

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

The Eureka County Natural Resources Advisory Commission (NRAC) held a public meeting on June 15, 2016, at 7:00 p.m. at the County Administrative Facility, Eureka, Nevada.

Members Present: Vice-Chairman Carl Slagowski, Paul Etzler, Leo Damele, Mike Rebaleati (Via Phone conference), Jim Wise, Ken Conley, and Gary McCuin

Members Absent: Mike Protani and Jim Baumann

Others Present: Jake Tibbitts- Eureka County Natural Resources Manager, Jessica Santoyo- Natural Resources Secretary, Dale Bugenig- Eureka County Hydrogeologist, and Ari Erikson- Diamond Mine

Call to Order

The meeting was called to order by Vice Chairman Slagowski at 7:01 p.m., a quorum was determined to be present.

Public Comment

None

Commission Business

Review and approve minutes from the April 13, 2016 meeting.

Gary McCuin moved to approve the minutes from the April 13, 2016 meeting. Leo Damele seconded, motion carried unanimously.

Member Updates and Reports.

Mike Rebaleati stated that he attended the Churchill County Commission meeting and it was nice to hear that Churchill County is in complete support of the National Association of Counties (NACo) efforts in trying to get the wild horse problem under control.

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

Jake Tibbitts covered the following correspondence and natural resource issues.

- Last fall, Lieutenant Governor Mark Hutchinson with NACo held a Summit on Public Lands and based on the presentations/conversations had at the Summit they published a document. The document contains the synthesis/ideas regarding what happened at the summit. **A copy of the document was distributed to all board members present.*
- Kyle Hendrix provided the board with the Bureau of Land Management (BLM) update which includes mining activities, oil and gas activities, noxious weeds projects, 3 Bars Ecosystem and Landscape Restoration Project, Sage Grouse, Right-of-Way (ROW), and a Wild Horse and Burro update. The BLM will be an agenda item next month and Mr. Hendrix will be calling in. **A copy of the update was distributed to all board members present.*
- The Pinion Juniper (PJ) cutters left after two weeks of work and they cut down 975 acres. They cut down 500 acres at Black Point and the BLM has informed him that firewood scavengers will be allowed access to the Black Point area. Since 2013, every tree that has been cut down has been on private property until now when the BLM allowed them access to the Black Point chaining area.
- The deadline for the filing of claims was May 31, 2016 for the Diamond Valley Adjudication. The State Engineer's office is overwhelmed with claims, they are having a hard time getting them processed and on the website. The BLM spent a lot of time in

this area and filed on a lot of public water reserves. The board needs to be aware that those claims were filed and stay up to date on the issue.

- The NV Section of Society for Range Management (NV SRM) will have their summer meeting at the Eureka Opera House. They will be hosting a tour during the meeting to the various PJ cutting locations and the tour will also go out Jim Baumann's Ranch to show everyone the work that the Wildfire Conservation Group did out there. The summer meeting is scheduled for July 29, 2016.

**(A copy of all correspondence covered is available upon request).*

Mining

Discuss mining projects and activities in and affecting Eureka County and consider response to any related issues.

Mr. Tibbitts stated McEwen mining is in the middle of their Environmental Impact Statement (EIS) planning process and they have been hosting conference calls every two weeks with all of the involved parties. Recently, McEwen mining hosted a site visit for the BLM employees who are working on the permitting process and Eureka County was invited to attend as well. During the site visit, BLM handed out a map that shows the mines access routes and the BLM clearly labeled Robert's Creek Road and 3-Bars Road as not having an existing ROW. The BLM will now be looking at mining companies to permit their mine access roads under a ROW and the reason that the BLM is requiring this is because if BLM doesn't have the right to the road they can't impose travel restrictions on the mine. Tonkin Springs is under closure, McEwen Mining has been conducting reclamation and removing all of the facilities out there. Eureka Moly doesn't have any mining activities going on but they do have a lot of water rights issues at the moment. The Barrick Horse Canyon Cortez Unified Exploration Project (HCCUEP) is developing a new Environmental Assessment (EA) for bulk underground exploration/sampling. The BLM has been doing a great job in keeping the county involved in the EA by requesting the county's comments. Mr. Tibbitts stated there are some water management issues related to the EA, which is on the divide between Pine Valley, Grass Valley, and Crescent Valley. There have been water applications coming forward on transferring water for use at the declines for drill fluid and for dust suppression.

Mr. Slagowski asked what about the remaining water that Barrick applied for in Basin 53. Mr. Tibbitts answered that's all for action protested, the county hasn't had any further discussion with Barrick regarding the protest. The county told Barrick that they are not comfortable with having any further discussions until they have an idea of what the impacts of the project will look like. Currently, everything is on hold until the county receives a full blown project model from Barrick and the county can see who will be impacted.

Ari Erikson stated that Diamond Mine submitted their Draft Plan of Operations to the BLM. Diamond Mine continues to move forward slowly with their mining activity and currently they have a few guys conducting cultural surveys out there.

Sage Grouse

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

Mr. Tibbitts stated the BLM hosted a stakeholder Greater Sage Grouse (GSG) Implementation Meeting in Reno, NV recently and the purpose of that meeting was to discuss how BLM would

be implementing the GSG plan. Basically, the BLM doesn't know how to implement their own plans and by the end of the meeting BLM said they would provide an instructional manual for every section within the plan. On the litigation side, the BLM's motion for opposition judgement was due and the BLM is arguing that no one has been harmed by the plan yet so they can't challenge it. If that becomes the case it would mean that they would have to appeal every single decision instead of programmatically appealing the whole thing. Recently, Eureka County had to renew their free use permit at Denay Wash, so the BLM re-authorized the gravel permit but they added a lot of stipulations due to the GSG plan. After looking over the permit and all of the stipulations it means that gravel can't be pulled out of Denay Wash six months out of the year because of the GSG plan. The BLM is basically making criminals out of people because if an individual goes to get gravel at the wrong time of year they will get fined. The GSG talks about imposing fines on the individual who holds the permit and in this case it would be Eureka County. Also on the litigation side, the BLM acknowledged on the record that the "Grousekeepers" through official emails stated that no doubt that the GSG plan would reduce grazing. Mr. Tibbitts stated originally \$5,000.00 were put up for litigation by Eureka County for being a plaintiff but all of that has been used up. The Eureka County attorney on this case has recently requested \$9,700.00 to continue litigation efforts on the GSG plan and Mr. Tibbitts would like to request that the NRAC board allocate \$5,000.00 towards the litigation that would be paid out of this current fiscal year.

Ken Conley moved to allocate \$5,000.00 towards the continued GSG litigation. Mr. Damele seconded, motion carried unanimously.

BLM Planning 2.0

Discuss comments submitted on and consider other actions to address the Bureau of Land Management's Proposed 2.0 Planning Regulations.

Mr. Tibbitts stated Eureka County provided comments on the BLM Planning 2.0, the comment deadline has already passed. BLM planning 2.0 is probably one of the most impactful things that the BLM is trying to get done right now. The BLM is re-writing the implementing regulations of the Federal Land Policy and Management Act (FLPMA). FLPMA is the law and the BLM has authority to write their regulations on how to implement FLPMA and that's what the BLM Planning 2.0 is. Basically, all of the coordination obligations, the consistency review obligations, and all of those similar coordination efforts that are used, the BLM is trying to remove from FLPMA. Recently, there was a big concerted effort regarding the BLM Planning 2.0 where the Governor's Office got involved, the State Land Use Planning Advisory Council got involved, NACo got involved, and the NV Association of Counties (NACO) got involved as well. All of their efforts lead to going through all of BLM's proposed regulations, marking up the suggestions with their recommendations, and showing on the document what should be left alone or changed. Eureka County submitted this document to the BLM as well as a letter outlining their issues with BLM Planning 2.0. NACo and the Governor's Office adopted the final document produced by all of them.

**A copy of the letter and support material is available upon request.*

NV Legislature

Discuss and consider items to present at the Legislative Interim Committee on Public Lands meeting in Elko, July 28.

Mr. Tibbitts stated every interim there are Public Lands Committee meetings around the state and the counties tend to be invited to present their issues during those meetings. This year Eureka County has been invited to participate on July 28, 2016 and it's an opportunity to inform

the State Legislature on what Eureka County would like do related to public lands. In 2014, Eureka County attended the meeting and the following issues were brought up:

- Coordination- Ask for help from the NV Legislature to remind the Federal Land Management Agencies (FLMA) of their obligations in order to achieve consistency to the maximum extent with the county's plans, policies, and desires.
- Policies- Ask for regulation of policies that maximize multiple use of public lands while providing for the sustainability of these lands economically, socially, and environmentally.
- RS 2477- Ask for an outline/path for each county in the state to follow to finally validate ROW's and achieve final title.
- Federal Receipts- Ensure that Federal Receipts are shared with the state and counties, ensure that revenues from mineral proceeds derived from taxes imposed by the state are justly shared with the county in which the non-renewable resource was extracted from and analyze what impacts exist.
- Federal Land Management Agency Decisions- Respond to decisions exposed to the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA).
- Grazing Permits- Ask to strongly oppose any effort that would allow for permanent retirement of grazing permits on Federally Administered Land.
- Overall Efforts- Pursue efforts of BLM, FS, and grazing permittees to (1) ensure that management decisions are based on the best available science, (2) flexibility is built into grazing permits to allow for adaptive management as issues and concerns arise and (3) that the quality and quantity of data collected can support all decisions made based on clear and measurable resource objectives.
- NACo- Ask for support towards NACo's legal challenge to compel BLM to manage wild horses and burros.
- Current Efforts- Ask the Legislature to support expansion of current efforts by diverse groups of agencies and individuals. For example, the NV Pinion Juniper Partnership implements landscape scale projects utilizing Pinion Juniper woodland biomass in a way that benefits energy production, rangeland health, wildlife habitat, hydrologic function, and economic stability.

Mr. McCuin stated for the most part everything that was covered in 2014 is still applicable, they can consider adding more bullet points on the Land Use Planning Amendments (LUPA) and emphasize the wild horse management.

Mr. Tibbitts stated the issues that he would like to see added include:

- Coordination Obligations- Continue educating the Legislature regarding the FLMA's legal obligations and responsibilities.
- RS 2477- Ask the Legislature to provide appropriations in the upcoming session to the Attorney General in order to assist in bringing the quiet title actions forward to achieve final title.
- Wild Horses- Continue to try to find solutions for wild horse management and legal challenges. Remind the Legislature that there is a pending case in front of the Ninth Circuit Court and highlight what's happened in Elko County with the 100% reduction on allotments because of wild horses.
- Local Control- Continue to push for local control which can mean the transfer of public lands or increasing local role/voice.
- Water Issues- Inform the Legislature about the recent local BLM and Forest Service (FS) water filings. Ask the Legislature them to think about putting in NV law where there is

an initial first cut check whenever the BLM files a water right for a public water reserve or a vested claim. Another provision related to livestock industry, is having a provision in water law that would allow for flexibility to conduct water hauls because right now most of the people who are conducting water hauls are doing so illegally. They can ask the Committee to put a letter forward to the Director of the BLM, inform the Director that the matter has been brought to the Committee's attention, and the BLM needs to stay out of water issues.

Discuss and consider requests for consideration by the Legislative Commission Subcommittee to Study Water.

Mr. Tibbitts stated Eureka County provided a public comment letter to the Water Subcommittee last week in Dyer, NV. Recently, the State Engineer released a memorandum talking about the recent Supreme Court decision that has been very beneficial to the Doctrine of Prior Appropriation. Basically, the State Engineer wrote the memorandum in order to try to get some changes made to water law. The memorandum provided an example of the Mt. Hope project which shows that there are 33 waters predicted to be impacted and less than 5 of those waters were highly certain to be impacted, the whole point behind all of this is that mitigation needs to be determined first before anything else because they do not know what kind of impacts the remaining waters will have. Eureka County's comments also requested that the Water Subcommittee never support mitigation as an excuse to grant water applications that conflict with existing rights. Mitigation should never be an excuse for unreasonable and conflicting appropriations of water, putting mitigation ahead of properly applied adaptive management abuses existing water rights holders, ignores the hard work of proper adaptive management demands, and makes the State of NV fail the prior appropriation doctrine in name. If there is anything else the board would like the Water Subcommittee to hear they should inform Mr. Tibbitts, the subcommittee will meet one more time this year.

**A copy of the letter and support material is available upon request.*

Grazing

Discuss and consider action on recent BLM grazing decisions in and/or affecting Eureka County.

Mr. Tibbitts stated the most recent grazing decision is the Elko County wild horse grazing decision where those individuals were told they couldn't turn out at all due to the wild horses. The Elko permittees received a notice that had a table on it which shows the different allotments with the expected percent reduction and most of the reductions were at 100%. The letter stated that based on wild horse use the vegetative objectives for the season have already been met. Basically, the BLM is just trying to get the Elko permittees to sign a voluntary deal similar to the drought decisions. The Elko permittees have been informed that they need to force the BLM to give them a full force in effect decision because if they do not get the full force in effect decision they can't challenge the wild horse management deal. As of today the Elko permittees are figuring out how they will work through this whole deal but the BLM still hasn't issued any full force and effect decisions.

Water Resources Master Plan

Discuss Draft Water Resources Master Plan and consider items and language to add, delete, or augment.

Mr. Tibbitts stated a substantial re-write of chapter eight has been done, which covers the management alternatives. The re-write was based on recent comments and on legal counsel from the county's district attorney. Mr. Tibbitts stated the document basically contains all of Eureka County's water resources, it could potentially be called the Hydrologic Atlas of Eureka County.

Chapter eight outlines the alternatives that Eureka County can choose from and implement regarding water. Alternative one is to do nothing and allow the State Engineer to handle everything. Alternative two is the Review and React alternative, this is basically what is done today where they review the decision and react with litigation. Alternative three is a more coordinated approach towards the situation. Alternative four is active management which would require some type of land regulation because the water can't be managed without some control over the land use, this alternative reflects what is currently being done. The re-write also includes a lot of NEPA and FLPMA language related to coordination which is very similar to the Eureka County Land Use Master Plan. The Planning Commission has scheduled their meeting to adopt the plan at their public hearing on August 1, 2016. Mr. Tibbitts stated if the board has any other suggestions to let him know, if not he would like the board to take action on the plan at their July 2016 meeting.

Right-of-Way

Discuss and consider strategies to move forward with finalizing title to count rights-of-way crossing federally administered land (i.e., RS 2477).

Mr. Tibbitts stated the Halliburton North Umlerland Mine in Monitor Valley is proposing to expand and the problem is that they will be using the access road that comes out of Kobeh Valley. Halliburton contacted Ron Damele and informed him that the BLM wants them to get a Title V action on that portion of the county road. There are seven miles of Eureka County road out there, followed by Nye County road, and lastly a portion of Lander County Road. Eureka County and Nye County will not allow the BLM to get a FLPMA ROW on a county road but the rumor is that Lander County will allow the BLM to do what they want. If Lander County allows the BLM to impose the ROW it could be an issue for everyone involved because that's a continuous road. Mr. Tibbitts stated that there is an attorney from Utah who is with Holland and Hart and he is an expert on RS 2477. The attorney is Shawn Welch and he has been involved with the Utah litigation and the RS 2477 road deal. Mr. Tibbitts recommended that the NRAC board make a recommendation to the Eureka County Commissioners to request a proposal from Mr. Welch on what it would take to get him under retainer to help them develop a high level strategic plan/blueprint on what they need to do to get the RS 2477 deal buttoned up in Eureka County. Basically, he would provide all of the steps that are required to achieve formal title through a court on the RS 2477 roads.

Mr. McCuin moved to approach the Eureka County Commissioners to request a proposal from Shawn Welch on a blueprint to finalize titles to RS 2477 roads in Eureka County. Mr. Rebaleati seconded, motion carried unanimously.

Next Meeting-

Agenda items for the following meeting include BLM, NV Legislature, Water Resources Master Plan, Sage Grouse, and Mining. The board should get any other desired agenda items to Mr. Tibbitts for the next meeting.

The next meeting is scheduled for July 20, 2016 at 7:00 P.M.

Public Comment

Mr. McCuin stated that he got the Extension Coordinator job and his start date is July 11, 2016.

Adjourn— The motion was made by Mr. Damele and seconded Mr. Conley to adjourn the meeting. There being no further discussion, the meeting was adjourned at 9:37 p.m.

Approved this _____ day of _____, 2016.

Respectfully submitted: _____
Jessica Santoyo, Secretary

Approved: _____
Jim Baumann, Chairman