

**MINUTES OF THE  
SENATE COMMITTEE ON NATURAL RESOURCES**

**Seventy-fourth Session  
March 7, 2007**

The Senate Committee on Natural Resources was called to order by Chair Dean A. Rhoads at 3:33 p.m. on Wednesday, March 7, 2007, in Room 2144 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Dean A. Rhoads, Chair  
Senator Mike McGinness, Vice Chair  
Senator Mark E. Amodei  
Senator Joseph J. Heck  
Senator Bob Coffin  
Senator Michael A. Schneider  
Senator Maggie Carlton

**STAFF MEMBERS PRESENT**

Susan Scholley, Committee Policy Analyst  
Randy Stephenson, Committee Counsel  
Ardyss Johns, Committee Secretary

**OTHERS PRESENT:**

Michael R. Montero, Nevada Cattlemen's Association  
Boyd M. Spratling, D.V.M., President, Nevada Cattlemen's Association  
Sabra Smith-Newby, Director, Intergovernmental Relations, Clark County  
Robert F. Folle, Compliance Manager, Air Quality Management, Clark County  
Dr. Craig Kadlub, Director, Government Affairs, Clark County School District

**CHAIR RHOADS:**

We will start our meeting today with a presentation by the Nevada Cattlemen's Association.

MICHAEL R. MONTERO (Nevada Cattlemen's Association):

As the lobbyist for the Nevada Cattlemen's Association, it is my pleasure to introduce your speaker for the day. Boyd Spratling is the president of the Nevada Cattlemen's Association and is an active rancher in Elko County. He is also an active, practicing veterinarian.

BOYD M. SPRATLING, D.V.M. (President, Nevada Cattlemen's Association):

Ranchers are not good at public relations. We do not do a very good job of getting out and telling our side of the story, and frequently, when ranching or grazing on public lands is in the news; it usually puts agriculture in a negative light. It is therefore, important to share with you some of the things agriculture contributes to society, in general, within this State. The Nevada Cattlemen's Association represents about 700 members within the State of Nevada. Ranching has become a shrinking community with fewer ranchers each year. Ranching is different in Nevada than any other state. For example, in Nebraska, ranching is on almost all private property with deep, rich soils. In Nevada, only about 11 percent in land mass surface area is private property.

A lot of agriculture in Nevada involves production of high-quality alfalfa hay, which is used not only in this State, but also sent to neighboring states to provide forage for dairy cows. The remaining portion of forage production within the State is native-grass hay, which is produced on native meadows. Those meadows are essentially the same as they were when people moved across the State in the 1840s. They are unique places, rich in habitat for people, wildlife and livestock production. They would probably be referred to as "wetlands," which has taken on a legal connotation. We prefer to refer to them as wet, green places, because that is absolutely what they really are, and it is where animals and people thrive around this State.

In the Great Basin, most of our moisture comes in the form of snowpack, which comes during the off-season when plants are not growing. In the Midwest, the moisture comes during the growing season, so there they grow fertile production crops, with no irrigation. In the Great Basin, the opposite is true. We depend on runoff from the snowpack to feed the native meadows. Rivers like the Humboldt, Walker and Carson are all indicative of these high-producing meadows within the State. Essentially, the meadows produce the same species of grasses that were there 140 years ago. There is no deep plowing, which is a benefit to society, because we do not have the dust and erosion problems associated with deep plowing. A properly functioning meadow

serves as a natural filter. Any runoff or deposits of particulate matter are actually filtered out in the meadows, so meadows serve an important function. Meadows also serve as a natural floodplain and absorb the energy of a flood.

DR. SPRATLING:

Wet, green places are important for a concentrated wildlife habitat. A lot of people think you cannot have livestock production and good wildlife habitat on the same property. We contend that is simply not true. These meadows are so productive, you can get that combination of function. They also serve as a fire barrier. Since 1999, single fires burning over 100,000 acres in Nevada have become the norm. One fire burned 250,000 acres last summer. It burned for 25 miles because of the inability to get in front of it and stop it. In some cases, the only thing that can stop a fire is a meadow.

Transition habitat is an important part of ranching. These are areas at the foot of mountain ranges, where we see a lot of bitterbrush and sagebrush. They are the movement corridors of mule deer going from their winter grounds to the higher elevations where they spend the summers. Transition habitat also serves as a fawning ground where the does have their offspring. In the northern part of the State, a lot of transition areas are in private ownership and provide an important habitat for mule deer.

Every industry that is successful has changed in the last several decades. We have all evolved and learned how to do business differently. Even the mindsets of the agencies, as well as people on the land itself, have changed their views. In the 1950s, there were riparian areas we called "sacrifice" areas where damage was done by season-long grazing. The cattle would be on one area for the entire hot, six-month season, and eat most of the forage and cause erosion from trampling, which is what was expected; hence, "sacrifice" area. As we have grown and learned the importance of a riparian area for both wildlife habitat and erosion control, we have learned that these are not "sacrifice" areas, but can be managed with grazing.

Actions have impacts. We can see positive and negative results from every action. Our failure to deal with weed invasions has led to extremely negative impacts. On the other hand, the introduction of nonnative species, such as the Rainbow, Brook and Brown trout, had a positive impact, providing an opportunity for anglers, but also had a negative side because it was tough on some native species, like the Lahontan cutthroat trout. Comins Lake is a prime

example of decisions that have impacts. It is a valued asset to sportsmen in the State, but there are other consequences, some negative. Because downstream irrigation ceased, the total acreage of meadow decreased dramatically. The choices were made and consequences weighed. We have a fantastic fishery, but other wildlife may suffer to some degree. All natural resources have a balance sheet that must be reconciled. Those are the types of management decisions that have to be reconciled with natural resource management.

Agriculture contributes to society in many ways. One is open spaces, which is something on the minds of a lot of people in Nevada. As our population and urban areas expand, there will be a need to take up more space for development. That highlights the family ranches that stay in business, contributing to, and resulting in, open space over the long-term. Rangeland health is another contribution of agriculture. Wildlife benefits from the impacts of short-term grazing. Wildlife thrives on the green regrowth that appears after grazing. Grazing takes away the mature growth, and when the cattle are removed, regrowth occurs after a short period of time and wildlife thrives on that regrowth.

DR. SPRATLING:

Range improvements over the last 20 years have changed dramatically. In 1970, there were 370,000 mother cows in this State. In 2004, that was down to 240,000, so the assertion that we are putting more and more cows out there is simply not true. The sheep industry has almost become extinct. At the turn of the century, there were millions of sheep in this State. We are currently down to 30,000, total, in the State of Nevada. That is a loss of approximately 500,000 animal unit months (AUM). One cow for one month of grazing equals an AUM. The benefit of each AUM to the local economy is \$68. That loss of 500,000 AUMs creates a major impact to local rural economies in small towns throughout the State.

Property tax revenues are another important contribution, because there is a lot of property tax paid by Nevada's agriculture. Agriculture also employs families who buy cars, tires and other consumable goods, so the contribution to local economies is extremely important.

There are a lot of threats to the family ranch. We are no different than any other small business in that we have taxes, health care and cost of labor to worry about, as well as car-care concerns. The most far-reaching decision a rancher

makes is to keep the ranch for another generation. In order to do so, he must be totally committed to a modest lifestyle. The preservation of the family ranch is the greatest single ally of a true resource advocate. If you are truly concerned about the environment and sustainability of the values I have mentioned; open space, etc., preservation of the family ranch is key to that process. How can we sustain these values? As I said earlier, there is a combination of public- and private-land ownership of these economically viable ranches. They are often put at risk through grazing decisions or lawsuits from environmental groups, and one of our biggest problems is regulation. Anymore, a person with a robe sitting behind a bench is making day-to-day decisions instead of the field office for the Bureau of Land Management (BLM) or the U.S. Forest Service. They are being taken to court and the management tools are being taken away from our BLM offices. That puts the family operation at higher risk of failure.

The dry lightning storms go through in August, and the rancher waits with bated breath to see if it will hit his range. When it does not, he is relieved, but knows then that now his neighbor is the guy who is going to suffer. Some people would say that zoning is the answer to keeping these open spaces, but in this situation, more regulation is not the answer, but would actually complicate things even worse. Wildfire is another whole issue, and I have prepared testimony regarding it ([Exhibit C](#)). If there is one thing I would like to leave with you today, it is the importance of active, proactive management of our rangelands and public lands. The hands-off policy that is being advocated by some groups is absolutely the wrong way to go. In my opinion, if you are promoting a hands-off policy, you are, basically, a cheatgrass advocate.

SENATOR CARLTON:

You were talking about the person with the robe making the decisions. Who is bringing those things to his courtroom?

DR. SPRATLING:

There are a number of so-called environmental activist groups, and I question their true intentions. They say they are for resource management, but are actually there for a hands-off policy and think man should not interfere on public lands. They protest decisions made at the local level on how or when to graze, changes or improvements to the land and proactive management schemes. They take it to the district or federal courts, and once there, one person is going to make that day-to-day decision that should be done at the local level.

CHAIR RHOADS:

We will open the hearing on Senate Bill (S.B.) 60.

**SENATE BILL 60**: Increases the maximum amount of the proceeds collected from administrative penalties that may be retained by a local air pollution control board. (BDR 40-347)

SABRA SMITH-NEWBY (Director, Intergovernmental Relations, Clark County):

I have prepared a packet of information for you about our Air Quality Management Program ([Exhibit D](#)). It includes a press release regarding our dust-control program and its progress through the Environmental Protection Agency (EPA) attainment-status approval process. Earlier this year, we met a milestone when we met federal clean-air standards for three consecutive years. Our achievement did not come without hard work. In 2001, air-quality scientists estimated that some 120 tons of pollution could be emitted in the Las Vegas Valley each day. Scientists estimated that 29 percent of the dust problem came from construction sites, 31 percent from residents driving on unpaved roads and 36 percent came from vacant land being disturbed by cars, or other means.

Through a combination of education, increased inspections, requirements to water down construction sites, a wind-advisory program, paving some unpaved roads and installing an air-quality monitoring system, we have been able to achieve clean-air standards for three years. It was our efforts to improve air quality that kept our community from losing millions in federal highway funds, threatened by the EPA.

So, what does all this have to do with S.B. 60? Our increased efforts to attain air-quality compliance have resulted in an increased cost of the program. In 2006, our costs for administrating this program were over \$400,000. Despite this, Clark County continues to collect only \$17,500 per year, leaving local taxpayers to subsidize this program by over \$380,000 annually. I would like to draw your attention to the second packet I distributed ([Exhibit E](#)), which has a series of two bar charts. The first shows the growth of the penalties collected from 1993 to 2006. The second shows the income to the Clark County School District, and the cost recovery for Clark County.

Ms. SMITH-NEWBY:

When we began this program in 1993, collecting only about \$100,000 with 1 employee, who would have known that we would someday have a county-wide education program with 6 employees performing over 17,000 inspections annually, educating over 21,000 construction-site workers on methods of dust control and collecting penalties consistently in excess of \$1 million?

Senate Bill 60, as written, would simply change the cap of the funds that Clark County could receive to cover the cost of administering of the program. Notice that the 17.5-percent level stays in place, assuring that even with this change, Clark County taxpayers will continue to subsidize the program, although not to the same extent as before.

I understand that the Clark County School District is opposed to this measure, and because of that, I have actively pursued a compromise. It is not easy to bring this issue forward, but we feel this program, its success and the impacts it has on the health of all of our community, compels us to do so. We are absolutely willing, and ready to work with the school district on a compromise, if given an opportunity to do so; perhaps even one that allows both of us to grow.

SENATOR HECK:

What is the cost of the program?

Ms. SMITH-NEWBY:

In 2006, the cost was a little over \$400,000. Of that, \$35,000 was indirect costs, and \$390,000 went to salaries and benefits.

SENATOR HECK:

So, if the County is able to keep up to \$400,000, it would create a hole in the school district's budget.

Ms. SMITH-NEWBY:

The bill would keep the 17.5 percent, but just raise the cap, so at the 2006 level, where we collected \$1,150,000, the amount we could collect would still not cover our costs. We would get \$195,201, so it would make a slight impact on the school district.

SENATOR HECK:

So, there is still some taken away from the school district. How does the County propose to make up for that?

MS. SMITH-NEWBY:

That is, essentially, the crux of this bill.

SENATOR MCGINNESS:

Did you indicate there was a compromise with the school district?

MS. SMITH-NEWBY:

I have been pursuing one, but I have not gotten there yet.

SENATOR CARLTON:

This goes to the underlying policy of allowing people to fine in order to fund their budgets. Ultimately, we do not want to have to give fines, because we do not want people polluting. By living off the fines, you almost want people to pollute. We know it is always going to happen, but when you fund yourself off the fines, it makes a tough circle. The county will eventually have to come to the realization that if they want a program like this, they have to fund it. Then, if we collect fines, maybe the money should go into the County's general fund. That is how we do it in other places.

MS. SMITH-NEWBY:

We have discussed this at length. There is a principal-agent issue here and I understand that was why it was set up for the excess to go to the school district. The problem was, in 1993 our salaries and benefits amounted to \$18,000, but the expansion of the program with everything we have been doing, has caused that to grow over time. Even if S.B. 60 goes through as is, we still would not be covering our budget. Clark County would still be paying over half the cost of it. In addition, the fines are always variable. We never know from one year to the next what we will be getting. Ideally, we would work ourselves out of a job, and we are prepared to do that. However, we find that with our increased costs and the good work we have been doing, the taxpayers are subsidizing this more than was originally intended.

ROBERT F. FOLLE (Compliance Manager, Air Quality Management, Clark County):

We wish we did not have to issue any penalties, and hopefully, someday that might come true, but I seriously doubt it. With the growth throughout



Clark County, we do not have the budget to cover the cost to keep this program going.

SENATOR HECK:

When did the County take over the responsibility for air-quality control from the health department?

MR. FOLLE:

It was approximately October 2002.

SENATOR HECK:

To what do you attribute the increase in the number of penalties assessed? Have you increased staff so there are more inspectors?

MR. FOLLE:

I have been with the Clark County Air Quality Control for ten years. In 1997, the entire department employed 34 people. My division, which is only 1 of 5 divisions in Air Quality Control, has 52 full-time staff. The total in the entire department is 165. We have a full complement of about 30 field enforcement inspectors, so we are able to do 17,000 inspections a year. Since we are able to do more inspections, we find more violations.

DR. CRAIG KADLUB (Director, Government Affairs, Community and Government Relations, Clark County School District):

The issue for the Clark County School District is we are not in a position to give up any portion of our revenue. School districts appeal to this body every session for additional funds. We remind you that Nevada's per-pupil funding is one of the poorest in the nation. Clark County's per-pupil allocation is several hundred dollars below the statewide average, which means 71 percent of Nevada's students, are actually funded at close to the lowest rate in the nation.

As a result, Clark County has some of the largest schools and class sizes in the nation. It is becoming increasingly difficult to attract and retain staff with approximately 500 vacancies. We have no additional resources to cope with our 70,000 second-language students, despite the fact they need extraordinary services. Our ratios of counselors and nurses to students are among the worst in the country.

These negative conditions are all directly related to the amount of money with which we have to work. The Legislature's recent study of school-funding adequacy confirmed this by concluding that Nevada schools are underfunded. Clearly, the school district is not in a position to give away money. The dollar amount we are discussing here may seem small in the big picture, but it is approximately equal to the per-pupil funding for one entire classroom of students for one school year. That is, it would fund the teacher, support services, administration, computers, books, maintenance and everything else we provide for 30 children for one year. We do not want to lose that.

We appreciate that the County also has legitimate needs and expenses, but unlike the County, the school district cannot generate operating revenues by introducing or increasing taxes and fees. We are totally dependent upon the Legislature for providing and protecting our operating revenues.

In light of our many needs and limited resources, our position in this matter can only be to oppose any and every threat to our existing revenue sources.

CHAIR RHOADS:

How much money would the school district lose?

DR. KADLUB:

Based on the last couple years of collections, we would lose approximately \$160,000 to \$180,000 per year.

CHAIR RHOADS:

Dr. Kadlub, would you get together with Ms. Smith-Newby and see if you can reach a compromise in the next couple of weeks? Perhaps we can hear more on S.B. 60 during a future work session.

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CHAIR RHOADS:

There being no further business, the Senate Committee on Natural Resources is adjourned at 4:23 p.m.

RESPECTFULLY SUBMITTED:

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Ardyss Johns,  
Committee Secretary

APPROVED BY:

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Senator Dean A. Rhoads, Chair

DATE: \_\_\_\_\_