it at all times or it just gets out of hand.

Assemblywoman Hansen:

You mentioned a lab; where is the lab located?

Ms. Noel:

We have a lab in Sutcliffe, and it runs all of our nutrient samples.

Assemblywoman Hansen:

If anyone has not had the opportunity to visit the fisheries and be there during the spawning, it is one of the highlights that I was able to participate in before COVID-19. It is really fascinating, especially the way that you have learned to navigate a difficult situation

with the lowering of the lake. Thank you for the fisheries work that you do, and I know we will be hearing about that later.

Mervin Wright Jr., Executive Director, Pyramid Lake Fisheries:

My name is Mervin Wright, Jr., I am currently serving as the Executive Director for the Pyramid Lake Fisheries program, and I am going to try to describe thousands and thousands of years of our coexistence in the short time we have this morning.
([Agenda Item III C](#))

You are all familiar with what they call Seehoo Highstand, which is the ancient Lake Lahontan. It covered almost one-third of the state at one point 10,000 to 14,000 years ago. As it evaporated it created the isolated lakes that currently exist, as well as the watersheds throughout the state. The way we look at this is that one body of water, one fish with respect to Lahontan Cutthroat Trout, has become an issue of concern recently with the issue of genetics. When we look at the genetic issue, there has never really been a move to try to push a pure race except back in the 1940s; and of course, we know what happened with the Holocaust. We look at these motives with respect to what we are moving to accomplish with our fishery operation, the recovery of the Lahontan Cutthroat Trout.

When we talk about recovery, these are recent actions that have taken place with respect to the Cui-ui Recovery Plan, which was enacted in 1992 by the U.S. Fish and Wildlife Service (FWS), U.S. Department of the Interior (DOI), as well as in consultation with the tribe here and signed off by the U.S. secretary of the interior. The Cui-ui were originally listed as endangered in 1967. Also, with the Lahontan Cutthroat Trout, we have a 1995 recovery plan that has not yet been updated. They were originally listed as endangered in 1970 and then reclassified as threatened in 1975. That reclassification was done so that anglers can come out and fish the Lahontan Cutthroat Trout at Pyramid Lake. We have looked at an aquatic ecosystem at both Pyramid Lake as well as the lower Truckee River as critically important with this recovery and restoration effort that we are currently working to implement.

Here is an image of the Cui-ui fish. This is basically what it looks like. That top photo of a Lahontan Cutthroat Trout was taken in 1930, and when we look at what happened to the fishery here, not only was it the over diversions of water from the Truckee River, but it was also the overfishing that occurred. You can see that the overfishing and the exploitation that occurred from the turn of the century until around 1940 was done by outsiders. Fish were trucked out of here, put on railroad cars, and hauled out of the basin. This is part of what we look at with respect to the impacts of development in the area. When we talk about the threat of what we see today, water quality as it was mentioned earlier, is an impact that we see with respect to development. When we look at development and we look at the tax laws of the state, as well as issues nationwide, development is a critical component to make it work.

When we look at the balance between development and what we are trying to do here with the recovery, it is a steep challenge for both sides. I do not know what it is going to take for the national movement to acknowledge that role of development, with respect to the function of how our government has evolved to what it is today with respect to the chaos to the economy. For example, when you look at the demands on our resources and the prices of these goods without any control, we see that as a component of where we come from, the thousands and thousands of years of our coexistence. The lake currently is at its normal elevation, but it was lower. There is evidence below the surface of the water that the lake

was a lot lower than it is today. So, when we look at what we had to do as a people to manage the fishery, we certainly know that the survival of our fishery was a result of our interactions before the settlement of the West.

A part of what we look at with the river system is what is known as a "proper functioning condition." And the proper functioning condition of a river certainly includes the riparian zone, the stream corridor. When we look at the meandering and the sinuosity of a river system, this is critically important for the habitat. Currently we have a problem with beaver in the lower river. So, when we look at what we are trying to do with restoration of the trees and shade and the cover in the canopy of the river, we have challenges even faced with that effort.

Of course, when we look at what happened here in the lower river, the U.S. Army Corps of Engineers came here in 1964 and they tried to address the floodplain concerns and they ripped out all the vegetation and basically ruined the river. Today when we get into stream bank restoration, we must get permission from the U.S. Army Corps of Engineers, the responsible agency who ruined it. Now we must go to them to get permits and then they question what we do and how we do it. We know what we are doing, yet we still must go through that regulatory process to get permits. We do it because we know it is necessary.

When we look at everything that has to do with the river system, the baseline fundamental solution is to have ecological integrity. When you look at all these different components that are listed in this chart, all these things contribute to it and so you must have a healthy system in order to support that ecological integrity. This is all the TROA at the top of this slide. When you look at flow regime this is what we are trying to achieve with respect to the TROA and the management of the Truckee River. All of that contributes to water quality, the energy source, the physical habitat, and the biotic interactions. That last one, biotic interactions is important because that is telling you about the health of your river system.

When we look at the channel characteristics, we look at the slope. We look at our Truckee River from Painted Rock all the way to Pyramid Lake, and we look at the slope and the grade, and of course, then we look at the sinuosity, the amount of water that is flowing, the width, and the depth. And our spawning beds are critically important. We want to identify where these spawning beds are located in the lower river so that we know where our fish are going, whether it is below Marble Bluff, between Marble Bluff and Numana Dam, or above Numana Dam.

This is a diagram that basically shows you what we try to strive for with respect to water management and the water flow in the river. The lower bell curve is really the goal. We want to move back toward a more natural flow regime in the lower river and this is something that we worked on with the TROA negotiations. We are trying to shoot for that natural bell curve so that when we start scheduling flows in the lower river this is what we are aiming to achieve.

One of the more critical components of what we do is a food web. We must pay attention to the balance of the food web in the lake, and we want to make sure that whatever we produce through our hatchery operations is going to compliment the food web. We do not want to overstock; we do not want to put our food web out of balance. Right now, we are doing a study on the tui chub, a smaller fish that is part of this food web, and we also have reidside shiners that are not present basically, and the same thing with the Tahoe sucker in the lake and we look at the Marble Bluff fish facility as a major reason why. So, when we look at these structures in the river corridor, we must ask ourselves how we can solve this

problem while we continue to maximize the use of these facilities. Different efforts are being done in the lower river to improve the fish passage over some of these structures.

That is all I have, and I will answer any questions.

Chair Carlton:

Thank you; that was very informative. Are there any questions from the Committee?

Assemblywoman Hansen:

When you talked about having to get the permitting from the U.S. Army Corp of Engineers, in contrast, you have complete jurisdiction over your grazing lands, correct? You have autonomy in your grazing land, but you do not on the river section?

Mr. Wright:

Yes, we do. The Pyramid Lake Cooperative Cattleman's Association manages our grazing lands, and they issue permits to the users. The Bureau of Indian Affairs, DOI, issues a ten-year grazing permit to the tribe, and during that cycle, it basically gives the tribe the authority to regulate the grazing operations on the reservation.

Assemblywoman Hansen:

I am sure it is a "sticky wicket" all the time for you to have to navigate this but that struck me as quite a contradiction that the permitting process on the river for you is different than how you can manage your grazing land. I am sorry to hear that there are still difficulties for you. Is there anything on a legislative level that we can do in the state? I have only been in the Legislature since 2019, and I am still trying to understand the interface between tribal land, state, and federal issues. Is there anything in your presentation that maybe we need to tune into where we have jurisdiction on a state level?

Mr. Wright:

Yes, there is.

Assemblywoman Hansen:

I know these meetings are for informational only and we will have opportunities, but I thought it might be good to hear from you directly.

Mr. Wright:

Water quality is one of those critical components that we focus on with respect to recovery and restoration. When we think about the National Pollutant Discharge Elimination System (NPDES) permitting process that the state is responsible for—primarily for the treatment plant in Sparks, Nevada—we are always focusing on those load discharge limits, that from time to time are considered for amendment, and normally are considered to increase the discharges. We are concerned about that. We are primarily concerned about the nitrogen and the phosphorus in those contributions that degrade the water quality. So that would be one thing that the state can focus on.

And I think the other thing would be development, especially in the river corridor. Whenever there is a development and increases in effluent, where is that effluent going to be discharged?

I serve on the Northern Nevada Water Planning Commission, and we discuss a lot of these issues especially in the north valleys. I have been in the Silver Lake and Stead areas, and we are seeing a lot of development moving out to Spanish Springs, Palomino Valley, and Winnemucca Valley. Our concern again is the effluent discharge. What are you going to do with the effluence? I think when it comes to the state and the DCNR, and the responsibility there, we would certainly be interested in wanting to see how we can continue to protect water quality for the Truckee River.

Chair Carlton:

Thank you for being here and presenting today.

For the Committee and the public, Senator Doñate and I are communicating by phone. If he has questions, he is going to let me know and I will make sure that he Zooms in and gets his question asked.

AGENDA ITEM IV—PRESENTATION ON RENAMING GEOGRAPHIC PLACES IN NEVADA

Chair Carlton:

We will go on to Agenda Item IV, a presentation on renaming geographic places in Nevada. We have Dr. Johnson, Executive Secretary of the Nevada State Board on Geographic Names. Welcome to the Subcommittee.

Christine K. Johnson, Ph.D, Executive Secretary, Nevada State Board on Geographic Names (NSBGN):

I am going to present a little information on the history of our Board and then give some updates on state and federal directives that are of timely interest right now regarding place names on the land. All my handouts have been submitted and are available in photocopy form in the back of the room if anybody is interested.

I will start with the informational sheet ([Agenda Item IV A](#)). The NSBGN was established in 1985 by a legislative mandate; NRS 327.100 established the Board. It is an advisory panel to the U.S. Board on Geographic Names, which was established in 1890 as a way to take management of toponyms out of the hands of Congress and to make things a little bit easier. As of 1890, as the country began to expand and the establishment of the West was underway, the U.S. Board on Geographic Names started interacting with the states beginning in the east and then we moved west.

Presently, all 50 states have a state board active and operating. Each state has its own way of managing its place names and its boards. For example, many of the East Coast states have one person on their board. Nevada is lucky because we have 12 agencies sitting on our board, and of those 12, 3 are from federal agencies: (1) the U.S. National Park Service, DOI; (2) the BLM; and (3) the U.S. Forest Service (USFS), U.S. Department of Agriculture. And we will be looking at adding the FWS to the Board soon. The Inter-Tribal Council has

been on the Board since its inception in 1985, and just last year we were able to add the Nevada Indian Commission.

We meet three times per year, which in present ways of thinking, is kind of a challenge because we are up against some state directives that Assemblyman Howard Watts III was successfully able to pass through Assembly Bill 88 (2021). That state action necessitates that our Board proactively manage place names in a way that we were never able to before. So, this is a great platform through state legislation to manage and proactively work to remedy some of our offensive place names on the land.

While AB 88 went into effect in October of 2021, Deb Haaland, the U.S. Secretary of the Interior, enacted Secretarial Order 3404 ([Agenda Item IV B](#)) and Secretarial Order 3405 ([Agenda Item IV C](#)) in November of 2021. Order 3404 is the most important one to discuss today. It deals with the nationwide removal of all offensive names that are the pejorative for Native American women and what we have come to refer to as "SQ names." More than 650 names across the nation are going to be removed. A task force was established, separate and apart from the U.S. Board on Geographic Names, that was required to locate all these names ([Agenda Item IV D](#)). There are 34 names on the Nevada landscape that will be changing. Nationwide there are more than 650 names, and this pertains only to the Native American offensive names. The task force was challenged with how to replace names because you cannot "un name" a place according to current directives on managing toponyms across the country. To remove a name you must have another name to put into the federal database. What they did was associate the five closest currently named features and work to figure out which one of the current five names closest to the offensive name is going to meet a certain requirement. It, too, cannot be offensive or redundant, and in that way, when this whole process is complete in September, all the names that were offensive will be renamed.

This presented a challenge, at least here in Nevada, because we were already worried about how to deal with our offensive place names not just for Native Americans, but any ethnic group, including ethnic or culturally offensive names or derogatory names and historically offensive names. So, we were looking at some of those issues as well. This secretarial order challenges what we had originally started to deal with inasmuch as our hope and goal was to do outreach in all the areas of the state to be more inclusive and transparent and get a dialogue going with everybody. That was taken away from us and they are giving us the names. They established a 60-day window where they allowed tribes public comment and tribal comment. And I understand—I do not have and was not given—that of the 34 names that were deemed as offensive, 9 names were submitted by tribes. Those names will be given priority for replacement; the other 25 names that remain on the land are still in our purview. After this is established, in September, when all the names get changed, our Board intends to revisit every one of these names and go forward and ask our communities. Our general process has always been to do outreach to the tribes and the county commissions regarding a new name proposal, or if somebody wants to change a name, or if there is an inquiry, or if somebody needs research. We do outreach and we involve people the best that we can. Presently, this Board, as many boards are, is unfunded, and that always presents a challenge for the current 12 agencies on the Board.

Beginning in September, once our Board knows what the new names are, we will be doing that outreach and communicating with all groups concerned to determine whether the new names established are acceptable or if our people in our state would like to submit our more meaningful names; and by that I mean just replacing an offensive name with the closest next name on a map is not necessarily meaningful and really not how place names are

established in the first place. And our first effort with that of course is tribal communication ([Agenda Item IV E](#)).

Secretarial Order 3405 is what I would call the rest of the offensive names; this will come after September and will be associated with any other place names that are deemed offensive or derogatory regarding any other culture or ethnic group. Presently a task force is being established to manage those as well.

I will stop and see if anybody has any questions.

Chair Carlton:

Thank you; that is interesting. Putting on my fiscal hat, you said this Board is not funded. Is it because of all the different agencies that are involved? Is it a collaboration? It is a state board, correct?

Dr. Johnson:

Correct. Yes, it was established in 1985 as an unfunded board; our current discussion has been a challenge to figure out how to associate those funds. I understand and believe there is an effort to find funding for us to be able to send myself or any of my 11 colleagues out for one-on-one communications, tribal education on what is happening, and to solicit participation and comment from our tribes. I understand that is a possibility in the next fiscal year, but again, we do not live in a place where one agency has been able to manage those funds in the past, so that has been restrictive.

The University of Nevada, Reno (UNR) recently agreed to update the website. The current website has lived in a sad little location in the Nevada Bureau of Mines and Geology, and it does not meet educational standards to live in a university at all. So, they are working to host, and in that way, that is gratis on their side for managing and making it more accessible, compliant with the Americans with Disabilities Act (ADA), Pub. L. 101-336, 104 Stat. 327 (1990) and hopefully interactive, but that will be based on availability and who has time to manage it right now.

Chair Carlton:

So, there is no operational budget at all, and members serve without compensation?

Dr. Johnson:

Right.

Chair Carlton:

A lot of times there will be operational dollars but no membership dollars, so I think that is something that we are going to need to look at because you have a very heavy lift in front of you over the next couple of years. The state should take on part of that responsibility for that heavy lift. We will look at that and figure out how we can move forward. It may not necessarily be out of this Subcommittee, but we will have a conversation in the future.

Assemblywoman Hansen:

You might have mentioned this, but I was looking through some of the presentation and making some notes, and I want to make sure that the 34 names on the list in our packet are names that were generated because of the secretarial order because they had the SQ reference. Is that how the names came about? I think you mentioned that 9 of the 34 names were names the tribes would like to see changed. Did I understand that right?

Dr. Johnson:

The 34 names that bore the pejorative SQ were already on the Nevada landscape and had been on the maps for an unknown period of time. They have been identified and they appear in the federal database. So, when the research was being done, they found the 34 that we know exist in Nevada. Of those, and when we started, it was very quick. This order happened in November and by April it was: "Here is the 60-day window, you can start asking for public comment." And again, with very little opportunity to disseminate that information, all the communication was sent by the federal government and the task force directly to the tribes for comment. We state boards were not part of that process.

We tried to be proactive and help with getting the information out. And again, of the 34 names, I have been told in passing that they have received as many as 9 replacements for the 34. That means 25 did not receive suggestions, but we would like to own responsibility for that moving forward and let this happen, let those names change as they should, by September. And then, our Board will own the in-house research, the way that I am looking at it, to proactively solicit comment and basically work in a proactive way to put Nevada's names and our stamp on it as opposed to just a meaningless name that was the next closest name.

Assemblywoman Hansen:

With this being an order, are the tribes able to say, "We are okay with some of these," which I have run into. I represent seven counties from here in Washoe to Elko, all the northern counties. With this order in place, could their wishes be respected if they say, "Some of these names are historical and we are okay with them." Regarding the SQ names or any names, with this order in place, do they have the ability to just say, "Leave the name the way it is"?

Dr. Johnson:

No, the SQ names are in the order, so the feds will take preeminence. I understand there were tribes in the northeastern portion of the country that fought to retain some of the SQ names because it was associated with their language; they felt it had meaning and they wanted to retain it, but that was not possible. All names will change. Once we are given the list of names—and I understand that will be mid-September when those names are passed and agreed upon at the federal level—then the states will find out. Once we have those names, we will review them as well and put all that information out so people can comment on them. We have a process by which to suggest new names, whether it is for an unnamed peak, canyon, butte, cove, whatever; we have had that process in place since 1985. We fill out a single piece of paper and send it up to the feds. We say, "Here is what we would like to do," and then they do the research and the outreach as well. They confirm it and vote yes or no. That same process still exists; we have not taken the vehicle away to manage that. Because we cannot interact or intercede with the secretarial orders, we have no choice but to wait for the names coming to us and then we will reach out. And the same thing is

true when we do that outreach; tribes can come forward and say they like the new name. It could be something as simple as what was "SQ Peak" goes to "Willow Peak." Maybe everyone likes that, but we need to know that. We do not want to take that from a randomly generated list. We want to know that people inside our borders are satisfied with the new names.

Assemblywoman Hansen:

In hearing AB 88, which I supported, the caveat that made me feel comfortable as I interacted with my constituency was that in my mind the tribes would have the final say. If it was their language, their names that were historically there, I did not want to preempt that. But it sounds like that with this federal order, they are not going to have that autonomy, and I have a problem with that. So even though we passed AB 88, this order blew that up a little bit. Thank you for helping me to understand this better.

Chair Carlton:

And just to clarify, these are geographic names. So if you have a reference to a high school, that would not necessarily be true because that is controlled by another entity. And even if we do have those initial name changes, there is nothing that would prohibit the State of Nevada from changing it a second time to something that would suit the folks in those communities a little bit better. So even if we get stuck with something we really do not like because they are trying to move quickly, because people want to get things done, we still have that opportunity in the future. Is that correct?

Dr. Johnson:

We definitely have the opportunity to go down that path. I just want to make clear that we do not have the final say. We can submit it, and we can support it, and 99 percent of the time the federal board has agreed with the states, but we do not have the authority to change names permanently on the federal level. So, on any federal map, if they chose not to take our suggestion, then we would be back to square one. But 99 percent of the time that has not been a problem. I believe the action that we are talking about here is expected. It was just truly a way to remove what most of the country viewed as offensive names in an easy, full-sweeping motion.

Mr. Banuelos:

I want to give clarification because when I see these items discussed in the media, how a tribe says okay or not okay, I think that is important to understand. We have elected leadership and councils that can sign contracts or basic legal documents, and it makes it difficult because you may have tribal members, our Native American groups, that may voice a different opinion regarding the naming of something. So, the process should be transparent—why was that name approved when another person from that tribe did not agree. That can go to naming of areas, or schools, or things like that.

The timeline concerns me because the best time to talk to most Native Americans probably is in the late summer. We have a lot of cultural events then and it is best to set up tables and gather information. I say that because there is snow on the ground, especially in eastern Nevada, during the winter months. The timeline fits gathering information for winter, bringing it forward in spring, and making a decision in summer. That creates kind of a burden, a challenge, and I do not know how we resolve that because I think you are going

to get a lot of comments in August and late September, but you have a September deadline. I am not quite sure how to tackle that challenge.

Dr. Johnson:

Regarding the secretarial order, the public and tribal comment period is completed. We can collect the comments of course, but the comments will be focused on something that is currently unknown. Because it is complete, it is done, and we are waiting for that final list, and then we will move forward. I appreciate your feedback on the timeline. That will help us as a board for the next year. Perhaps we could start working in spring and summer setting up meetings statewide.

Mr. Banuelos:

Another thing I want to point out to the Subcommittee is that not all tribes, the vast majority, do not have tribal historic preservation officers (THPOs). They have cultural specialists, perhaps—maybe not even on the payroll, especially as you get more east—but you do have people that understand. Usually, they are in the environmental department, so that is a challenge, especially if this legislation is written that they coordinate with the THPOs or state historic preservation officers (SHPOs), and it makes it restricted for tribes that do not have a typical office.

Dr. Johnson:

I feel that is why we may not have seen the participation, the feedback, or the comments coming from tribes because this was a nationwide sweeping notification to all. And I would like to also mention that this was only to federally recognized tribes, which is something to consider. Again, this was not in the state's purview; it was done at the federal level. I personally got phone calls from tribes, not just in our state, but as far away as northern Washington State asking for help. How do we get this information and how do we know if they got our naming suggestions? We were not part of that action, which was a challenge.

I think all states are going to be left with a bit of backlash of sorts and cleanup, but at the same time, I view this as a huge opportunity to grow our boards and grow our interactions. I have never seen more communication and effort than I have in the last year trying to move forward and do this together. I think it is going to be a wonderful opportunity.

AGENDA ITEM V—DISCUSSION ON THE THACKER PASS LITHIUM MINE AND IMPLICATIONS FOR INDIGENOUS PEOPLE IN NEVADA

Chair Carlton:

We will move on to Agenda Item V, which is a discussion on the Thacker Pass Lithium Mine and implications for indigenous people in Nevada. We have Michon Eben and Mr. Falk who will participate via Zoom.

Michon R. Eben, THPO, Tribal Historic Preservation Office, Reno-Sparks Indian Colony:

Good morning, Madam Chair, my relatives, legislators, and colleagues. I manage the Cultural Resource Program for the Reno-Sparks Indian Colony. I am also the THPO for the Reno-Sparks Indian Colony. I want to give a little background on myself. My father's people are from the Pyramid Lake Paiute Tribe, and my mother's people are from the Death

Valley Timbisha Shoshone Tribe. We are here today to talk about what is going on at "Peehee Mu'huh" Thacker Pass. I want to introduce Mr. Will Falk, he is our litigation attorney, representing the Reno-Sparks Indian Colony, and he is going to be presenting issues and all the information regarding the Thacker Pass Lithium Mine.

Will Falk, Attorney, Reno-Sparks Indian Colony:

I will specifically focus on tribal consultation issues. The Thacker Pass lithium mine is the nation's, and I believe the world's, largest open pit lithium mine. It is located in Humboldt County, about 65 miles northwest of Winnemucca, Nevada. It is a prime and very crucial Greater Sage-grouse habitat. The Greater Sage-grouse, of course, are sacred to many of the region's indigenous peoples. It would involve a 1,200-acre open pit that would be, in places, 400 feet deep. A lot of people hear lithium mining and they shut their minds off, giving lithium mining a "hall pass" because, of course, everyone knows that lithium mining is going to save us from climate change. But here are a few environmental things to think about to maybe open your mind:

- There will be over 150,000 tons of carbon dioxide equivalent emissions produced by this mine annually, which is equivalent to the emissions of a small city;
- It will involve burning 11,300 gallons of diesel on site every single day; and
- The mining process that they will be using involves sulfuric acid to leach out the lithium from the earth there. They will be getting their sulfuric acid primarily from oil refineries.

So, in the logic of fighting climate change, we would hope that green energies would replace the fossil fuel industry and replace fossil fuel infrastructure. While if the very mines that are producing the products that are supposed to do this are dependent upon the fossil fuel infrastructure that is not something that is going to be possible.

I also want to say that, and I am sure people are aware of this, the project is fully on federal public lands administered by the BLM. So, whatever your position on lithium mining is, you must understand that the General Mining Act of 1872 makes it virtually guaranteed that if a corporation like Lithium Nevada Corporation, the project sponsor in this case, is diligent about filling out its permit applications, the agencies are obligated to permit these mines. When we are talking about something like tribal consultation, we are not talking about even having the legal capability of stopping the mine. So, these conversations are not conversations about whether you are for or against lithium mining, these are conversations about whether you are for or against giving tribes their rights to be consulted about these projects. That is another point. Nonlawyers, when they hear the term consultation, they picture this situation where you consult with someone, you ask their opinion, and you take that opinion into account when you do what you want to do. But that is not actually how consultation works under federal law. All that federal law requires for these kinds of projects is giving tribes an opportunity to voice their concerns. They do not have to consider those concerns, they do not have to incorporate them in the projects; they are free to simply listen, smile, nod their heads, and make everyone feel like they were heard.

Another key part of this is that consultation is not consent. So, for the peoples who existed on these lands for time immemorial who were directly pushed off their land for mining interests, and when their sacred places will be affected, like what will happen at Thacker Pass, the only right they have under federal law for these projects is to voice their

concerns, usually on a deadline provided by the agency. What is in Thacker Pass is very important here. Thacker Pass is sacred for a number of reasons, but the two reasons I will focus on today are the site of two massacres.

One massacre is described in Paiute oral history that gives Thacker Pass the Paiute name Peehee Mu'huh, which means "rotten moon." Peehee Mu'huh got its name after some Paiute hunters were in a valley next to Thacker Pass. They were hunting, and they came back to find their village massacred. Their loved ones had their stomachs cut open and their intestines were strung along the sagebrush. This was obviously a very traumatic event for that community. The Thacker Pass is shaped like a crescent moon, and obviously when intestines are pulled out of a body, they smell very sour, so the place was called rotten moon.

On September 12, 1865, there was also a massacre by the First Nevada Calvary, Nevadans who were employed by the federal government as part of the Snake War, which happened in the late 1860s. The Snake War was primarily fought by the region's indigenous people, not simply Paiute people. The war was primarily started by miners encroaching on native land and Native Americans defending their ancestral lands. On September 12, 1865, the First Nevada Calvary snuck up on a peaceful Paiute camp in Thacker Pass, and contemporary soldiers' reports and contemporary newspaper reports said that between 30 and 70 Paiute men, women, and children were massacred in Thacker Pass. The newspaper articles explain a running battle that took place over four or five miles, and in fact, one of the local newspapers published a quote about how everyone knows that when soldiers ambush Indians, Indians can take "an astonishing amount of lead before they crawl away and die." This was a horribly brutal massacre where federal soldiers did not even bother to go and bury the people that they murdered.

In the Thacker Pass project we have mining interests who only have access to Thacker Pass because of a brutal war and a massacre like the one on September 12, 1865, coming in and destroying the very evidence of that massacre by putting a mine on top of this very sacred site. My clients with the Reno-Sparks Indian Colony have explained to me that Thacker Pass is like the Arlington National Cemetery to them or like the Gettysburg Battlefield. I think the public would want to have more of a right than just consultation if a government proposed to put a lithium mine on top of Pickett's Charge at Gettysburg.

So, how can the State of Nevada get involved and have more of an influence on a more just consultation process? The Nevada State Historic Preservation Office is required to consult and provide concurring opinions with the BLM when sacred sites or historic properties are affected by a federal project, even if it is completely on federal lands. With Thacker Pass, the BLM did acknowledge, without consulting with any tribes, that over 1,000 cultural resource sites would be destroyed in Thacker Pass and over 58 historic properties that would be eligible for inclusion on the National Register of Historic Places would be destroyed. And through emails that we now have from the production of the administrative record in our lawsuit against the BLM for permitting this mine, BLM employees acknowledged that this is one of the most destructive mines of cultural resources that they have worked on.

In the lawsuit and in the process of the BLM producing their supporting documents for permitting the project, we have learned that the sole extent of BLM consultation efforts in connection with the world biggest open pit lithium mine was sending a series of three letters to three tribes that they originally identified as needing to be consulted about Thacker Pass for possibly having cultural connections to Thacker Pass. Those three tribes were

Fort McDermitt, Summit Lake, and the Winnemucca Indian Colony. As the facts would have it, none of those tribes responded. The BLM never tried to pick up the phone and call; there are no documented phone calls where BLM called a tribal office. There are no documented emails sent to Tribal Council employees or tribal government about this project. And, of course, this whole permitting process was happening during COVID-19 when, as state and federal agencies knew, most tribal offices were shut down and many tribal employees were working from home where they would not be coming into their office to check their mail very often.

Regardless, BLM policy and in fact the federal law, which is codified in a 2014 *State Protocol Agreement* between the Nevada State Historic Preservation Officer and the BLM, specifically says that sending a letter to a tribe and receiving no response is not an adequate effort to initiate tribal consultation. And yet, the Nevada State Historic Preservation Office concurred with BLM statements about consultation and did not request that BLM substantiate any claims that it had begun tribal consultation for this project. Of course, inevitably, after the record of decision was issued in January of 2021—after being fast-tracked under a Trump-era secretarial order that forced federal agencies to complete the environmental impact statement process in under a year—the BLM received letters from six tribes including the three tribes that the BLM said it consulted with, all saying that we see these documents where you state you have been consulting with us for the last three years, which has not been the case, and please explain to us why you are representing this to the public.

To conclude, I think one thing that would be very helpful and that is actually achievable through the state agencies . . . I do not think it is accurate to assume that the State of Nevada has no influence over the tribal consultation projects for projects exclusively on public land. That 2014 *State Protocol Agreement* under the National Historic Preservation Office gives the Nevada State Historic Preservation Officer lots of power to request that the BLM slow down; point out to the BLM that sending a letter and receiving no response is not an adequate effort to initiate tribal consultation; and generally help their federal counterparts understand that just because your executive functions have ordered you to complete these processes in under a year, you are still legally obligated to comply with laws like the National Historic Preservation Act or the National Environmental Policy Act, Pub. L. 91-190, 83 Stat. 852 (1970).

It is important that agencies are directed through legislation, not through policy, because agencies are very well-coached whenever they are challenged on their decisions. When the policies and procedures that they are required to follow or refer to in actual legislation, they use the argument that those policies are merely advisory. When they are challenged no one can invoke those policies in court to hold them to those policies. It takes legislation directly to give tribes the right to challenge the procedures and give them specific language to say, "You actually are supposed to do this. It is included in the law; it is not just in your policy. You are legally obligated to follow these procedures."

I will conclude there.

Chair Carlton:

Thank you, Mr. Falk. So, am I to assume that you are currently in litigation over this?

Mr. Falk:

Yes, we are. A final decision is anticipated in September or October.

Chair Carlton:

The Legislature typically does not get involved in things that are currently being litigated, but we always want to be informed and know what is going on. We are very careful not to insert ourselves or make changes that would give undue advantage to one litigant versus another. We do appreciate the information, but this Subcommittee and any committee of the Legislature is always very wary when there is ongoing litigation. I will go ahead and open it up for questions from the Subcommittee members, knowing full well that this record will not reflect any opinion of the Legislature to be used moving forward.

Mr. Falk:

I just want to point out that if that is going to be the Legislature's policy, Thacker Pass is the farthest mine in development, but there are five other mines that are in development within the McDermitt Caldera, or just outside of that, and those mines are being fast-tracked now. President Joe Biden revoked the Trump-era secretarial order that fast-tracked things like lithium mining, but then a year later he turned around and invoked the National Defense Act (Pub. L. 117-81, 135 Stat. 1541 [2021]) that allows him to do the exact same thing. My point is that mines are going to be up and running while there is going to be constant litigation for the next few years against these mines. So, if the State Legislature is going to use that blanket refusal to legislate on these things, all those mines are going to be in before any sort of law could help the tribes.

Chair Carlton:

Maybe I did not make myself perfectly clear, because you are talking about current litigation that is going on, asking us to propose legislation that would give undue advantage is one thing. Having a public policy discussion moving forward on how changes can be made so that Nevadans have a clearer and better voice as these things move forward would be different as those things materialize. That is a statement that we typically make when individuals come to us to share information; nothing against your client, your issue, we just must make sure that the record is correct when there is ongoing litigation. We want to know about the problems, and we want to address them in the future, but we also must make sure that the record is correct on how we move forward. It is not that the Legislature does not want to take action, it is just that we have to be careful on how we move forward when we make these recommendations.

Mr. Falk:

Understood.

Chair Carlton:

Thank you. I will now open it up to Committee members.

Mr. Banuelos:

Mr. Falk, you bring up an interesting point about the State Historic Preservation Office and probably other state offices that are involved in the review of the National Environmental Policy Act (NEPA) (Pub. L. 91-190, 83 Stat. 852 [1970]) documents, like the environmental impact statement. Assembly Bill 264 was the 2019 bill that mandated each division and department of the State of Nevada consult tribes. Perhaps policy wise, there could be language that addresses when state agencies are reviewing the NEPA documents they

should engage the tribes during the review process before a record of decision is made. I think that could be beneficial. Do you think so?

Mr. Falk:

Definitely. It could signal to federal agencies that there needs to be a better effort here. You are right. Policy would be helpful, but it is just not going to be binding.

Assemblywoman Hansen:

I have a couple of questions. I represent this area and I have had some feedback from the Fort McDermitt Tribe, and you are representing the Reno-Sparks Indian Colony, correct?

Mr. Falk:

That is true.

Assemblywoman Hansen:

Have you had conversations with the Fort McDermitt tribal representatives?

Mr. Fox:

I have, yes.

Assemblywoman Hansen:

About their ongoing communication with Lithium Nevada and the efforts of outreach there? That tribe is within 50 miles and the Reno-Sparks Indian Colony and some of the others are hundreds of miles away. It is my understanding that at least 50 of the 350 McDermitt Tribe members plan to have jobs there. And it is my impression that the opposition is not maybe what you are indicating from the Reno-Sparks Indian Colony.

Mr. Fox:

Yes, and to clarify, when talking about cultural resources, there are a couple things that we need to keep in mind. The first thing that we need to remember is that the tribal governments and this system of tribal governments were established by the federal government after tribes endured several decades of genocide. So, we need to keep this history in mind and we need to remember, too, that the people who traditionally used these properties like Thacker Pass, the people who moved through Thacker Pass, likely involved Paiute descendants, Shoshone descendants, Pit River descendants, and Washoe descendants. And these people were scattered after European settlement. So, someone like Ms. Eben, the THBO at Reno-Sparks, likely had ancestors that moved through Thacker Pass, and her ancestors' bones are probably there from that massacre. A common tactic that Lithium Nevada has done is to prop up Fort McDermitt as the tribal voice in the region for this project. Unfortunately, that is not what the law requires, and it does not reflect the actual value of tribal resources and cultural resources.

Ms. Eben:

If I could add, Assemblywoman Hansen, that, yes, Mr. Falk is saying that in traditional society our people were bands, and in fact, between 1864 to 1868, as the massacres

occurred on Paiute people and Shoshone people, our ancestors were fighting against the intruders coming in and desecrating the land and the resources. When the federal General Mining Law of 1872 came in, there was no Fort McDermitt Tribal Council, there was no Reno-Sparks Indian Colony, there was no Summit Lake, there was no Pyramid Lake Paiute tribe. They were not yet governments as they are today.

What Mr. Falk is describing is that yes, our ancestors were bands that were traveling all around this area, but because one tribe is 50 miles away, that is all a colonization aspect at looking at projects in these areas. We were all individualized after the 1872 Mining Law came into play because we were all taken away; we were prisoners of war who continued to be massacred and put away at these forts. I want to make clear that there were no tribal governments when this was taking place in the late 1800s.

Also, the Reno-Sparks Indian Colony represents members and descendants of Paiute, Washoe, and Shoshone people. Today we have tribal members who have a direct relation to Thacker Pass and to the Fort McDermitt area, and we also have employees, residents, and members. I want to make it clear that having this mindset that the closest tribe should be dealing with that is not the way for us to be. That is why I introduced myself this morning and said, "Hello my relatives" because our relatives are all related. We did not have boundaries, or fences, or lines. We are all related; we are all one, and because of the massacres, the 1872 Mining Law, and all these federal laws—over 1,000 laws made for tribal people—we are all now individualized, set off into these different areas. And we tell each other that is Fort McDermitt's problem, or that is Death Valley's problem, or that is Reno-Sparks Indian Colony's problem. But when I am talking to my relatives, we need to all be one and be together on this because electric vehicles are not going to save this world. I listened to my relative Mervin Wright talk about the water, and as we listen to the next agenda items, they are all important areas that we all need to work on together.

Mr. Banuelos:

I am employed by the Inter-Tribal Council of Nevada, which is a consortium of 28 federally recognized tribes in Nevada, and my people are the Watatikka of Western Shoshone from Ruby Valley, Nevada. I cannot speak for another tribe, but I do want to clarify for the record that the state and myself, as a tribal representative on the Subcommittee, did reach out to the Fort McDermitt Tribe; however, they had a conflicting meeting and the entire staff that would have been at this meeting was unable to attend because of the meeting in Winnemucca. I want to point that out for the record.

Chair Carlton:

And they are more than welcome to submit any written testimony that they would like to add to the record for today. I believe this has been thoroughly discussed and any policy changes moving forward can be brought to the Legislature and we will have time to have those conversations about it as we move forward.

AGENDA ITEM VI—PRESENTATION ON THE SWAMP CEDARS NATIONAL MONUMENT

[This agenda item was not heard.]

AGENDA ITEM VII—PRESENTATION ON THE AVI KWA AME NATIONAL MONUMENT

Chair Carlton:

Agenda Item VII is a presentation on the Avi Kwa Ame National Monument. We have Taylor Patterson participating via Zoom.

Taylor Patterson, Executive Director, Native Voters Alliance of Nevada:

I am a member of the Bishop Paiute Tribe, and I know the agenda said Fort Mojave representative, but I work in coordination with Fort Mojave. I provided a presentation, and you should all have copies ([Agenda Item VII](#)).

To begin, the Avi Kwa Ame is an effort to designate public lands within Clark County as a national monument. The effort is supported and led by tribal nations, particularly the Fort Mojave Indian tribe who has been working on this initiative for a couple of decades now, long before my time. The effort is also supported by the local Clark County communities and numerous environmentalists and environmental groups. The goal of achieving a national monument designation is to preserve the area's cultural, historic, and natural wonders while elevating the visibility for local communities so they can increase ecotourism opportunities and preserve their quality of life.

Within the presentation we have a map of the proposed monument area. It is hard to see because we have a lot of designations and little things cut out in the map, but the primary monument would be that blue middle part. Searchlight, Nevada, would be one of the closest communities, but the closest neighbors would be the Fort Mojave Indian Reservation, then Searchlight, like I mentioned; Laughlin, Nevada, to the very south; and then Boulder City, Nevada to the north. Generally, when I describe the area, I tell folks that it is in between Boulder City and Laughlin, which is the easiest way to describe it on this map. As I mentioned, it is home to a lot of different cultural, natural, and ecological resources.

What you can see with this "insane looking" map is the vast number of designations that already exist in the area. You have a lot of protections on the California side and a lot of protections on the Arizona side, with this area of critical environmental concern in Nevada, overlaid with some wilderness areas and other designations as well, but it created a donut hole in the center for a lack of protection in this very sacred area.

I am really proud of this boundary because the Laughlin City Council commented that it was one of the best processes they have ever had working with a coalition. The feedback that we have taken from a lot of different stakeholders has been incorporated into this boundary. I asked one of our representatives from Fort Mojave how often they work in coordination with the City of Laughlin and they kind of chuckled and said "never." So, it really is a coalition of diverse stakeholders. Somehow, we managed to come up with a boundary that fit everybody's needs and still allowed the communities surrounding it to grow but also protected the natural resources and cultural resources within the national monument area.

On the third slide you will see the world's third largest Joshua tree, the first largest Joshua tree in Nevada, within the national monument area. I think we may have been bumped up a little bit because there were some wildfires in California, I would like an official recount. This is just a small glimpse of the wonders that exist within the national monument area. Previously, the Fort Mojave Indian Tribe had worked to designate Spirit Mountain itself

within the National Register of Historic Places. This is just a little bit about how national monuments get created, and I think as a state legislator, you know that.

The Avi Kwa Ame National Monument area would preserve the Native American cultural sites and is sacred to over one dozen Yuman-speaking tribes. For the Fort Mojave Indian Tribe and the other Yuman-speaking tribes, the Spirit Mountain area is sacred to them because it is the point of their creation story. It is where all life began for their tribe. It was also a very important part of their life cycle because all life will return to that area as well. This has been a place that I have been titling as a "cultural corridor" because we had a lot of tribes in the southern part of our state and in California and Arizona as well, moving through this area. We had a lot of southern Paiute Tribes and the new people who were in this area because it is a part of the traditional Salt Song Trail. And so much like the Yuman creation stories, the Salt Song Trail holds a lot of the life cycle of the southern Paiute people that tells the stories of the traditional medicines of the area, the life cycle of a Paiute person. Those cultural pieces are extraordinarily significant, and I have had a lot of discussions about this area.

I think it is hard for people to grasp that the cultural resource is the landscape itself. The landscape needs to stay intact for future generations of indigenous people in the area, but of course, that lends itself to a beautiful landscape and also helps with the native plants and wildlife. This is a big area for our desert tortoise and our bighorn sheep. That area of critical environmental concern is of course home to a lot of migratory corridors as well that would be looped into that national monument status.

Luckily, there still can be recreation in the area. We pride ourselves on trying to engage the off-highway vehicle (OHV) community and being inclusive with all the different stakeholders by trying to work with as many people as we can. I think the mark of a good coalition is the diversity of its members. I feel like we have been very successful in that regard.

The area is also home to Walking Box Ranch, which I find to be very fascinating. It was the home to movie stars Clara Bow and Rex Bell. It was their little holiday getaway. That is a preserved building. The Friends of Walking Box Ranch holds events out there and you can also still visit. We also have the historic Mojave Trail and road that has been utilized since I believe the 1860s.

We have such a long history of people in this area, both indigenous and otherwise, and the Avi Kwa Ame National Monument would be able to preserve this. Currently we have had marker bill legislation introduced by Congresswoman Dina Titus (D-Nevada) and so that is the beginning, but also towards the end of this process of designating a national monument, we have been engaging with the DOI and a lot of folks to move this project forward.

I will end the presentation here to keep it short and open up for questions.

Chair Carlton:

Thank you, and we see a long list of supporters in your presentation so that is always a positive sign. I had not realized until I looked at this map how large it actually is. I had it pictured differently in my mind.

Senator Goicoechea:

This is a big area, and we know there are private holdings in there. Do you have a percentage of how much of this is privately held?

Ms. Patterson:

I do not have the numbers off the top of my head. I can submit that to the Subcommittee via email if that is appropriate. It is 450,000 acres so I want to make sure I have "all my ducks in a row" before I give you a number.

Chair Carlton:

That would be fine. We always appreciate receiving accurate data. Thank you for the presentation. I had forgotten that the Walking Box Ranch was out there. Seeing no other questions, I will close this agenda item and go back to Agenda Item VI.

AGENDA ITEM VIII—DISCUSSION ON INDIGENOUS PARTICIPATION WITH PUBLIC LANDS ISSUES

[This agenda item was taken out of order.]

Chair Carlton:

Agenda Item VIII is a discussion on indigenous participation with public lands issues. We have Tribal Chair Thomas on the phone.

Brian Thomas, Tribal Chair, Shoshone-Paiute Tribes of the Duck Valley Indian Reservation:

I am here in Winnemucca, Nevada, in a dialogue meeting with Nevada Gold. I do not want to be repetitive, but our tribe is located on the Duck Valley Indian Reservation in Idaho and Nevada on about 399,000 acres. We consult with both Idaho and Nevada BLM, the USFS, the FWS, and all the different government agencies. These are serious issues and we are constantly consulting. Sometimes we consult all day with the Nevada BLM or Idaho BLM, mainly Idaho because of the transmission line coming into and out of Idaho, and then coming into Nevada over to a project from western Idaho, going over to the Ely BLM conservation area. Our consultations are in-depth, and we do have a voice with them. We always like to stay more in the permitting process and the ability to agree or not agree to projects that run through federal land across Nevada.

It has become a huge concern. The tribes in the West have been disproportionately affected by the taking of public land. Our treaties are consistently broken, and the federal government does not hold up to responsibilities it has for tribes. That goes back to the cultural resources that have already been described earlier, and I will not be repetitive on that. We are having to not fight but work with and negotiate at the federal level for anything we can do to protect what we have under the Native American Graves Protection and Repatriation Act (Pub. L. 101-601, 104 Stat. 3048 [1990]).

We want to be heard at the federal level as tribes airing our concerns of mine expansions, transmission lines, water resources, the land, the air, the water, the soil and provide for special protection of our resources that we have, that we all survive on. Many tribes across Idaho are remote and tribes in Nevada are really remote. We are 100 miles north and south

of the nearest town, which is Elko, Nevada, and Mountain Home, Idaho. Many times, we travel to the different locations for consultation with the BLM or the USFS and we share those trips back and forth. For example, today I would have been right there in Nixon, but looking at the fuel prices, there is no way that I am going to drive there, but I am glad to get this opportunity to be heard over the phone.

We do have some concerns regarding the resources that are to be discussed in a government-to-government consultation, especially the cultural resources and some of the plans in the 7.1.1, the cultural resources. This is for a transmission line from Boardman, Oregon over to western Idaho, the Boardman to Hemingway (B2H) transmission line. It is huge, and repatriation is not meant for our native people. I have looked at repatriation and it is meant more for our servicemen who passed on fighting for our freedom overseas, bringing them back safely, their remains; that is how I look at repatriation. It is not for our ancestors who have passed on and have been laid to rest on BLM Forest Service-managed lands. That is our biggest concern as we go on to consultation. The remains and the government compliance with asking the tribes to remove the remains that were laid to rest long before statehood, before territorial days. That is where my voice comes from, and going back to our remote location makes everything harder.

Our concern on the reservation is that states have worked with these issues because they charge taxes and fees that help maintain infrastructure for its citizens. And we are here today to ask you to consider directing a portion of taxes and fees collected from related issues in public lands for Nevada tribes including mine proceeds. The reason why is, in Owyhee, Nevada, for example, we have the Owyhee Combined School on the reservation in Elko County. It is the only school on a reservation that is managed by a county school district. And when we look at the numbers that are given out in Elko County, about \$6,000 was spent per student for Owyhee Combined School. But in Wells, Nevada, Carlin High School receives roughly \$13,000 per student for infrastructure and repairs. Our schools have inadequate heating; we do not even have central air, and that is our tribe's concern. We need more money from the federal government and the state to manage our schools and make a better place for our students to learn.

I wish I was there in person; however, I could not make it, but there is a lot to discuss regarding the Native American Graves Protection and Repatriation Act (1990) and the inadvertent discovery of remains on federal lands. That is mainly our concern from the reservation because we do have a good working relationship with the federal agencies, and we like to be heard at the state level, especially on this mining tax and taxes on the federal managed lands.

I appreciate the time and I want to thank you. If you have any questions, I can possibly answer those questions.

Chair Carlton:

We are glad you were able to participate. If you could expand on the Repatriation Act. This Subcommittee does not have jurisdiction over the dollars and getting it to the schools. That will be part of the record and we can have a conversation about it, but it is not something this Subcommittee can tackle. But, regarding the public lands issues where they interface with your tribe and the Repatriation Act, could you expand on that a little so I can understand it better?

Mr. Thomas:

We are going to into consultation with Idaho about bringing a huge transmission line into Idaho, which is more than 300 miles long, from Oregon. I do not really know the details about the Nevada cultural resource specialists, the monitors that are on the ground. We are asking for monitors within the contract to be on the ground; however, some of the wording in Title 36, Chapter 1, Part 61 of the *Code of Federal Regulations* states they must have at least five years' experience of archaeological resource mitigation and field experience and at least three years of experience in a decision-making capacity in cultural resources. Our people know more about our ancestors and the many places where they have been buried and there is a lot to discuss regarding their repatriation.

There is a lot to be discussed regarding the roles and responsibilities of each tribe and tribal members and how they see it. And some of our tribal monitors have attended a training program and been certified. It goes back to the ground disturbance. There is so much ground disturbance out there, and you are looking at possibly a 24 by 15 to 20 feet deep area for these huge transmission lines. If there is any kind of inadvertent discovery everything must cease and desist, stop, and that is where we need our cultural monitor so we can have an honest report as to what has been found ere to protect the resources that our ancestors left behind.

Chair Carlton:

Thank you, I have a better understanding of it now so we will look at that and see how that fits into the jurisdiction of this Subcommittee and what the possibilities on that might be.

Assemblywoman Hansen:

We do not have jurisdiction over educational issues, but I did want to note that I serve on the Assembly Committee on Education during the session and the Joint Interim Standing Committee on Education during the interim. I took note of your comments about the per-pupil funding at the Owyhee School, which is in my district, Humboldt County.

We have our next Joint Interim Standing Committee on Education hearing on July 29, and I would like to invite you to speak during public comment—I will work offline to get you connected to the Committee—as we need to hear from you. I am also in contact with Dr. David Jensen, Superintendent, Humboldt County School District. I want you to know that I heard your comments and your concerns, and I share them. Those are numbers that I am not familiar with; even though this is the Subcommittee on Public Lands, I appreciate you addressing that issue. And I want to assure you that I will reach out in some capacity to have future dialogue. Thank you for taking the time to connect with us. Your input is important.

Senator Goicoechea:

The transmission line you are talking about must be crossing through Idaho. I am not aware of one coming down through Owyhee, although, when we get a little farther east, we do have that swift line coming down. Is that right or is that southwest inter-tie going to come through along the reservation?

Mr. Thomas:

No, the one from Boardman to Hemingway will come in through the Owyhee County itself, over in western Idaho. So that is about 30 miles of transmission line. And there is another transmission line coming out of Magic Valley that is going to Ely, which will be going across federal lands in through Idaho and also into Nevada. We have been consulting with the Twin Falls BLM, and we need to meet with the Ely BLM as well because that is our Shoshone-Paiute ancestral land and other tribes also.

Senator Goicoechea:

I am aware of this swift line coming from Magic Valley to Robinson Sub, but I did not know about the other one.

Chair Carlton:

Seeing no other questions, that takes care of this agenda item.

AGENDA ITEM IX—PRESENTATION ON THE NUMU NEWE NATIONAL MONUMENT

Chair Carlton:

Agenda Item IX is a presentation on the Numu Newe National Monument. We have Chair Tuni and the THPO, Ms. Shephard. Please introduce yourselves and proceed.

Leilah Shephard, THPO, Fallon Paiute-Shoshone Tribe:

My name is Leilah Shephard, and I am the THPO.

Catherine Williams Tuni, Chair, Fallon Paiute Shoshone Tribe:

Good morning, Pe-sha muh. I am Cathi Williams Tuni (speaks in Native American language), Fallon Paiute Shoshone Tribe. My parents are Smoky and Betty Williams of the Fallon Paiute Shoshone Tribe. I am an elder, a farmer, a rancher, a daughter, a parent, and a wife.

I grew up on the Fallon Shoshone Reservation back in the day when we had no power or water; we had to haul water from the community center. I was probably in second grade when we finally started to get power and water. So, for me, we roamed these lands free for all our lives, not worrying about what was out there or danger. We hunted freely for deer, rabbits, and ducks. Our wetlands were flush. We had community rabbit drives not only as Mr. Wright and Ms. Eben said, but as relatives; we had huge community rabbit drives out in our ancestral lands where we included a lot of our relatives from this area, Walker River, and Reno-Sparks. When the rabbit drives were over, we shared our meat with the elders from this area and we would bring many of the hides we collected so they could tan them for different purposes.

It is a great honor to be here today with you and to present our native stand on the most critical issue confronting our tribal nations today, the protection of our native ancestral sites, which we will call the Numu Newe homelands. We were known as the Saiduka, or tule eaters, we were created in the marshlands on the base lands of the ancestral lands that we are going to talk about.

Today we are going to share a little bit of the big picture of how important we as Ki Na Soo Mu Wa Kwutu thrive to protect our ancestral homelands, not only for us, but for our entire Numu Newe nation. I hope that after our presentation ([Agenda Item IX](#)), you will feel the spiritual connection we have for our proposal—what we call the Numu Newe Conservation Proposal—and come together as one to support the strong efforts we have in protecting ancestral lands that we always call home.

Ms. Shephard:

This is our story. The Paiute Shoshone people, the Numu and Newe, as we call ourselves, lived here and thrived across Western Great Basin since time immemorial, safeguarding our lands, waters, and wildlife. For more than 10,000 years, we have hunted, prayed, and gathered medicine on the mountain peaks, valleys, playas, and wetlands at the Great Basin. Beginning in the late nineteenth century, our ancestors were forcibly removed from our traditional territories and moved onto small reservations. We rely on access to federal public lands to preserve our culture and religious identity and to continue our subsistence practices.

Ms. Tunni:

Our historic homeland, the Paiute Shoshone traditional territory, goes up into Oregon, Idaho, over to Utah, and all the way down into California. Those were our historical homelands when we were first created here on the earth. And what we are talking about today is just a small piece that we are trying to protect out of this vast amount of area. This is all we are asking to protect.

Ms. Shephard:

The Numu Newe Proposal will protect areas of the Paiute Shoshone people's homelands focused on the areas between the reservations of the Fallon Paiute Shoshone, the Yomba Shoshone, Lovelock Paiute, and Walker River Paiute Tribes. The areas that will be included are the Stillwater Range, the Clan Alpines, and the Monte Cristo Range. Those areas will continue to have existing use of the landscape, public access, hunting, and grazing at all current levels. The Proposal will better protect cultural resources to the extent possible and help educate people on the special use of these lands. We will also provide our expertise in the comanagement of these lands.

The Numu Newe Conservation Area is under threat from resource extraction, military training, vandalism, and looting. We believe that the earth was made perfectly by our Creator, and we were connected to the native ecosystem and the plants and animals that have always sustained us. For thousands of years natives have traveled across the landscape on a seasonal basis. This means that the Numu Newe was home to widely distributed tribal ceremonial sites, medicine areas, and burials. It is deeply challenging to convey the importance of these cultural lands in today's terms. As many practices and ceremonies are private, this makes it hard to protect the special values of these lands without a broad designation.

Ms. Tunni:

Fox Peak is one of the sites that we are seeking to protect; it is also known as Job's Peak. This is a picture that I took with my phone one day driving down Agency Road and that is what I saw. There are houses on each side, a road, and power poles. This one little spot

is where you can get that perfect all the time. There are older trees that we use for firewood at the top of Fox Peak.

This is the juncture of our earth and our sky; that is where we are, that is us, Numu Newe. Our parent's stones and springs are located near the peak. It is a very sacred site up there for our people. The peak rises from the Pine Nut Mountains, also called the Stillwater Range, which are the mountains that sustained traditional subsistence practices. We were created down here and we roamed all those lands. Over to the top is the Dixie Valley, the location of one of our most precious ceremonial sites.

Grimes Point is one of our other archaeological sites that we are seeking to protect. For me, as a licensed teacher in the State of Nevada and Arizona, that is very important because there is an abundance of carved rock called petroglyphs that cover the basalt boulders at Grimes Point. If you visit, we ask you to please treat this sacred site respectfully and refrain from touching or damaging the petroglyphs in anyway.

As an educator, we take our tribal children up there to teach them about where we came from, what we are, and how this whole territory is our sacred lands. I teach our children that this was our language, these were our books, this is how we learned, this was our classroom, and this is our story. Every year I do a project with my kids where we get as close as we could to a hide. We would paint old brown cardboard bags, and we make our own stories based on our trip up there. And every year that we have gone, the kids' stories are so different, yet they are so similar. So, when you look at a few of these rocks and you see a story, we might have taken kids there ten years ago and we might have taken kids there last year and they still have that same similar story of where our people came from.

Ms. Shephard:

One of the other areas that we are seeking to protect is our wetlands. The Nume Newe Conservation Area is rich in wildlife providing a refuge for multiple important species. The wetlands of the valley each year play host to migrating birds. The Alpine Uplands provide a habitat for bighorn sheep and other big game.

Ms. Tuni:

On our reservation, we have a wildlife refuge area that is nationally designated and we take very good care of it because we are one of the flyways for the migration.

Ms. Shephard:

Another thing that we are seeking to protect with this conservation area is the Pony Express stations. Just east of Fallon lay the Sand Springs Pony Express Station and the Cold Springs Pony Express Station, 2 of the 186 stops along the Pony Express mail delivery route from Missouri to California. The stations are in ruins now, but the views still look much as it did before.

Ms. Tuni:

Tribal comanagement is very important to us. It is something that has not always been done, but as a tribal government, we want to be a team player. We want to be a decision maker; we want to also be a cordial partner in how to manage our lands. The Fallon Paiute Shoshone Tribe is requesting a comanagement arrangement with other local tribes, the BLM, and other federal partners to support the management and care of Numu Newe.

There are several policy tools that could protect Numu Newe. We are working with county, state, and federal partners on a path for legislative protections like a national conservation area or a tribal cultural area. We also support President Biden using tools available including national monument designation for Numa Newe to safeguard this important landscape. Rather than refusing any consultation, we want to be a part of it. In keeping with the Biden-Harris Administration's goals and the trust responsibilities of the U.S. government, we envision costewardship involving a commission of regional tribes that informs management of the Numu Newe.

Why protect Numu Newe? The potential destruction and loss of access to these sacred public lands is an extensional threat to Paiute and Shoshone people. Here is a picture of Sand Mountain. This is one of our very sacred ceremonial sites. As a child I was taken there many times and told many different stories about the creation of Sand Mountain and how the Creator put Sand Mountain there and its purpose.

This proposal will help accomplish President Biden's initiative to conserve 30 percent of U.S. lands by 2030. Recognizing our history on these lands helps preserve and honor an important part of our region's and nation's history. Recognition and protection of these lands will benefit all people of Nevada. I think the costewardship is important. To maintain and protect these lands, it will allow for the diversity of people and interests to utilize a Numu Newe site but in conjunction with a costewardship plan so we can protect it.

In closing, I just want to say that Numu Newe means that we are one people; the Shoshone Paiute people are all one. Pe-sha muh.

Mr. Banuelos:

What proximity are the Cottonwood Canyon Nickel Mine, the Lovelock Mine, and the Treasure Rock Mine to this area are you talking about by the Stillwater Range? Does it fall within that or is it surrounded? Do you know the proximity of that mine to this area? Nickel is going to be a product used quite a bit in these new batteries.

Ms. Tuni:

I am not sure about that, but I will check. I will get back to you.

Chair Carlton:

And if you share that with the whole Subcommittee it will be part of our record.

Ms. Tuni:

I know there are several mines up in the Stillwaters, but I just have not heard of the nickel mine in Cottonwood Canyon.

Senator Goicoechea:

I am all about protection, but you know as well as I do that there are 20,000 people on that mountain on Memorial Day or Labor Day. How are we going to address that?

Ms. Tuni:

That is why we want to be a part of the costewardship, so that we can manage to have our recreation, our protection, and our sacredness all put together diversely in this little spot.

Assemblywoman Hansen:

Thank you for the presentation and for being here today. I know during the last legislative session we were dealing with the expansion of the U.S. Navy wanting more space. Where does this interplay with what you are asking for? Does it bump up against it? Have you been working with them?

Ms. Tuni:

This is probably where the National Airspace System (NAS) expansion happens. We have the different bombing areas, and we also have in the Legislature a lot of wilderness protection. This year our team has been working closely with the DOI, the NAS, the military, and the U.S. Congress to come up with a—we do not always want to say this word—a “compromise,” and a lot of our strong points are costewardship. We have been working heavily with them in this last year to try to come up with it.

Our tribes are never against national defense. We understand that that is one thing we are going to have for the rest of our lives. But we also understand the importance of our ancestral lands and the protection of our burial sites and our artifacts and archives that still remain out there on those vast millions of acres. As natives, when we come across something, we always say our little prayer and we leave it there. That is exactly what someone said earlier about the Arlington National Monument. We feel like that. All our burial sites are above those lands, and so we are really striving hard to be a team player and costeward with the NDAA so that we can costeward these lands, because we understand if we do not, we are going to be like we were back in the early 1900s—just moved.

Assemblywoman Hansen:

Thank you and I appreciate your goodwill.

Chair Carlton:

I think the costewardship, the shared responsibility for the land is an important point and I thank you for sharing that with us.

AGENDA ITEM X—PRESENTATION ON COOPERATIVE EXTENSION PROGRAMS OF THE UNIVERSITY OF NEVADA, RENO

Chair Carlton:

Please introduce yourself and proceed.

Jeffrey S. Thompson, Ph.D., Executive Vice President and Provost, UNR:

The University of Nevada, Reno brought a large team with us today. I want to do a couple of quick introductions. We have with us Daphne Hooper, who is the Director of Community Indigenous Relations for the University, and Professor Staci Emm, who is one of our Extension Educators. We want to thank them both for being here.

I want to share a bit today about the College of Agriculture, Biotechnology and Natural Resources, which I will refer to as CABNR for this presentation ([Agenda Item X](#)). The CABNR scale is quite vast from molecules to landscapes, individuals to ecosystems, agriculture to wildlife, and everything in between. The CABNR is home to over 1,400 undergraduate and graduate students and over 730 statewide faculty and staff. As the original land grant institution of the state, UNR fulfills our land grant mission through research and education to communities throughout Nevada. This research and education occur throughout our university. We are proud to do this work through over 20 extension campuses and 10 experiment station facilities statewide. From the university perspective, extension is our premier outreach arm into our communities. Through unique federal, state, and county partnerships, extension presents research-based knowledge to address critical community needs. From horticulture to business development, community vitality to youth development, extension programs are built around life, offering timely practical education for communities.

As you are likely aware, agriculture is Nevada's largest single industry in 85 percent of our state. As an external research unit of the college, Experiment Station maintains a network of field stations throughout the state providing researchers with different environments they can experiment on a larger scale while supporting needs of Nevada's communities in a variety of ways. One of our most prominent research facilities is the Desert Farming Initiative, or DFI. If you have not visited DFI, I would like to invite you all to come see this wonderful facility. This is a five-acre farm located in Reno adjacent to the UNR campus. This farm produces over 90 varieties of fruits and vegetables, along with 15 to 20 tons of produce annually for wholesale distribution to campus farm stands, farmers markets, and local pantries, including our very own Pack Provisions campus food pantry.

Experiment Station, along with Extension, collaborates with stakeholders from around the state to work on issues surrounding food systems and food insecurity through this and other work. The University, through programs and services, collaborates with many Nevada tribes. Through the federally recognized tribal extension program, Extension, in particular, provides direct education through UNR-employed community outreach specialists on three Nevada Reservations: (1) Pyramid Lake Paiute Tribe; (2) Death Valley; and (3) Walker River. Extension provides programming and education opportunities for youth and adults on the reservations and connects the tribes to opportunities at both the federal and state level.

Earlier this summer, Extension hosted our first college prep camp for American Indian and Alaskan Native students at our very own state 4-H Camp in Lake Tahoe. The camp was a success with over 19 students attending from across the state and beyond. This fall, CABNR will host UNR's first house for Native American students in Reno, right off Valley Road. We anticipate housing approximately seven students that will provide them an opportunity to connect with each other and ease the burden a bit from increasing rental prices in the Reno area.

The DFI that I spoke about on the previous slide provides support to the UNR's indigenous students by raising awareness about traditional and medicinal plants that includes propagating a range of native plants, designing plantings, and supporting related internships.

As a Subcommittee and elected officials, we know you hear about and are aware of the vast array of issues that we must address as a state: fire, water, climate, food access, and more.

The University and CABNR stand ready to provide you and your colleagues with science-based information to best inform these decisions.

I would like to now welcome my colleague and a rising star in his field, Dr. Alejandro Andradre-Rodriguez, to share more with you on a research project that could have monumental impact on our water usage both in Nevada and the western United States.

Alejandro Andradre-Rodriguez, Ph.D., Assistant Professor of Water and Irrigation Management, Department of Agriculture, Veterinary and Rangeland Sciences, CABNR, UNR:

Today I will talk about a research project where we are assessing the effects of deficit irrigation on alfalfa grown in Nevada. Before I start, I would like to acknowledge my collaborators in this work: my graduate students, who are here with us today, Uriel Cholula-Rivera and Diego Quintero-Rivera, and Juan Solomon, Ph.D., who is an Associate Professor of Forage Science, Department of Agriculture, Veterinary and Rangeland Sciences, CABNR with UNR ([Agenda Item X](#)).

Nevada happens to be the most targeted state in the country, and because of this, water is the most important natural resource that we have. Irrigated agriculture consumes the majority of the water in the world and also in Nevada. It has been estimated that irrigation consumes about 85 percent of the fresh water in the world and 70 percent of the fresh water in Nevada. But it turns out that irrigated agriculture is quite productive. In return for the use of this water, it produces about 30 to 40 percent of the world's food calories. In the case of Nevada, if we want to get any significant production from the crops that we produce here, because of the very little rainfall that we receive and the arid conditions in the state, we are forced to use irrigation, there is no other way.

Alfalfa is the most important crop in this state in terms of the economic benefit that we receive from the crop, but also because it occupies about 40 percent of the land that is irrigated in the state. So, if we want to conserve water while still being able to support the economy of our rural communities, it is very important that we find answers to the following question: How can we use less water to produce alfalfa without causing a significant reduction in yield?

In this project we are evaluating the response of two alfalfa varieties to deficit irrigation. Deficit irrigation, like the name implies, is the practice of producing a crop without meeting its full water demands that the crop will have in order to achieve an optimal development and a maximum deal.

The reason why we are interested in studying deficit irrigation is because our farmers, our ranchers, are being forced to reduce the amount of water that they use for irrigation. By starting deficit irrigation, we can provide some answers to them for questions such as, "If I am forced to reduce my irrigations by 50 percent, how is that going to affect the yield, or is there a particular alfalfa variety that may be better fitted for productions in cases where I am forced to reduce my irrigations?"

So, we identified two alfalfa varieties that we expect are going to have very different water and consumption patterns. The first is a drought tolerant variety and it is marketed as being drought tolerant. The second variety is marketed as being highly productive, but to maintain a high production, it also requires a substantial amount of water.

We subjected these two alfalfa varieties to three irrigation treatments. The first is called full irrigation. We are basically providing all the water that the two varieties require in order to achieve an optimal development and maximum yield. That was our work control. Then we had two deficit treatments, a mild deficit irrigation, where we applied 80 percent of irrigation amounts that were applied for full irrigation, and then a moderate deficit irrigation where we applied 60 percent of the water that we applied to the full irrigation plots.

The two main questions that we want to answer with this research are:

1. Is the drought alfalfa variety a better choice than the highly productive variety under water limiting conditions; and
2. Is there a significant loss of yield caused by the mild and moderate deficit irrigation treatments?

Here is a picture of our plots. We established these in the fall of 2020. They are located in the Valley Road Experiment Station near the UNR main campus in Reno. And as you can see, these are the fully irrigated plots. They are represented by the 100 percent; HP stands for a highly productive and DT for drought tolerant. There is a significant difference between these fully irrigated plots and the plots that receive the moderate deficit irrigation treatment of 60 percent.

So, you can see there the effect of the water stress and how that is affecting the development of the crop. Please note that you do not see that significant difference between the plots that received the mild deficit irrigation treatment. The idea behind deficit irrigation is that we are not providing all the water that the crop needs in order to achieve an optimum yield, but we are still providing a reduced amount of water that is forcing the crop to be more efficient with the water that it uses and that way we can still obtain some acceptable production from it.

In 2021, we obtained some preliminary answers after the first year of this study, which we started in 2020. First, regarding the question of whether the drought tolerant variety was a better option, we found no significant effect of the alfalfa variety on yield. What this means is that basically the drought tolerant variety and the highly productive variety both obtain about the same yield under the full irrigation treatment. They also obtain about the same yield under the mild deficit irrigation and about the same yield under the moderate deficit irrigation, which is a little surprising. We were expecting at first to start seeing some differences, but one thing that I should mention is that this is only one year of data. We are looking at the extended effects of deficit irrigation, so we are going to continue these during this year and then the following year to have a more conclusive answer to this question.

One thing that we found interesting is the fact that the highly productive variety consumed water much faster than the drought tolerant variety. We know that because we placed a network of soil moisture sensing stations in the field and that allowed us to know how much the water that was available to the crop was changing over the entire growing season. We obtained this graph from those sensing stations but basically, they show how both varieties consumed the water during the growing season. The blue line represents the highly productive alfalfa, and the red line represents the drought tolerant variety. A zero here means that the soil is full of water. And a one means that all the water in the soil has been depleted. You can see that the highly productive variety frequently depleted almost all the water in the soil, which was a very interesting result.

Another preliminary answer is there is indeed a reduction in the yield, and this reduction shows a linear pattern that means by reducing the irrigation amount by 20 percent, we had a reduction in yield of about 20 percent. By reducing the irrigation amount by about 40 percent, that also reduced the yield by about 40 percent. This is consistent with previous studies evaluating deficit irrigation in other states and regions. One thing that I would like to point out is that the full irrigation plots were the only ones where there was a significant difference in the yield with respect to the moderate deficit irrigated plots.

How is this important to Nevada? From the results that we obtained from this study, we can provide recommendations to farmers and ranchers in Nevada who are producing alfalfa under water-limited conditions. The recommendations that we provide can also be useful for farmers and ranchers in other western states that share water resources with Nevada. So, while providing some answers to them, we are indirectly helping Nevada to conserve water. These methodologies that we are following can also be applied to other crops. It is not just something that can be applied to alfalfa.

And finally, we are using the data that we are collecting to develop crop models. Crop models are computer programs where we enter information about the crop, its environment, and its management. We then run these computer programs for different scenarios. For example, we can estimate how an increase in the air temperature, which is one of the expected effects of climate change, is going to affect alfalfa production in Nevada. So that is one of the potential results of these outcomes, of these results, that we are obtaining.

Before we take questions, I would like to share with you very briefly why I became interested in irrigation. I was born and raised in central Mexico in a region that shares many of the water problems that we have in Nevada. And when I was growing up my dad was a farmer—he is no longer—but he had a farm and most of the production was rain fed. He was always waiting for the rainfall to come and many times it did not happen. And as a child, I was looking at his concern. So, at a very young age I became aware of the importance of irrigation. I studied irrigation engineering and by the time I graduated, my father no longer had the farm. So I could not make a difference there, but now UNR has given me the opportunity to make a difference here. I am humbled by that opportunity and very glad to be here and share my research with you.

Chair Carlton:

In one of the tours that I was on, I was told that grapes take less water than alfalfa to grow. Is that true?

Dr. Andrade-Rodriguez:

That is correct. In general, alfalfa has this reputation for being a crop that consumes a lot of water in comparison with other crops. The one thing that alfalfa has, and I must say in its defense, is that in Nevada you get four crops, so you can get four different incomes out of that. I am not very familiar with grapes, but with alfalfa, if for some reason you have to stop irrigation, say in the middle of the summer, you lose some production but the crop goes dormant; it goes to sleep and then during the next growing season when you have water available again, it regrows. So, that is one thing that makes it an interesting option for situations when you do not have any more water available at some point during your growing season.

Chair Carlton:

Thank you. I think that was one of the discussions we had when we were talking about having wineries in the State of Nevada and in the middle of the desert.

Assemblywoman Hansen:

Your story is inspiring. Thank you for coming here and sharing this research with us. If it would be appropriate, could we have your students wave their hands so we could see who they are? Thank you for being here.

I am very intrigued by this. Of course, we live and represent a state that is so arid, and water is always at the top of our concerns. Having a lot of agriculture in my district, my question is when you talk about drought tolerant or highly productive varieties, do we know the end result, the quality in the market? In Nevada, we are very proud that we have some of the best alfalfa hay. It goes to Texas and it goes to great horse farms; we know that our alfalfa is a valuable product. Is it affecting the quality in any regard? Do we have any feedback from the buyers of how it compares, or is it the exact same variety, just different watering techniques?

Dr. Andradre-Rodriguez:

We are also analyzing quality in addition to yield, and we are finding that there was no significant effect in the quality. But again, this is just the first year of results; we expect to see the extended effect of deficit irrigation. We are conducting a very similar study in Fallon so that we have some results under different soil conditions and a different irrigation system. And we are starting a new experiment using a drought tolerant variety and highly productive variety, but different types of varieties. These are commercially available varieties, but we selected them because we expect to see that difference that I showed in terms of how the highly productive consume water just much faster, so it was very hard to keep up with the water demands that it had.

Assemblywoman Hansen:

We will look forward to some of those results on the quality.

How long have you been doing the research? I think you might have mentioned it but if you will refresh my memory.

Dr. Andradre-Rodriguez:

We started this project in the fall of 2020. I started my position as an assistant professor with UNR in January 2020.

Assemblywoman Hansen:

I have a question for Dr. Thompson. I know we are going to have a presentation next on some of the species of plants that we worry about being endangered in Nevada. Does CABNR study any of the plant communities and get involved in giving any information on the designation of endangered species in Nevada?

Dr. Thompson:

Across CABNR and other units in UNR, we have many experts on the arid lands and species in arid lands along the Great Basin, which is one of our focus areas. Although we do not work directly on listings, we do look at identifying, surveying, and doing the genetics associated with species; we provide science for making decisions, but we are not directly involved in decision-making.

Chair Carlton:

Thank you for being here. That was very interesting.

We will go to [Agenda Item XI](#).

AGENDA ITEM XI—PRESENTATION ON ENDANGERED SPECIES IN NEVADA

Chair Carlton:

Please introduce yourself and proceed.

Patrick Donnelly, Great Basin Director, Center for Biological Diversity:

I am going to be presenting off my PowerPoint today, which you should have in your packet ([Agenda Item XI](#)). I will be referring to slides. I could not be there in person today due to a health issue, but I am grateful for the virtual option.

Today I want to talk about endangered species issues in Nevada and some legislative fixes that could contribute to improved and streamlined management of imperiled species in Nevada. I am going to go through some of the background site slides quickly because I want to focus my time on the legislative proposals.

In sum, biodiversity is the complete assemblage of plants and animals, fungi, and microbes that make up the variety of life on earth, that is what gives us clean air to breathe and clean water to drink, it is what puts good food on our plates, and what puts shelter over our heads. Biodiversity is essential for humans' continued existence, and right now we are in a global extinction crisis that has been called the "sixth mass extinction." Looking back over history, the United Nations (UN) has said there are more than one million species at risk of extinction currently, which is on slide two.

Moving to slide three, the primary law that governs endangered species in this country is the federal Endangered Species Act (ESA) of 1973 (16 *United States Code*, Ch. 35 § 1531 *et seq.*), and that law declared the national policy of the United States is to prevent extinction, so we do not let species go extinct in this country. As a result, the federal ESA is perhaps the most powerful conservation law in the world. And notably, it gives primary jurisdiction over federally listed species, that is, species that are listed as threatened or endangered, to the federal government. Now this has been a source of tension over the years. By default, plants and animals are managed by states; however, the federal ESA gives that jurisdiction to the government when a species is listed. That has really been the source of some amount of contention over species listings historically.

Looking at slide four, the Nevada Endangered Species Act (NESA), Nevada does have several statutes on the books managing endangered species. Nevada's Department of Wildlife (NDOW) has primary jurisdiction over endangered wildlife; Nevada's Division of

Forestry (NDF), DCNR, has jurisdiction over endangered plants. But in general, these statutes do not provide comprehensive management authority over these endangered species, and state agencies do not have the ability to say no. If there is a project that threatens a species with extinction, the State of Nevada has no statutory authority to say, "No, you cannot do that." At best, these Nevada statutes are a permit program, and the permits are given out without environmental review or public input.

According to Nevada's Division of Natural Heritage (NDNH), DCNR, Nevada has 646 at-risk species. I am on slide five now. Those are species that are at risk of extinction or becoming threatened with extinction; that is third in the United States. We are a hotbed of at-risk species. There are almost 200 other species on a "watch list" for becoming at-risk. And notably, we have over 300 endemic species and subspecies; those are species that live here in Nevada and nowhere else on earth, for which we rank sixth in United States and that is part of what makes our biodiversity so unique. Species like the Mount Charleston blue butterfly live in just a of couple spots on Mount Charleston and nowhere else on earth and are federally listed.

We have 48 federally listed species in the state. I am on slide six now. There are 48 federally listed species, 54 state-listed animals, and 24 state-listed plants. To illustrate the challenges of state listings, the Monte Neva paintbrush, a one-inch-tall wildflower, is state-listed; however, the BLM is currently allowing unmanaged recreation to damage its habitat. And the state is unable to do anything about it. The state has no mechanism with which to tell the federal government, "Hey, you need to protect this plant." As a result, we are going to have to pursue federal listing for the Monte Neva paintbrush because the state is unable to regulate it.

Current federal listing activity in Nevada is on slide seven. I will not go through all these. There are nine species currently awaiting decisions on federal listing including the Dixie Valley toad and Tiehm's buckwheat, which have become quite prominent due to our activity to get them listed. But beyond that, if you go to slide 8, you will see a partial list of at-risk species which could be listed. These are species that we have identified as being at risk of extinction due to various elements of habitat loss, development, and climate change, and any of these could be eligible for federal listing if their management conditions are not changed.

So, what do we do to prevent the extinction crisis, to prevent species from going extinct, which jeopardizes all life on earth, and also to cut down on the amount of federal listings. Is there a way that Nevada can take action to prevent the causes of extinction such that federal listing is not necessary. The first step is consolidating our management authority and streamlining it for these endangered species. Right now, a variety of agencies manage these endangered species in a variety of mechanisms, and our proposals here, looking at slide 9, are to consolidate management over endangered species.

Our first proposal, on slide 10, is over terrestrial invertebrates including insects. Currently, terrestrial invertebrates, including insects, are unmanaged under NRS. There is literally no agency in the state managing this little butterfly here, the bleached sandhill skipper, which is a rare species that lives in one place in Humboldt County. There is no one managing that butterfly. The State Department of Agriculture only manages pest insects, and meanwhile, there are 109 species of at-risk insects in Nevada, including this little skipper, as well as butterflies, moths, beetles, bees, and ants. So, the first legislative proposal would be to give NDOW the authority to manage insects. This would also include ensuring they have a budget for at least one entomologist, a scientist to help manage those insects. But

ultimately, if NDOW does not have management authority over insects, it cannot take the conservation actions necessary to prevent federal ESA listing. So, this proposal is kind of a prerequisite for management of species in this state.

A second proposal has to do with rare and endangered plant management; we are on slide 11 now. Per Chapter 527 ("Protection and Preservation of Timbered Lands, Trees and Flora") of NRS, state endangered plants are managed by the NDF and that is an anachronism from an old set of environmental policies that date back many decades. The primary duty of the NDF is wildfire response, prevention, and rehabilitation. I mean it is the agency that stands between this state burning to the ground. We need NDF completely focused on forestry, particularly on fire suppression and management. The NDF's management of endangered plants is tacked on to its responsibilities, it is not its primary responsibility.

There was an illustration of why this is problematic. Two summers ago, you will recall the summer of 2020, we had truly apocalyptic wildfires across northern Nevada, but in the meantime, we were petitioning the state to protect Tiehm's buckwheat, a rare plant. Kasey KC, the State Forester Firewarden, who has ultimate responsibility over fire in this state, spent half that summer conducting hearings about a rare plant and doing field visits at Riley Ridge. God bless her, she put her heart into managing that plant, but ultimately, it was taking her away from managing the worst wildfire season in Nevada history. So, to me, that says we need to get these protected plants under the jurisdiction of an agency whose primary job is to manage biodiversity—that is NDOW. Nevada has 288 species of at-risk plants and 91 species on the "watch list." The only way to prevent federal listing of these species is through active management and protections.

Moving to slide 12, 43 states overall manage rare plants; 65 percent of those states have a department of wildlife, or the same agency as the wildlife agency, managing those rare plants. Only in four states, including Nevada, does a department or division of forestry manage rare plants. Now, this may seem arcane, but ultimately, we need an agency focused on managing these rare plants, preventing their extinction, and preventing the need for federal listing. So, our proposed legislation is to transfer management authority over endangered plants to NDOW, and additionally, to expand that authority to include unprotected but rare or vulnerable plants. Right now, no one is managing nonlisted plants to prevent their becoming endangered. Creating that authority for NDOW and transferring the management authority over endangered plants to NDOW will help consolidate the management of endangered species and should create renewed focus on preventing the extinction or endangered listing of those species.

I am moving to slide 13 and I am going to go over this quickly. There is an idea that NDNH could also go along with being moved to NDOW because they basically curate data about biodiversity. I have heard a lot of pushback on this proposal from many corners, so, I think we will skip that one for now.

Moving to slide 14, we ultimately need to overhaul the NESA. This is not a legislative proposal we are making at the moment because we are just not ready yet, but currently, NESA is ineffective in preventing species from going extinct or becoming federally listed. It is not subject to public participation requirements, it has no teeth, there is no ability for citizens or the courts to compel agencies to protect species, and it is ineffective at providing assurances of conservation sufficient to prevent federal ESA listing.

Moving to slide 15, reforming the NESA would be complicated and contentious; however, failing to reform it will mean more federal ESA listing. Our recommendation here, once we do all the previous suggestions and streamline the management of endangered species, would be to convene a working group or a study for the NESA reform.

Slide 16 is a summary of the recommendations we made here today. I really appreciate your time and attention to this matter, and I think if we work together, we can help prevent extinction, help prevent a flood of federal ESA listings, and hopefully harmonize management of endangered species in the State of Nevada.

Chair Carlton:

Thank you. I will open it up for questions.

Assemblywoman Hansen:

Regarding your summary of recommendations for NDOW to have management authority over insects; to transfer the management of endangered plants to NDOW; to create statutory management authority for NDOW over nonendangered plants; and to transfer the NDNH to them, are they asking for this? I do not see NDOW here.

Mr. Donnelly:

Nevada's Department of Wildlife has not asked for this. This is an idea that the Center for Biological Diversity has brought forward. However, we have had receptive discussions with NDOW to varying degrees about these proposals. I think it is universally recognized that it is a major problem that the state does not manage insects. That has been a longstanding issue that everyone recognizes, and NDOW has expressed openness to that as long as there are resources to go along with it.

I think the rest of these ideas need to have discussions, but I think for the overall goal of enhancing state management to reduce the need for federal listings, NDOW has expressed interest in that, as well as DCNR, and I think everybody who is involved with the management of biodiversity. Ultimately, if there is an issue that the state can deal with, that is preferable to a multiyear process with the federal government. I will use that classic phrase, "Discussions are ongoing."

Assemblywoman Hansen:

To follow up, could you tell us how it looks when you manage insects? How would that roll out and look? I know your slide said funding for a staff member, but how does that work in the field?

Mr. Donnelly:

Management over insects could comprise a whole variety of activities. It would start by assessing our insect population, seeing which are at risk of extinction, which need special protections. It would involve identifying the needs for habitat management and restoration and identifying resources and executing habitat restoration projects. It would mean commenting on federal actions—whether there are federal energy projects, mining projects, highway projects, anything like that which could impact at-risk species—and having the state play a role in that process through commenting. It could be developing regulations to protect specific insects, and I think the one that is most obvious to everybody is the

monarch butterfly. The monarch butterfly is beloved across the country, and we do have monarchs in the State of Nevada, but no one is managing them right now. And there are intensive efforts across the country to plant milkweed and do other habitat restoration to manage monarch butterflies. And certainly, there is monarch work happening in the state, but it is not under an agency's management authority. Those are some of the activities that NDOW could undertake if they were to manage insects.

Chair Carlton:

It is intriguing, but when I think of wildlife, I do not think of bugs and plants, I think more of animals. I know it is all tied together, so has there been any conversation about DCNR possibly taking parts of this on? To me, the bugs are separate from the plants even though they go hand in hand. How did you come up with NDOW versus another agency?

Mr. Donnelly:

I think insects are animals and so it made sense to slot them in with NDOW. Nevada's Department of Wildlife manages aquatic invertebrates, such as mussels and aquatic snails, which we have in Nevada, so I think it makes sense for NDOW to manage terrestrial invertebrates, such as insects. That would go along with almost every other wildlife agency in the country. As far as the plants go, again, DCNR manages plants right now through the NDF, but to be perfectly honest, they are not executing that duty sufficiently to protect the plants. This is not a critique of NDF—they have other priorities and they also are bound by relatively weak statutes—but in 2020, we asked them to protect Tiehm's buckwheat and they did the whole process I described earlier, which distracted NDF from fighting fires and then they ended up not taking any action. They did not deny the listing, they did not approve the listing. They just sat on it, and here we are two years later, and nothing has happened.

I am not sure the NDF is institutionally capable of providing the actions needed given the current legislative restrictions they operate within. Now, if we provided enhanced legislation, legislative measures and powers to the NDF and sufficient budgets so they could devote the actual attention to it, maybe we would be having a different story. But, as it stands—I hate to bring up California because someone is going to criticize you for it—but the California Department of Fish and Wildlife is the gold standard for biodiversity management in this country; it manages plants and has a robust plant management program. And as I said, 65 percent of states who do manage rare plants do so through their departments of wildlife. It does not mean that DCNR could not do it, but given our existing regulatory structure, it would make most sense and be most harmonious to be at NDOW.

Chair Carlton:

Thank you, Mr. Donnelly. Seeing no more questions, we will close this agenda item.

AGENDA ITEM XII—PUBLIC COMMENT

Chair Carlton:

Our last item today is public comment. I invite those in the room to come forward.

Dominique Etchegoyhen, Deputy Director, DCNR:

I want to clarify a couple of issues that were addressed in this most recent presentation by Mr. Donnelly. Indeed, there are complexities with endangered species and protected species in the State of Nevada. I want to clarify that our Department, while we were informed very recently of today's presentation, we have not been involved in any discussions about the changes that have been presented to you. In fact, we would be opposed to either the transfer of NDNH to NDOW or the transfer of the responsibilities from NDF to NDOW.

Mr. Donnelly said there are challenges that exist in statute, and I think these challenges will exist regardless of which department these statutes and responsibilities lie. And transferring it to a new department to take on those challenges is not going to resolve the underlying issue. The NDF is very well-situated to handle these issues. And while Mr. Donnelly is talking about streamlining the endangered species process, we would then be separating the division that oversees plants—they oversee the management of our forests, our rangelands, our watersheds—so separating out the protected species from that creates an inefficiency in other ways. He sees it as creating a streamlined process, and that creates a lot of concern for us.

Although Mr. Donnelly refers to the challenges we face as a state when we are trying to address wildfire, we are very well-situated to address wildfire and manage species at the same time. I asked State Forester Firewarden KC about this, and she wants to remind the entire state that we are the NDF, not Nevada's Division of Wildfire. We are very capable of managing these issues. It does not sound like there is a proposal to transfer NDNH, but in speaking with that Division's administrator, they would like to remain within DCNR as well.

Crystal Miller, Representative, Walker River Paiute Tribe:

I am an enrolled citizen of the Walker River Paiute Tribe and a doctoral student at the University of Arizona focusing on tribal sovereignty and natural resources management of American Indian tribes. Today, I would like to address the Diamond Flats Project. This project is in Churchill County and has a proposed exploration plan that states that Ormat, an international company based in Reno that supplies alternative and renewable geothermal energy technology, will drill up to 19 geothermal wells to confirm the presence of an economical geothermal resource. This geothermal development site is pending approval by the BLM for exploration and development around the area of Allen Hot Springs, which is located between Shears, Nevada and Fallon, Nevada.

This is a place that holds significant cultural values to the Walker River Paiute Tribe. The BLM, according to the letter received by the tribe from the BLM, is responsible for processing applications and issuing its permits. The Walker River Paiute Tribe has documentation on the historical and traditional use of these said lands done by our cultural monitor with the BLM representative during an assessment. This area has served the Walker River Paiute Tribe as a healing area for thousands of years so noted by the many archaeological resources and petroglyph sites in the area for ceremonial, medicinal, healing, and other cultural uses.

Section 106 of the National Historic Preservation Act of 1966 (Pub. L. 89-665, 80 State 915, [1966]) requires BLM and developers to consider the potential impact on historic properties where cultural significance may be present. We have drafted, as a community and the Walker River Paiute Tribal Council, a resolution to position ourselves in the tribe in

opposition to this approval. The Walker River Paiute Tribe has not gone into formal consultation regarding this permit as required by Executive Order 13175, which was passed on November 6, 2000. This requires government-to-government consultation and coordination with the Indian tribal governments. The Executive Order also mandates the mandatory consultation with tribal governments on issues that directly impact the tribes.

Also, the American Indian Religious Freedom Act of 1978 (Pub. L. 95-341, 92 Stat. 469, [1978]) states "the American Indian Religious Freedom Act of 1978 protects the rights of Native Americans to exercise their traditional religions by ensuring access to sites, use, and possession of sacred objects, and the freedom to worship through ceremonial and traditional rights." In approving this permit from the BLM for the Diamond Flat Geothermal Exploration Project in Churchill County, the Religious Freedom Act would be violated because access to lands freely, without interruption, will be compromised.

Taylor McMasters, Walker River Paiute Tribe:

I am with the Walker River Paiute Tribe and an intern at the Division of Water Resources, DCNR. Two U.S. House and Senate campaign bills have been introduced to advance tribal management of public lands and to improve the protection of sacred and cultural sites, the Advancing Tribal Parity on Public Lands Act (H.R. 8108, 117th Congress) and the Tribal Cultural Areas Protection Act (H.R. 8109, 117th Congress). The significance of the Advancing Tribal Parity on Public Lands Act is to follow the advancing tribal parity on public lands, which will:

- Prohibit the sale of public land containing a tribal cultural site where a tribal nation retains a treaty or other reserved rights or that contains a former reservation;
- Authorize tribal governments to acquire public lands for public purpose;
- Increase tribal consultations and public land use planning;
- Require the consideration of the presence of cultural sites;
- Fulfill treaty obligations in federal lands decisions; and
- Require existing public land advisory boards to include at least one tribal representative.

The Tribal Cultural Areas Protection Act will establish a national tribal cultural area system to designate public lands with cultural significant sites. Tribal cultural areas would be managed to preserve their cultural values while allowing for traditional tribal cultural use; direct public land management agencies to identify potential tribal cultural areas; and provide authority to tribal nations and management of tribal cultural areas. Tribes and tribal people are being asked to stand together in support of this landmark legislation.

We are asking the House Committee on Natural Resources to pass these bills. Tribes are having to fight for cultural sites and to retain them across the country. It is not just us fighting for cultural and healing areas.

Stacey Montooth, Walker River Paiute Nation Citizen, Executive Director, Nevada Indian Commission:

I want to thank the people of the Pyramid Lake Paiute nation for being such gracious hosts. I want to thank Chair Carlton for her amazing leadership. I want to thank Jann; any kind of a meeting has so many moving parts, but when you do it remotely that is especially challenging. I want to thank today's Nevada leaders, the Subcommittee. It seems to me there was a lot of good discussion, and it seems like you all are listening hard and asking a lot of questions.

As the executive director of an agency, which is charged with improving the quality of life for our 27 tribal nations, bands, colonies, and the 62,000 urban Indians who now make Nevada their second home, I am grateful. All our different communities have individual songs, individual creation stories, we eat different foods. However, we are all bonded to the land, and the focus of your Subcommittee is vital to the core of our existence. On behalf of the Nevada Indian Commission, thank you to everyone involved in today's meeting. I look forward and will take on the challenge. I would love to have this Subcommittee go to the other 27 tribal nations, their reservations, in the foreseeable future. Pe-sha, thank you.

Chair Carlton:

I believe this is the first time we have done this. Hopefully, we will take it on through each interim to go out and visit and discuss. We enjoy going out on field trips.

Seeing no other comments, thank you all for participating, those who have come near and far.

AGENDA ITEM XIII—ADJOURNMENT

There being no further business to come before the Subcommittee, the meeting was adjourned at 12:10 p.m.

Respectfully submitted,

Maria Aguayo
Research Policy Assistant

Jann Stinnesbeck
Senior Policy Analyst

APPROVED BY:

Assemblywoman Maggie Carlton, Chair

Date: _____

MEETING MATERIALS

AGENDA ITEM	PRESENTER/ENTITY	DESCRIPTION
Agenda Item II A	Scott H. Carey, AICP, State Lands Planner, Division of State Lands, State Department of Conservation and Natural Resources	Public Comment
Agenda Item II B	Zoë Houghton, Associate, Tom Clark Solutions	Public Comment for Nevada Outdoor Business Coalition
Agenda Item III A	Richard W. Frazier, Tribal Land Manager, Pyramid Lake Paiute Tribe	Microsoft PowerPoint Presentation
Agenda Item III B	Donna Marie Noel, Natural Resources Director, Pyramid Lake Paiute Tribe	Microsoft PowerPoint Presentation
Agenda Item III C	Mervin Wright Jr., Executive Director, Pyramid Lake Fisheries	Microsoft PowerPoint Presentation
Agenda Item IV A	Christine K. Johnson, Ph.D., Executive Secretary, Nevada State Board on Geographic Names (NSBGN)	Information Sheet
Agenda Item IV B	Christine K. Johnson, Ph.D., Executive Secretary, NSBGN	Secretarial Order 3404
Agenda Item IV C	Christine K. Johnson, Ph.D., Executive Secretary, NSBGN	Secretarial Order 3405
Agenda Item IV D	Christine K. Johnson, Ph.D., Executive Secretary, NSBGN	Name Changing List
Agenda Item IV E	Christine K. Johnson, Ph.D., Executive Secretary, NSBGN	Policy Notification Letter
Agenda Item VII	Taylor Patterson, Executive Director, Native Voters Alliance of Nevada	Microsoft PowerPoint Presentation

AGENDA ITEM	PRESENTER/ENTITY	DESCRIPTION
Agenda Item IX	Catherine Williams-Tuni, Chair, Fallon Paiute-Shoshone Tribe; and Leilah Shephard, Tribal Historic Preservation Officer, Fallon Paiute-Shoshone Tribe	Microsoft PowerPoint Presentation
Agenda Item X	Jeffrey S. Thompson, Ph.D. Executive Vice President and Provost, University of Nevada, Reno (UNR); and Alejandro Andrade-Rodriguez, Ph.D., Assistant Professor of Water and Irrigation Management, Department of Agriculture, Veterinary and Rangeland Sciences, College of Agriculture, Biotechnology and Natural Resources, UNR	Microsoft PowerPoint Presentation
Agenda Item XI	Patrick Donnelly, Great Basin Director, Center for Biological Diversity	Microsoft PowerPoint Presentation

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