

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

The Eureka County Natural Resources Advisory Commission (NRAC) held a public meeting on June 20, 2017, at 7:00 p.m. at the County Administrative Facility, Eureka, Nevada.

**Members Present:** Jim Baumann, Carl Slagowski, Paul Etzler, Mike Rebeleati (via phone conference) and Gary McCuin

**Members Absent:** Leo Damele, Jim Wise, and Ken Conley

**Others Present:** Jake Tibbitts- Eureka County Natural Resources Manager, Jessica Santoyo- Natural Resources Secretary, Gracie Damele- Natural Resources Intern, Dale Bugenig- Eureka County Hydrogeologist, and Ari Erikson- Gullsil

**Call to Order**

The meeting was called to order by Chairman Baumann at 7:06 p.m., a quorum was determined to be present.

**Public Comment**

None.

**Commission Business**

*Member Updates and Reports.*

None.

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

Jake Tibbitts covered the following correspondence and natural resources issues.

- Gracie Damele, just started her summer internship through the college of Idaho. She will be working with the Eureka Conservation District and Eureka County.
- The Eureka Board of County Commissioners (BOCC) accepted Leo Damele's and Mike Protani's resignation letters. The NRAC board now has two vacancies, one is for a mining representative and the other is for a farming representative. The advertisement is posted in various locations around town regarding the vacancies. If the board members know of anyone who is interested in becoming a board member please ask them to submit a letter of interest to the BOCC.
- The Bureau of Land Management (BLM) Battle Mountain District (BMD) Oil and Gas Lease sales went up for sale online. BLM advertised 106 parcels for sell and only three parcels sold. The sale means that the purchasing company can go in and explore the site. Two out of the three parcels that were sold are located in Eureka County southeast of JD Ranch. *\*A copy of the map showing the parcels sold in Eureka is available upon request.*
- Karen Budd-Falen has been nominated by the Trump Administration to be the next BLM Director. She will have to go through a tough Senate Confirmation in order to get the position. Ms. Budd-Falen is a big on coordination efforts and she also led the anti-trespass lawsuit in Wyoming.

**Agency Reports**

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

None.

## **Mining**

*Discuss other mining projects and activities in and affecting Eureka County, including but not limited to the Barrick Deep South Expansion, McEwen Mining Gold Bar Project, GRP Resources Gold Rock Project, Gullsil Prospect Project, Halliburton Ann Barite Project, all Carlin Trend operations and consider response to any related issues or comment periods.*

Mr. Tibbitts stated that McEwen Mining' Draft Environmental Impact Statement (EIS) was released and they are currently working on finalizing all of their responses to comments. The final EIS should be out within a couple of months. Eureka County did receive responses back to the comments that were made on the project. Ron Espell has done a great job in addressing the county's comments and concerns. *\*A copy of the comments and responses is available upon request.* Mr. Tibbitts stated that Halliburton is developing the Ann Barite Project down by the North Umlerland Project. The project is out of Eureka County but the reason that they are involved is because of their staging area that is right off Highway 50. All of the barite that is mined will be transported to the staging area by the highway where they will stockpile it. They will then transport it to Dunphy for processing because they will not be doing any processing at the mine site. They will be traveling on county roads that cross through Nye, Lander, and Eureka. The BLM has informed Halliburton that they need to get a Title V Federal Land Policy and Management Act (FLPMA) Right-Of-Way (ROW) on the entire road. Eureka County will be getting involved in the matter because they will not allow them to get a ROW on a county road. *\*A copy of the map showing the project site is available upon request.*

Ari Erikson stated that everyone knows that the BLM takes a little while to get things done. Mr. Erikson stated that he had a very productive meeting with the NV Department of Environmental Protection (NDEP) regarding water pollution permits. They don't really have much going on at the moment, they're just in the waiting game.

## **Water Resources**

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

Mr. Tibbitts stated that the Diamond Valley (DV) Groundwater Management Plan (GMP) is currently with the State Engineer for his informal review. The plan doesn't include the petition yet and the requests for signatures will likely happen later this summer into the fall timeframe. Mr. Tibbitts stated that the Waters of the U.S. (WOTUS) Rule comment deadline for state and local governments was June 19, 2017 and Eureka County did provide comments regarding the rule.

Dale Bugenig, Eureka County Hydrogeologist provided a presentation/update on Eureka County and the Diamond Natural Resources Protection and Conservation Association (DNRPCA) Monitoring Wells. Mr. Bugenig presented monitoring data on various wells in Eureka County. *\*A copy of Mr. Bugenig' presentation is available upon request.*

Mr. Tibbitts stated that during their last meeting they discussed the Public Water Reserve (PWR) checklist and how BLM had to say "yes" to every item on the checklist before filing. Mr. Tibbitts submitted a public records request to the BLM requesting to see every single one of those checklists and recently John Shreve informed him that Eureka County should receive all of that information by the end of the month. Shortly after that request was submitted, a letter was received from Marci Todd, the NV BLM Acting State Director replying to an email that he had sent her regarding the PWR. Her letter states the following, "The BLM has filed approximately 460 vested claims on waters on public lands in Nevada. Some of these claims were obtained

through land acquisitions and others were based on the date on which the land came into ownership by the U.S., which was established as 1848 by the Treaty of Guadalupe Hidalgo.” Mr. Tibbitts stated that this is the whole argument with the PWR, how can BLM claim those PWR claims when the BLM didn’t even exist in 1848. So with all that being said, the Capital Press published an article where Secretary Ryan Zinke from the Department of Interior and Secretary Sonny Perdue from the Department of Agriculture went to Idaho. They met with the Idaho Cattlemen’s Association, Farm Bureau, and various agricultural interests and it got reported by the Capital Press and Western Livestock Journal. The article states that the Idaho Farm Bureau Federation President and farmer Bryan Searle told the secretaries that 10 years after the Idaho Supreme Court agreed with Idaho ranchers that the BLM can’t own stock watering rights on Federally Administered Land, “they’re still trying to take those rights.” “When that was said, Secretary Zinke said, ‘Give me names,’”. Mr. Tibbitts stated that this is the same issue here in NV because they also have a Supreme Court decision that states that BLM can’t own stock water rights. The issue with all of this is that if BLM can claim the Treaty of Guadalupe Hidalgo then that means they can claim every surface water source in the state of NV. Mr. Tibbitts stated that it is a good thing that Secretary Zinke is asking for names because they can start moving the process back up the ladder again. *\*A copy of the BLM letter and Capital Press article are available upon request.*

### **2017 Nevada Legislative Session**

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

Mr. Tibbitts stated that Assembly Bill (AB) 298, which was the mitigation bill died didn’t make it out of the Senate Committee. AB 407 which would designate University of Las Vegas (UNLV) and the Desert Research Institute (DRI) as land grants passed the Legislature but it was vetoed by the Governor. AB159 was the anti-fracking bill which would have prohibit hydraulic fracturing but that bill died as well. AB101 is the predator fee bill where they require that 80% of all funds raised from sportsmen tags be used for predator work, the bill passed legislature but the governor vetoed it. The forfeiture notice water law was signed by the Governor and this where the State Engineer is now required to give a notice of forfeiture to an individual before he can forfeit any water rights. The law now expressly authorizes harvest of roof top water for domestic non-potable use, they don’t want people harvesting water and then drinking it. The statewide call for proofs for vested claims passed, so individuals have until December 31, 2027 to file their claims of vested rights. Mr. Tibbitts recommended that the NRAC recommend that the BOCC write three letters to express their thanks to the following individuals: Governor Sandoval, Senator Cancela, and Representatives Pete Goicoechea and John Ellison. *\*A Copy of the legislation is available upon request.*

Carl Slagoswki moved that the BOCC write three letters as follows: one to Governor Sandoval, one to Senator Cancela, and one to Pete Goicoechea and John Ellison to say thanks for all of their work this legislative session. Mr. McCuin seconded, motion carried unanimously.

Mr. Tibbitts stated that this session turned out as well as it could because every bill they didn’t want to pass didn’t or if it passed it got vetoed by the governor.

Ari Erikson stated that they should consider inviting Senator Cancela out to this area to really show her what she is defending out her in rural NV and show that they are genuinely thankful for her support of rural NV.

### **Naval Air Station Fallon Range Training Complex (FRTC) Modernization EIS**

*Update on and consider response regarding FRTC Modernization EIS.*

Mr. Tibbitts stated that the Navy is making rapid progress in getting their EIS completed. Currently, they are hosting a lot of work group meetings to work on the EIS questions and concerns from local government entities. The direct impacts to Eureka County is in the air space changes and the indirect impacts are the loss of grazing Animal Unit Month's (AUM's) for the Etchegaray family. The section of airspace that would have the most impact is called the Zircon Air Traffic Control Assigned Airspace (ATCAA) because it covers Diamond Valley (DV), Pine Valley (PV) and Crescent Valley (CV). The Navy is proposing to change the ATCAA into a Military Operation Area (MOA) and raise the ceiling to 50,000 feet which would mean that they could conduct military operations in the area. The biggest concern with all of that is that they are operating from surface level and how will that impact land uses. Mr. Tibbitts stated that during the work group meetings he stated the same thing and how would their MOA impact land uses. The Navy responded that they will not be operating from the surface they will operate from 17,000 feet to 50,000 feet and that they would make that clarification in the plan.

Ari Erikson stated there is really crappy Air Traffic Control (ATC) signals in this area and if they bring that down to the 17,000 feet, how will they handle the private planes because there are a lot of dead zones.

Mr. Tibbitts stated that in the BOCC's scoping comments they requested that the Navy fill all of the dead spots because there are a lot of private pilots who have expressed the same concern. The BOCC provided a 10 page comment letter that the NRAC approved and it covers all of the safety issues. The biggest concern is the Zircon ATCAA because it covers almost all of DV. During the upcoming meeting where all counties entities sit down and discuss reasonable alternatives, Eureka County will request adjustments in the airspace around the airport. The Navy has said that they have studied this a lot and that they can't give them any less than what they are asking for. The way the EIS is writing is the bare minimum that the Navy needs to continue with their mission basically it will be this plan and nothing else. Mr. Tibbitts stated that if it's this and nothing else then they should just get to the mitigation issues and stop trying to find reasonable alternatives when there isn't any. The Navy has stated that there aren't any impact to land uses but Eureka County will be requesting that they specifically say that in the EIS. *\*A copy of the map and Eureka County's scoping comments.*

### **Sage Grouse**

*Discuss and consider response to recent activities and issues related to sage grouse including, but not limited to Secretarial Order 3353, Federal Land Use Plan Amendments, and current and potential litigation, NV Sagebrush Ecosystem Program and NV Greater Sage-Grouse Conservation Plan.*

Mr. Tibbitts stated that Secretary Zinke released an order, Order 3353 and it directs all interior organizations such as Fish and Wildlife Services (FWS) and BLM to come back together to look over all of the Land Use Plan Amendments (LUPA) for the Sage Grouse plan. Secretary Zinke wants them to look over all of the LUPA's and compare them to the state sage grouse plans that were developed and provide a review on both. The organizations have 60 days to report back and summarize their review with suggestions on how they can meet his standards. Secretary Zinke informed the folks in Idaho that they will be looking at sage grouse population numbers rather than strict habitat which is a step in a positive direction. The concern with the whole deal is that this is all happening before the Director and the Deputy Directors of BLM are in place, the current people on the team are career agency people that are just placeholders until the appointments are completed. Eureka County is staying very involved in the issue as it moves forward. *\*A copy of the order is available upon request.* Mr. Tibbitts stated an Interim Guidance was

released by BLM that is specific to livestock grazing to provide clarification on the Sage Grouse Plan Table 2-2 habitat objectives. The table tells individuals that wherever there is sage grouse they have to meet specific objectives such as the seven inch stubble grass height and the concern with that is that in the Great Basin area without any grazing the grass doesn't ever grow to be seven inches tall. The clarification states that BLM staff will use ecological site descriptions to implement but they have to keep in mind that this is just a guidance document for BLM. Mr. Tibbitts stated that this document was actually leaked. J.J. Goicoechea and Mr. Tibbitts had the opportunity to review the document, provide edits and some of the edits provided have actually been incorporated in some way. This was one of John Ruhs' jobs, to help get this document out without any rogue staff trying to make any changes to the document before it was released.

*\*A copy of the interim guidance is available upon request.*

### **BLM Planning**

*Discuss and consider response on effort to update BLM planning regulations.*

Mr. Tibbitts stated that BLM Planning 2.0 was overturned through the Congressional Review Act (CRA) and currently there is a Congressional Memorandum signed by the Acting Director of BLM recognizing President Trump's Resolution 44. Resolution 44 nullifies BLM Planning 2.0 and states that the system is broken and that it isn't producing the result that is wanted by the American people. Basically, President Trump wants BLM to foster a good neighbor policy, restore the multiple use mission of the BLM, and look over the planning rules that already exist to create a better rule. They are all currently defaulted to the 1928 Planning Rule and even that rule needs to have some changes made to it because it isn't perfect either and who knows how many counties were involved in helping create that rule. The memorandum that the BLM Director sent out is asking BLM to identify where redundancies and inefficient processes exist with the rule and that they create specific criteria to meet those issues such as with coordination. Therefore, NACO was approached by BLM and BLM told NACO that they would be representing all of the counties on this matter. NACO has a group within their program called the Western Interstate Region (WIR) which is a sub-group of county commissioners that represent the counties in the west and they were tasked with developing a core group of county commissioners or staff. The group has been created to work with BLM and come together to find opportunities to potentially have a new planning rule that the counties can fully support. Mr. Tibbitts stated that he has been asked to be part of the group and he has been attending their planning meetings.

*\*A copy of the memorandum is available upon request.*

### **Grazing**

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

Mr. Tibbitts stated that the Targeted Grazing Environmental Assessment (EA) has been finalized and the notice of the proposed decision has been received. The entire EA was approved except the mowing option and they didn't say why they removed the mowing option. There currently isn't a comment period on the EA but BLM did make a lot of good changes based on Eureka County's comments. Mr. Tibbitts recommended they write a letter to the BLM supporting the proposed

Mr. McCuin moved to write a letter to the BLM saying that Eureka County supports the proposed decision on Targeted Grazing Fuel breaks. Mr. Slagowski seconded, motion carried unanimously.

Mr. Tibbitts stated that the Trailing Programmatic EA is currently in the 30 day scoping process and all the scoping does is narrow down the analysis. The EA will be out soon and they can

provide comments at that point in time. Currently, there is a Western Watersheds lawsuit going on that is linked to any grazing that is occurring on public lands requires to be analyzed under NEPA, Western Watersheds takes all of these cases to court and wins because of that fact. Therefore, BLM is working on getting this EA in place so they aren't continuously approving trail permits but only site specific permits.

Mr. McCuin stated that he has been working on getting the Cooperative Monitoring Handbook moving forward but one of the issues they are facing right now is with the NV Range Handbook Monitoring Update. They need to get that ironed out first before moving forward. He has been working with Kathryn Dyer, the State Range Lead and Ms. Dyer has agreed to write an Instructional Memorandum to John Ruhs for him to sign that says the BLM will play nice when it comes to requesting cooperative management under the appropriate scenarios. They are working to get a Memorandum of Understanding (MOU) in place since the Public Lands Council (PLC) MOU is not functional at this time. They are working on getting a NV State MOU between NV Cattlemen's, the Central Committee and the BLM for cooperative monitoring in order to have a more flexibility. Mr. McCuin stated that he is satisfied with the way things are progressing.

**Next Meeting-**

Items suggested for the agenda include: updates on motions made and ongoing agenda items. The board should get any other desired agenda items to Mr. Tibbitts for the next meeting. The next meeting is scheduled for July 19, 2017 at 7:00 P.M.

**Public Comment**

Mr. Tibbitts stated it would be nice to have a couple of new board members or individuals come forward by their next meeting. So, if the board knows of anyone interested please encourage them to submit a letter of interest to the BOCC and the BOCC can appoint by their next meeting. They need to fill the mining and farming seats.

Ari Erikson stated that he is interested in submitting a letter of interest for the mining vacancy on the board. He wanted to make the board aware of his intent and receive their blessing to move forward.

**Adjourn**— The motion was made by Mr. Slagowski and seconded Mr. Etzler to adjourn the meeting. There being no further discussion, the meeting was adjourned at 9:24 p.m.

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

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

Jessica Santoyo, Secretary

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

Jim Baumann, Chairman