

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON NATURAL RESOURCES, AGRICULTURE, AND
MINING**

**Seventy-Sixth Session
March 10, 2011**

The Committee on Natural Resources, Agriculture, and Mining was called to order by Chair Maggie Carlton at 1:32 p.m. on Thursday, March 10, 2011, in Room 3161 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/76th2011/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Maggie Carlton, Chair
Assemblyman Joseph M. Hogan, Vice Chair
Assemblyman Paul Aizley
Assemblyman Elliot T. Anderson
Assemblyman David P. Bobzien
Assemblywoman Irene Bustamante Adams
Assemblyman John Ellison
Assemblyman Ed A. Goedhart
Assemblyman Ira Hansen
Assemblyman Kelly Kite
Assemblyman Pete Livermore
Assemblyman Harvey J. Munford
Assemblywoman Peggy Pierce

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Amelie Welden, Committee Policy Analyst
Randy Stephenson, Committee Counsel
Judith Coolbaugh, Committee Secretary
Sherwood Howard, Committee Assistant

OTHERS PRESENT:

Scott Raine, Chair, Board of Wildlife Commissioners, Department of Wildlife
Daryl Capurro, Board of Wildlife Commissioners, Department of Wildlife
Gerald A. Lent, O.D., Vice Chair, Board of Wildlife Commissioners, Department of Wildlife
Kathryn Bricker, Private Citizen, Zephyr Cove, Nevada
Christine Schwamberger, Private Citizen, Carson City, Nevada
Elaine Carrick, Private Citizen, Reno, Nevada
Sherine Kuckhoff, Private Citizen, Incline Village, Nevada
Patrick McLaughlin, Private Citizen, Verdi, Nevada

Chair Carlton:

[There was no roll call. The Chair reminded Committee members, witnesses, and members of the audience of Committee rules and protocol.] Today we welcome Mr. Raine and Mr. Capurro, who will present an introduction and overview of the Board of Wildlife Commissioners.

Scott Raine, Chairman, Board of Wildlife Commissioners, Department of Wildlife:

Thank you for inviting us. I have brought two other members of the Nevada Board of Wildlife Commissioners with me, Daryl Capurro and Gerald Lent. I am a fifth-generation Nevadan and live in the town of Eureka. I have been on the Board of Commissioners for three and one-half years. The Commissioners are the general equivalent of a board of directors in private industry. We are guided by *Nevada Revised Statutes* (NRS) in that we provide broad guidance and oversight to the Nevada Department of Wildlife (NDOW). In the 1800s, there was one Wildlife Commissioner; in the 1920s, three; and in the 1940s, five. The number of Commissioners increased every year until, during the 1960s, there were 17 Commissioners, one from each county. During the 1970s, the Legislature decided that 17 were too many, and the number of Commissioners was decreased to 9. At the same time, County Advisory Boards were created in each county to advise the Wildlife Commission. The level of nine Commissioners lasted until 1979. From 1979 to 1989, the number of

Commissioners decreased to seven members, and again in 1989 the Board increased to nine members, where it remains today.

Under NRS 501.171, the Commission has one member actively engaged in the conservation of wildlife, one member actively engaged in farming, one member actively engaged in ranching, and one member who represents the interests of the general public. I am certain that all nine members represent the interests of the general public. There are five members who, during at least three of the four years immediately preceding their appointment, held a resident license to hunt and/or fish in the state of Nevada. Other statutes mandate the Commissioners must come from a different county, depending upon the population, so that the entire state of Nevada is represented.

Commissioners are appointed to three-year terms and some have been appointed to a second term. It is rare to be on the Commission for more than two terms. The turnover on the Commission is a healthy thing. When appointed, the Commissioners are given specific guidance on what to do. For instance, some of us were specifically sent out to improve the ailing sage grouse and mule deer populations. This was done in addition to managing all the wildlife in the state of Nevada.

All the Commissioners are avid outdoorsmen. Most, if not all, Commissioners recreationally hunt, fish, or at least have done so at some point in their lives and have a wide variety of knowledge of wildlife and wildlife issues around the state. Many of the members have spent 50 or 60 years moving around the state. The Commission has a huge amount of experience on all different aspects of wildlife history in Nevada. I own the grocery store in Eureka, Nevada, and in the course of my work life, I speak to hundreds of sportsmen yearly. Most of the people on the Commission are Nevada businessmen whose every motivation is to give Nevada a better, healthier, and stronger wildlife population while we are serving, and as a legacy, when we leave the Commission.

As I mentioned, members of the Commission are conservationists and they are all concerned about our wildlife population. If they were not concerned, they would not be on this Commission. That also applies to the previous Commission, of which I was a member. Our general rules are clearly set out in NRS 501.181, which mandates us to set regulations. [Read from NRS.] Basically, for almost any laws that are associated with wildlife, our Commission members are the people who carry out the laws that you pass. Those are legislative directives that are for the most part set forth in NRS 501.167 through 501.243 ([Exhibit C](#)). The requirement to promulgate the rules and regulations governing the operations of the Commission and the NDOW has

been slightly modified this year by the current administration's executive orders. We have been working with the Governor's Office on how to abide by the executive orders and continue to perform our statutory functions to the best of our abilities. I am sure you are familiar with the executive orders. [Mr. Raine submitted his testimony in writing ([Exhibit D](#)).]

Chair Carlton:

I am going to stop you right there. I am not familiar with the executive orders and I am sure that if I am not, maybe some of the other Committee members are not.

Scott Raine:

There are two executive orders in particular, *Executive Order* No. 1, 2011-01, and *Executive Order* No. 4, 2011-04. We are mandated by NRS to set regulations. This year the setting of regulations has been modified. It is not going through the normal process, due to those executive orders.

Chair Carlton:

I believe you can only set regulations if they have to do with health and safety.

Scott Raine:

That is correct. We are trying to work on that and trying to follow our legislatively mandated duties to set regulations and yet also comply with the executive orders, which has been a little bit of a struggle. However, I think it is something we can work through.

Among our many duties are to set seasons and methods of take, set the limits on recreational use of all wildlife resources, provide a focus for the agency, administer wildlife-related laws, provide an oversight to the Director, and receive public input. We receive a great deal of input from the public during every meeting as well as between meetings. One of our lesser-known functions is to serve as a quasi-judicial body, hearing and deciding appeals based on alleged wildlife violations. For example, we will hear four appeals on the first day of two days of Wildlife Commission hearings.

Approximately 1.5 percent or approximately \$500,000 of the proposed Department of Wildlife budget comes from the State General Fund. The balance of our budget is derived from hunting and fishing license sales, tag sales, nonresident sportsman fees, and federal funding from excise taxes on certain hunting and sporting goods. We may lose some of that funding this year, depending on the will of the Legislature.

A major issue for this Commission is to increase transparency. We continue to make all the scientific data we use available to the public. In the past few years to make the Department of Wildlife user-friendly to the public, we have passed many rules and regulations, including the return of tags and the 48-hour rule. We have expanded our youth-tag program, which we hope will bring more young people into the hunting programs. While we do not directly manage wild horses and burros, we have advised the United States Department of the Interior, Congress, and others of our concerns about the damaged habitat as a result of our out-of-control wild horse numbers in certain areas. We have also supported Secretary of the Interior Salazar and Bureau of Land Management Director Abbey in their efforts to carry out their congressional directives to manage wild horses and burros under federal law.

Deer in Nevada are in rapid decline. The Commission has been using innovative strategies to reverse this trend and has been questioning the scientific validity of every aspect of our mule deer and sage grouse management plan. We are attempting to guide the Department to be proactive with on-the-ground practical management, as opposed to merely studying and analyzing.

For the most part, I have covered the direct duties of the Commission. This Commission has been focused on good science and science-based management. Sometimes science is popular and sometimes it is not; the results are what they are. We represent the people of Nevada who rely on NDOW to manage our bio-resources, and we always ask NDOW to be held accountable for the declines and process reversals based on good science.

This Committee was asked to speak on its priorities for this session. Daryl Capurro, Chairman of the Commission's Legislative Committee, will cover our priorities.

Daryl Capurro, Board of Wildlife Commissioners, Department of Wildlife:

I am a Commission member and Chairman of the Commission's Legislative Committee. We operate loosely as a committee that reports to the full body. The staff members are experts in their areas, whether the member serves on the Wildlife Heritage Committee or is a staff person from NDOW who is an expert on Wildlife Heritage Trust projects.

We have already dealt with one of the issues, which is the bill [Mr. Capurro is referring to Assembly Bill 13, for which this Committee has no jurisdiction.] regarding youth arrests. You do have a few issues in which NDOW reviewed the current laws and found problem areas. One of those problems was a youth could be arrested for a minor hunting regulation violation instead of receiving a ticket. A minor violation could be forgetting to put the plug back in the

shotgun, and if a game warden came upon that individual, he would have to arrest him rather than issue a ticket. The law states that for upland game, you can have an unlimited number of shotgun shells in the gun, but for wetlands, you can have only three. The law that is being considered would take care of that. Because we are always trying to come up with means to entice people into the area of fish and game, we are attempting to provide an easier method to license organized groups of fishermen. The best example would be the Boy Scouts of America. Currently, there is an exception for the handicapped, but it does not take into account any other youth groups that might want to get into fishing. [Mr. Capurro was referring to Assembly Bill 19 which this Committee has not agendized.] This bill would allow them to purchase a group license.

The Chairman spoke to the biodiversity issue, which is the Commission's management of both game and nongame animals. Nongame are basically animals such as the desert tortoise and the Moapa Valley dace, which is an endangered species. The issues become tight because several years ago as much as \$2 million was coming out of the General Fund to NDOW, and this year the budget calls for less than \$500,000. That money is what is used to fund biodiversity programs. If the money does not stretch to meet all of those projects, then the funding received from sportsmen activities will have to be used for that purpose. It stretches the ability of NDOW to be able to cover all the bases, but we do the best we can with the resources we have available. We are charged with adopting regulations that implement the laws that you pass.

One of our major issues at this time is sage grouse, and I believe this Committee has already passed the sage grouse resolution, and it may have gone to the Governor for signing. [Mr. Capurro is referring to Assembly Concurrent Resolution 3 which this Committee has not agendized.] This could be a serious problem because sage grouse are a named endangered species, but not listed. The reason for that is there is not enough federal money to cover listing the sage grouse and being able to monitor them. For the time being, we are okay. However, if it becomes a listed bird, our problems are not just with the hunters, but also with mining, ranching, farming, and other activities because of the things that can and cannot be done with respect to listed endangered species protection. We are looking at an aggressive program from both the standpoint of habitat development and predator management to enhance the ability of the sage grouse to recover.

We have bills that will be coming before this Committee at various times this year. They are, for the most part, bills that have been recommended by NDOW,

vetted and approved by our Legislative Committee, and approved for presentation to the Natural Resources Committees of both houses.

Chair Carlton:

Dr. Lent, would you like to add to the testimony before we open it up for questions?

Gerald A. Lent, O.D., Vice Chair, Board of Wildlife Commissioners, Department of Wildlife:

I am the Vice Chairman of the Commission. I would like to reemphasize a couple of things. In this state, we have two species in jeopardy and in serious decline; one is the sage grouse and the other is the mule deer. This Commission is putting a lot of effort and money into projects aimed at preventing the sage grouse decline, and we are doing a study on the decline of the mule deer population. We feel science and transparency are the only ways to save these species. We are working diligently on that. The agency, like so many others, is understaffed and underfunded. We need an information technology person on board to put some of these databases together. Wildlife management is a complicated issue. Decisions are always controversial, so we are fortunate to have a County Advisory Board with members from each county in Nevada. They advise us on all of the issues. We try to assimilate all of the input from the members of those boards, and make a decision on each issue.

Chair Carlton:

Wildlife and water in this state are always very complicated issues. Since you brought up the advisory boards, I do have a question and may need some further information. There is one in each county. They are the closest to the folks as far as concerns and questions. They gather the information and then the 17 different counties' advisor committees bring that information to you as a board. Do I understand that correctly?

Scott Raine:

That is basically correct. The NRS spells out issues specific to the county boards, like quotas, bag limits, and county season dates.

Chair Carlton:

Do you keep records of the different information coming from the counties? Is it a formal process, or is it more informal?

Scott Raine:

It is a formal process. They submit their proceedings in writing from every meeting. We have a form they fill out. They submit minutes, and we read the minutes.

Chair Carlton:

In that process, do they state their objectives and do you discuss them, and then move them forward? How many of those issues do you usually end up dealing with? How many of them succeed?

Scott Raine:

There are a couple different processes. One is a formal petition process that they can go through but it is relatively rare. Occasionally, an advisory board will have a real issue and they petition the Commission. It is a formal petition asking for a change to the *Nevada Administrative Code* (NAC). By our rules, we must hear and discuss those petitions and indicate whether we will proceed or not. For other issues, such as season dates and bag limits specifically, we have a forum where Department staff abbreviates that for us. We hear and discuss each specific season date and bag limit in a fairly formal process. The vast majority of the suggestions, especially on those subjects, are taken. Much of the input is general in nature. That is harder to deal with.

Chair Carlton:

I am not going to hold you to any exact numbers, but could you tell us how many of the recommendations that come from the advisory boards to the Commission go through, and how many you send back to the boards to review and perhaps come back with a better proposal? How many are adopted by the Commission?

Daryl Capurro:

At the present time, there are only 12 active county boards. In that process, Elko County's issues may be different from those in Washoe County or Clark County. Therefore, we end up having to balance the equities and the issues and make a decision based upon the body of the record as presented in a hearing relative to that particular issue. It is complicated to say, "Yes, we had seven counties that suggested X, and we have five that suggested Y." In many cases, it is a matter of negotiation and compromise on exactly how you are going to handle that particular issue. Where the county advisory boards help us is by reviewing the quota or bag limit systems, because they know their counties as well as anybody does. For example, Ely may want to have a trophy deer hunt, so it would suggest that there be fewer tags issued for that particular zone. Other counties may want to expand the number of tags available, or may want to hunt does, or may want some other issue addressed. Therefore, that is

where the county boards are particularly helpful because their people are on the ground almost constantly on that issue.

Chair Carlton:

I understand the relationship between the two. I appreciate your testimony.

Scott Raine:

Very rarely are those issues clear. The advisory board sends you one thing; you read their minutes, and they will decide on one thing but bring up four other points in the meantime. A lot of that is discussed. It is rare that all advisory boards are united on one particular subject.

Chair Carlton:

Would you say that public opinion weighs fairly heavily within those decisions?

Scott Raine:

Absolutely. We get a huge amount of public input on all sides of issues. It is right there. At many meetings, we will spend three or four hours with public comment. We are more liberal than most boards and commissions around the state in that we allow public input not only during the public comment period, but also on each action item, which is far more than required by law.

Assemblyman Aizley:

I am curious about the mule deer decline. Is that a local Nevada problem? It seems that in Utah and Colorado they are almost like pests on the street in some cases.

Scott Raine:

It is a western states phenomenon. There are specific areas that have been doing well. We do have a couple of small pockets within Nevada that are doing okay. As a general trend, however, mule deer populations are down in the West.

Daryl Capurro:

There are many reasons for that. As you know, the habitat problems have been a major issue over the past several years because of wildfires in various areas, where summer and winter range has been heavily affected. Therefore, that will have an impact on how many mule deer survive the winter and are available as an asset to the state. In the Eastern and Southern states, white tail deer are running down the streets. That is not the case in Nevada or in any of the other states we have talked to, except in the pockets he mentioned.

Gerald Lent:

Mule deer are the bread and butter of NDOW. It gets most of its money from the deer tags, so that is why I emphasized them. We just auctioned a mule deer tag, and we got \$80,000 for it from the Mule Deer Foundation. Utah, a year or two ago, got over \$100,000 for its tag. Therefore, there is a tremendous demand to hunt mule deer.

Chair Carlton:

Your statement reminded me of another question I had. We had heard about that tag, and we were surprised by the amount paid for it at the auction. Initially we thought we should auction off more because we need the money. If I remember correctly, there is a bighorn sheep tag also. How much did that go for? I am referring to the one the nonprofit organization auctions to raise money. Is that along the same principle?

Gerald Lent:

Our desert bighorn sheep tag, three weeks ago, went for \$90,000. Oregon's tag went for \$92,000, and Utah's went for a little over \$90,000. Montana's tag went for \$220,000, and we were right in the middle with our tag.

Chair Carlton:

Is there a tag you give to a nonprofit to auction off?

Gerald Lent:

That is what I meant. It was given to the Wild Sheep Foundation, and it was auctioned off about three weeks ago.

Scott Raine:

They are given to the nonprofits, which auction them off and give all of the money back to the Department of Wildlife to be funneled to the Heritage Program. Although they are given, the funds all come back to the Heritage Program.

Chair Carlton:

Someone mentioned to me that one of the tags had gone to an entity outside the state. I believe it was Wisconsin. Is that correct?

Daryl Capurro:

Dr. Lent can follow up on that. Yes. In fact, some of the tags go to national organizations such as the Mule Deer Foundation, which is not based in Nevada, and Safari Club International (SCI), which has chapters in Nevada but is an organization outside the state. We have Nevada Bighorns Unlimited (NBU), which also gets tags. They are a Nevada-based outfit. Our objective is to

ensure the organization that applied to auction those tags had a large enough audience or following, so they could get the maximum amount of dollars for the state of Nevada. I would never end up with one of those tags because I do not have \$90,000 to pay for a bighorn sheep tag. However, it is in our best interest for those tags to go to organizations that will get the maximum amount of money available to give back to the state to benefit our wildlife program.

Chair Carlton:

Is there an application process from which you evaluate the different applications and choose one based on how much money it could bring into the state?

Daryl Capurro:

Yes. We look at their past history of fundraising ability. It also depends on what tag it is. We have five turkey tags that are in the Heritage Program. In general, SCI or some of the other organizations are not interested in turkey tags because they are primarily deer, elk, antelope, or bighorn sheep hunters. We do have organizations, primarily within the state, that get the turkey tags.

Chair Carlton:

Wolves are not included in that because we just delisted wolves, correct?

Scott Raine:

No action has been taken on that issue. We have never had a resident wolf population.

Chair Carlton:

As far as bears go, those are \$100 tags. Are any of those planned for use by the Heritage Program also?

Scott Raine:

No.

Chair Carlton:

So you decided the bears were not worth as much as the bighorn sheep?

Scott Raine:

That is an issue we really did not want to get into. As far as the Heritage Program, it is a brand-new concept. It is not something that would be reasonable now.

Chair Carlton:

You do not think a bear would be worth \$80,000?

Scott Raine:

It is hard to say.

Daryl Capurro:

That process of developing the bear hunt started about eight months ago. It is a science-based program that we have developed, because we asked Carl Lackey, who is recognized as the staff expert on bears for NDOW, to provide information to the Commission relative to the ability to hold bear hunts, as requested by sportsmen. That is what Mr. Lackey did and he developed the information going back as far as 1995 to the present. Based on that information, we adopted a regulation that has a relatively small number of tags available. We just did not feel at the outset that any of those tags should be in the Heritage Program. We want to take it slow at first to make sure the program works and does what it is supposed to do. Mr. Lackey has indicated in his testimony and in his presentations that the Nevada bear population is growing at approximately a net rate of 16 percent per year. Therefore, the 20-tag maximum, with no more than 6 sows, was considered to be conservative for the asset available. I can also tell you that the testimony developed throughout that hearing indicated there are as many as 15,000 bears along the Sierra Front.

Chair Carlton:

Those bears are not all in Nevada, correct?

Daryl Capurro:

Correct, but there is a crossover. In addition, the California Department of Fish and Game is recommending an increase in its bear tags from 1,700 to 2,000. Therefore, we are trying to keep our program at a minimum until we can see what the net effect might be.

Chair Carlton:

Does that \$100 per bear go back into your account, like all the other tags? I will be very frank with you, gentlemen. I believe that \$100 per bear is an insult to the bear. Honestly, they are a resource that belongs to the whole state. If we are going to let someone go out and hunt them, I think they are worth more than \$100.

Scott Raine:

In all honesty, we doubled the amount that NDOW proposed. I think that is one of the only changes we made to the NDOW suggestions. It probably is not enough. However, we tried to take NDOW's suggestions as best we could in most cases. Doubling the cost seemed fairly extreme to NDOW. The major amount of income from these tags is not the amount of money from the tag; it

is the application process. There are other fees involved when you apply for a tag. They want as many people as possible to apply for the tag so they can receive the application fees. For the bears it will be far more than the \$100 tag fees that are received.

Chair Carlton:

I feel a little bit better. I also understand it is a huge expense for the hunters. They go and scope out two or three places, they figure out where they will stay, and they purchase equipment, which can add up to thousands of dollars. Therefore, I understand the costs involved.

Gerald Lent:

On the Rocky Mountain bighorn sheep and goats, we do not do a Heritage Program tag until we get a certain amount of tags for state residents. It is our policy to give only 10 percent of the total tags to nonresidents. When we have enough tags for Nevada residents then we feel we can give a tag out to auction, and that is one reason we do not have a bear tag in the Heritage Program at this time.

Chair Carlton:

I am sure we could discuss this for hours. However, we will move on to the Committee members who have questions.

Assemblyman Munford:

I want to back up to where you were talking about mule deer. How do you identify a mule deer? I suppose I have seen them, because I did live in Montana for about six years. I also saw many animals when I went to Yellowstone Park. What is the difference between a mule deer and any other deer?

Scott Raine:

It is the species of deer we have in Nevada. There are several subspecies of deer. The white tail deer is found from the Rocky Mountains east. There are some this side of the Rocky Mountains. Mule deer have exceptionally large ears like a mule, which is how they acquired their name. All deer you find in Nevada are mule deer. More than one-third and slightly less than one-half of all the mule deer in Nevada are found in Elko County. They are spread throughout the state, and we have had mule deer population in the southern part of Nevada. There are quite a few in the Mt. Charleston area, for example.

Assemblyman Munford:

There are deer in Mt. Charleston? I have been up there a lot, but I have never seen a deer.

Scott Raine:

There are deer there, to my understanding. Where I live, they are in my backyard about half of the year. They move into all the rural communities. They can be quite a traffic hazard when they are moving around in certain areas. It is not as much of a problem now as it was 20 years ago.

Chair Carlton:

They like the buds on the spring plants. So be careful when you are driving around the gardens because they will be there.

Scott Raine:

There are places we have had to put in overpasses and underpasses for highways because it is a real issue. We have had up to 200 deer accidents in a short zone of highway.

Assemblyman Munford:

Do we have elk and moose in Nevada?

Scott Raine:

The elk population has been growing dramatically. I have seen pictures of two moose along the Interstate 80 corridor. I would not call that a resident population. The moose move down from Idaho. The elk were transplanted in the 1970s and 1980s and have reached capacity numbers. In most areas where we have elk, they have reached the planned limits for their population. In Ely and the White Pine County area in general, they set a limit of 5,000 elk. We want to stop the growth at that point, because that is all the habitat can handle. There are several areas in the state where elk are doing very well.

Assemblyman Munford:

Are there any grizzly bears in Nevada?

Scott Raine:

Not to my knowledge.

Daryl Capurro:

The primary difference between the mule deer and the white tail is that white tail antler horns come off the main beam. The mule deer have forks that come off the main beam. White tails are generally a smaller deer and have a rump patch that is white, and that is why they are called white tail. There is

a difference in how they are hunted. In Nevada we have open space areas for mule deer. In the east they are hunted from blinds and from tree stands.

Scott Raine:

I live in Eureka, Nevada. I have the only grocery store there. I love to drive out into the hills, so if any of you want to stop by, I can show you mule deer and antelope.

Assemblyman Bobzien:

I appreciate talking about the priorities and what is being done with sage grouse and mule deer. I am somewhat confused about some of the comments made about questioning the science, and reference to being careful not to study, study, study things. Do you have a general rule for when you turn down a suggestion for a project, and it is an agency recommendation? Is your decision based on alternative science that has been given to you and you share with the public?

Scott Raine:

I am sure it is different for every member of the Commission. That is the nature of a commission. It is based on County Advisory Board input, public input, and the recommendation from NDOW. However, that is the formal NDOW recommendation. There are often several informal recommendations from various Department personnel, and it is a balancing act. Wildlife is almost a social science. In many instances, it is a growing, moving population, and you have to look at it and deal with the best information available. There is a huge body of literature. A subcommittee of our Commission has gone over the subject of mule deer in depth. One thing we discovered is that you can find a Ph.D. to tell you both sides of every issue.

Assemblyman Bobzien:

I understand there have been habitat projects for sage grouse that have been turned down for Heritage Program consideration. You are helping mule deer and helping sage grouse at the same time. I keep hearing it is a priority. However, my question is, what have you done for sage grouse?

Daryl Capurro:

Here is the problem. In the Heritage Trust we have roughly \$500,000 a year from that account which can be spent. That is the interest off the reserve account, plus 75 percent of what is collected in the Heritage Program account for that year. That is the restriction under which we have to work.

Assemblyman Bobzien:

Are you telling us that it is not enough money? Is that the issue?

Daryl Capurro:

That is the problem. Last year for Heritage Program projects, we had over \$1.1 million in requests, and less than \$500,000 to distribute. We had to cut back some projects. We had to eliminate other projects. We hope to pick them up this year.

Assemblyman Bobzien:

So the issue is finite money. During the last session, the Legislature passed a law and expected the Wildlife Commission to work on that and to put the Dream Tag program in place. The Dream Tag program should have given you more money. What is the holdup?

Daryl Capurro:

I am very familiar with that. We were prepared to adopt any regulation necessary to implement that law. With respect to Dream Tags, the legislation that was passed provided for a named vendor, a single vendor, which is very unusual for legislation passed by this body. That named vendor met with the NDOW staff and immediately indicated that it wanted a ten-year contract. The Department did not feel they could live with a ten-year contract without having some interim designation of how that is going to come out. Because of that, the vendor would not budge and had us over the barrel as to being able to do anything further. I believe there is a bill draft request to make some changes to the Dream Tag program which may incorporate that issue. [Mr. Capurro is referring to Assembly Bill 322 which this Committee has not agendized.] When you name a single vendor to take care of a program, you are at its mercy.

Scott Raine:

Part of that same bill was the Silver State Tag, which took a lot of work and effort. We finally approved the final regulation on that. It has been passed through the Commission and will be implemented next year. We have set quotas through 2011 that will be implemented, and we have also set quotas for 2012. That portion of the bill was totally implemented. You set the laws and it is our job to set the regulations as best we can. There was just no way to do it that we could find.

Assemblyman Bobzien:

There has been a lot of discussion about transparency. We certainly appreciate that. In general, what measures are you considering that will bring transparency to your process? Is that a result of the multiple issues you have had with the open meeting law?

Scott Raine:

In reality, we have not had real issues with the open meeting law. There were a series of complaints, none of which were validated. Most of the complaints were found to be questions on the management style of the Commission, and had very little to do with the open meeting laws. However, transparency is how the management agency, NDOW, goes about coming up with its numbers. They are based upon computer models and we would like those to be public information. The computer models have never been public information. They should be, so that anyone can look at them and understand how we come up with a tag quota of 256 in this particular unit. That is one of the issues under transparency. We have had different policies, including donations for wildlife. That was a policy we passed for transparency. We want that announced at every meeting so everyone knows which agency donated how much money.

Assemblyman Bobzien:

Just to clarify, you said negotiations broke down with a "vendor" and it sounded like it was vendor. In actuality, it was the Community Foundation of Western Nevada. It is a nonprofit organization.

Daryl Capurro:

I understand that, Mr. Bobzien, but the fact of the matter is it was the only one named by the Legislature. We did not even . . .

Assemblyman Bobzien:

Can you suggest an alternative nonprofit?

Daryl Capurro:

What I would suggest is that you leave it open to anyone who has 501(c)(4) designation, just as we do with the Heritage Program projects, where anyone can apply to conduct the auction. Anytime you name one person, I do not care how good an organization it is, the tendency is to say, "I have all the bargaining power and I want a ten-year contract."

Assemblyman Bobzien:

So you cannot suggest an alternative to the Community Foundation of Western Nevada?

Daryl Capurro:

The alternative to me would be to eliminate a named vendor, and have it bid out as we do with other programs.

Assemblyman Goedhart:

Preserving the mule deer and sage grouse populations is one of your higher priorities. What emphasis has been placed on predator control? Obviously, you discussed wildfires, but even in light of that a lot of the elk herds have done exceedingly well. There seems to be adequate forage.

Scott Raine:

In 2009 through the Heritage Project program, for the sage grouse program, we approved \$50,000, which has been held up. We hope that will go forward soon. Many studies have shown that up to 100 percent of sage grouse eggs are eliminated by predators, specifically ravens. They are the major nesting predator. One issue with the Wildlife Commission is that we have very limited fiscal authority. You may ask why we are not spending more money on sage grouse. The only money we have direct fiscal authority over is the Heritage Program fund, and 12 percent or 14 percent of that fund is going straight to sage grouse predation management, because it is the major issue. Undoubtedly, that is not enough. The NDOW budget is large and the portion we have any say over is exceedingly small.

Assemblyman Goedhart:

Thank you very much, and I have been to your store in Eureka. Is it Raine's Market? You have a lot of mounts in that store, right?

Scott Raine:

Yes, sir.

Daryl Capurro:

In further response to Mr. Goedhart, at our meeting starting tomorrow and Friday, we will hear the report from the Division of Wildlife Services. It is in charge of sage grouse projects. It will report on the \$50,000 given to Project 10-27 to protect sage grouse in Nevada. Ravens are identified as the primary predator of concern. Badgers are listed as well. Work on that project area will begin this month. Project 11-20 is another \$50,000 project to protect sage grouse in the east, and some in the west. Ravens again are identified as the primary predator, and we will be asked to carry forward any money not expended this time. This is \$100,000 in grants for sage grouse predation management that is specifically with respect to the Heritage Project program.

Assemblyman Kite:

You can see mule deer walking up and down Main Street in Genoa, 13 miles south of here, almost any night. If I compared the amount of bear meat per tag I actually brought home on hunting trips, the tag would cost about \$3.5 million. The eastern slope of Colorado had a very big problem with disease that almost

wiped out the entire herd around Estes Park and north of Colorado Springs. Is disease any part of our mule deer population decline here? I have a difficult time believing it is all due to habitat. There have to be factors involved other than just habitat.

Scott Raine:

It is my understanding after speaking with a state veterinarian that mule deer disease has been almost unheard of in the state of Nevada. Fortunately, we have not experienced any of the diseases that have been problematic in other states. One reason may be that our population of mule deer is fairly isolated. Our one transient population between Nevada and California has been relatively clean and disease free. However, this year we had about a 95 percent die-off of bighorn sheep because of a type of pneumonia in the Ruby Mountains.

Daryl Capurro:

The elk population is very healthy in Estes Park. However, they did have a problem with a specific disease that affected deer. It has not affected Nevada. The 95 percent die-off of Rocky Mountain bighorn sheep in the northern Ruby Mountains and East Humboldt Mountains is the second major die-off in that same area in 15 years. It is tough to keep putting animals back on those mountains if we cannot get a handle on the disease. Another problem is a major die-off means predators flock in like crazy. Wildlife Services did a lot of work during that period of time, including aerial hunting of coyotes. They also did on-the-ground searches for mountain lions. There was a significant take in those areas. When the population starts to go down, the predators increase.

Assemblyman Hansen:

Congratulations on the job you have been doing. You have been taking some real heat and making difficult decisions. As you know, you can never make everybody happy. First, on the vendor issue, Commissioner Capurro and I worked extensively last session on that bill, and we warned the Legislature that this would happen with a single vendor and it did happen. Second, on the issue of tags, I think the Committee is not aware of the fact that traditionally tags have been sold to everybody in the state, and there was not just a special tag sold for hundreds of thousands of dollars. This has become a huge issue. They only give out 200 bighorn sheep tags a year. That is a highly coveted tag. What will happen, if we are not careful, is this will become an exclusive sport for extremely wealthy people. So that needs to be on the record as well. Lastly, on the bear issue, the population of bears that we are talking about hunting crosses an artificial line known as the California-Nevada border. California has been hunting bears forever. The bear population in Nevada is a tiny portion of the total population that occupies the Sierras. They have

2,000 tags on the California side of the line. So all we are doing is adding 20 tags to an existing 2,000 tags to hunt that same population, except a few of them live on that line. Is that correct?

Scott Raine:

That is exactly correct. I believe it was 1,700 and this year California is authorizing tags for 2,000 bears. It is all a part of the same population.

Daryl Capurro:

I would like to clarify one thing. I do not have a problem with the vendor itself. I have a problem with naming a specific vendor in a piece of legislation. The organization has a lot of experience in this type of operation. So again, I do not want my remarks to be read that I was opposed to that vendor. I was opposed to a single, named vendor in a piece of legislation.

Chair Carlton:

I understand. It is on the record.

Assemblyman Ellison:

In Elko County the deer population is rather high. If you allow deer herds to get too large then you get disease within the herd, just like rabbits. Are they going to lower the number of tags for Nevada this year? Are they going to issue any doe tags this year?

Scott Raine:

Doe tags have been eliminated this year except for depredation and for junior hunters. Whether deer quotas will be lowered or raised, we have not yet seen Department suggestions. That is generally covered at the May meeting.

Assemblyman Ellison:

Is the draw already out?

Scott Raine:

The deadline to put in for a tag is April 19, and at the May Commission meeting we will set the quotas; the draw is usually around the end of May. The computer draw results are posted to the Internet within 48 hours.

Assemblyman Ellison:

We have deer at our ranch, but I no longer hunt them.

[The meeting was interrupted because of a computer problem.]

Chair Carlton:

We are back on the record. Mr. Ellison, had you finished with your questions?

Assemblyman Ellison:

Where are we on the deer count? Do you know?

Scott Raine:

We do not have that data. The data has not been presented to the Commission. It is generally presented before our May meeting, and the results should be out by April. The surveys are being done this time of year.

Assemblyman Ellison:

For the record, your Commission has done a great job. You need to be commended for what you do.

Assemblyman Anderson:

Can you recommend anything this Committee can do policy-wise to help the sage grouse recover? In terms of policy, how can this Committee help the sage grouse recover?

Scott Raine:

There is a need to look at all the programs for helping the sage grouse, especially those programs that are not popular. The popular and easy methods have been tried and are not working very well. Predation control is one thing that can be done today. It is not necessarily a long-term solution, but until habitat restoration, which is a decades-long process, can take place, we have to do something in the short-term. There are very few things that can be done in the short-term. When habitat is limited by wildfires, the game is more concentrated, which makes the effects of predation far worse. This is why it has become an issue. There is a huge sage grouse study program, and a huge amount of data on the study, but we do not have a lot of money being spent in actually doing something about the problem. It would help if you could push the various agencies to spend money on those items, through their budgetary process.

One thing that has been brought to light as a culprit is ranching. One of the problems may be that some of that has gone away. Those fields that once cultivated huge numbers of sage grouse are now lying dormant. The decrease in grazing is very negative to sage grouse and, in particular, to water development. Land is one thing in Nevada, but water is worth fighting for. Ranchers are the people who develop our water resources where they are extremely scarce. This allows populations of deer and sage grouse to spread

out. Where there is water those animals can thrive. Loosening regulations in that area would be beneficial to the recovery of sage grouse populations.

Gerald Lent:

We have limited funds. We have a \$3 predator fee that all sportsmen pay. The fee brings in about \$500,000 to control the predator population. We put some of that into sage grouse. It is not enough. So we have been taking some of the Heritage Program money and adding it to sage grouse predator control. There are many methods we are trying to use. This Committee could help with the Heritage Program issue. We can only use 75 percent of the funds plus the interest. The interest is currently very low. While years ago we had about \$1 million to spend, today we do not. At present there is about \$6 million in that fund that we cannot touch. If you remember, in the special session they were going to rob that . . .

Chair Carlton:

I think you could rephrase that statement. Reappropriate would be more acceptable.

Gerald Lent:

I apologize. If legislation was developed so we could use that money, we could put more money into these projects. We have the money sitting in the fund and we cannot use it, and the 25 percent per year is forever lost. We would like to have more money to put into the sage grouse issue, because we use the \$3 fee plus some of the Heritage Program funds. The other funds are there, but we cannot touch them. Perch predation is a problem. When a power line runs through a sage grouse lek area, there is perch predation because the ravens get on the lines. Many things have to be taken into consideration, some of which are under our control, and some of which are not.

Chair Carlton:

More money seems to be the common theme of this session.

Daryl Capurro:

The sage grouse are tied to the leks and for a short distance around the leks. If there is destruction, or human intervention with those leks, serious problems are created for sage grouse. Sage grouse are large, slow birds, and very susceptible to predation by any number of predators. The eggs are particularly susceptible because of raven predation. I was concerned by the development of the Ruby Pipeline along the northern tier as to whether or not those leks would be protected. There were a significant number of leks in that pathway. My understanding is that has been taken into account. This Committee was told by the Department of Wildlife in their recent presentation that the

Ruby Pipeline developers paid the state of Nevada \$8.8 million to alleviate some of that problem. I hope it does. I still remain concerned that there will be a man-camp developed at Vya in northern Nevada, to bring that pipeline through the area. They will be there this entire summer and perhaps the fall. People engaged in recreational activities, like hiking, could unknowingly disturb and destroy the leks. The sage grouse are tied to those leks and unless the leks can be protected, there will be a problem.

Chair Carlton:

I think everyone has asked their questions.

Assemblyman Aizley:

Is the raven a protected species? Why don't we do something about the ravens? If you can get 95 percent of the scientists to say one thing and 5 percent to say something else, then the 95 percent are probably correct. Are you working with any organizations such as the Nature Conservancy or any other wildlife fund, which might be available to help?

Scott Raine:

Nevada Department of Wildlife does work with different groups, and we receive a lot of input at the Commission level. Ravens are a federally-protected species. There are some federal laws involved there, so it is illegal to hunt ravens. It is the federal government that works on the raven depredation issues; it gets the permits to do that. If you can get the federal government to delist ravens it would help. There are many conflicting studies on the mule deer. If a study is conducted in Colorado and another in Arizona, the results are invariably different and often diametrically opposed, if for no other reason than habitat. In Nevada, habitats in close proximity to each other can vary radically. Mt. Charleston is the most obvious example.

Chair Carlton:

Thank you, gentlemen, for spending the afternoon with us. I did make notes regarding the accessibility of needed funds. I will discuss a one-time access to needed funds with the appropriate people. During these tough economic times, there is no reason to have funds sitting idle in one place when they are needed to resolve serious problems. We will now take public comment. Do you have a designee, or do you all wish to speak? [They all wished to testify.]

Kathryn Bricker, Private Citizen, Zephyr Cove, Nevada:

I am a resident of Zephyr Cove, Douglas County, Nevada. Since so much was said about money today, I would like to state there is a \$100,000-a-year budget through the citizens of Lake Tahoe to support a nonlethal, urban bear management program, known as "Bear Lake." I know that same private group

has raised the amount of money that would be equal to or greater than the amount of money Nevada Department of Wildlife has projected that this season's bear hunt will produce. The reason I put this in the record is so that you know there is private money that could be available to the state in conservation of wildlife that simply is not made available because of the current methodology and philosophy of our system. They simply want management of wildlife to be nonlethal. [Ms. Bricker continued to read from prepared testimony ([Exhibit E](#)).]

Christine Schwamberger, Private Citizen, Carson City, Nevada:

I am a member of <<http://www.nobearhuntnv.org>>. We are a coalition of individuals and groups who opposed the bear hunt which was approved by this Commission in December. I am a former deputy district attorney, and I used to work for Assemblyman Kite in that capacity when he was a Commissioner in Douglas County. I am here today to speak to you about concerns I have with this Commission specifically, and generally about wildlife commissions in Nevada. This Wildlife Commission conducts itself like a hunting commission, not a wildlife commission. We have spent a lot of time talking about hunting today. There are many more interests in this state concerned with wildlife, other than hunting. [Ms. Schwamberger continued to read from prepared testimony ([Exhibit F](#)).]

Elaine Carrick, Private Citizen, Reno, Nevada:

I live in Reno and I have been a Nevada resident for 25 years. I am also a member of <<http://www.nobearhuntnv.org>>. I would like to read the mission statement posted on the website of the Nevada Department of Wildlife, which clearly outlines the purpose and vision as it relates to wildlife. It states, "To protect, preserve, manage, and restore wildlife and its habitat for their aesthetic, scientific, educational, recreational, and economic benefits to citizens of Nevada and the United States" The current Commission has failed miserably in fulfilling this mission statement. First, the Commission is stacked disproportionately with sportsmen. [Ms. Carrick continued to read from prepared testimony ([Exhibit G](#)).]

Sherine Kuckhoff, Private Citizen, Incline Village, Nevada:

I have been a resident of Incline Village since 1971. Incline Village is now a part of Hunt Unit 194 and to our north is Hunt Unit 196. South of Spooner is the Hunt Unit 196, which is part of the Mt. Rose Wilderness Area. The bear hunt begins August 15, 2011, at one hour before sunrise and continues through December 31, 2011. Those are the very months when tourists, and people in general who love the outdoors and the place we are blessed to live in, will be in that area. The Tahoe Rim Trail is part of that area. I am primarily concerned with public safety. Currently, there are no Nevada laws that require the

Nevada Department of Wildlife to consider public safety. There will be a lot of bear killers in our forests. Because we lack police power to do enforcement, I do not see how it is possible to track the number of bears that are killed. I am concerned with the safety of those of us who enjoy the Mt. Rose area and would urge you to consider this fact. There has to be some type of public safety put in place during the months this bear hunt is allowed. The black bear is also the mascot of Incline Village. We want the black bears to stay. If you say "boo" to a bear, they are so docile they run. They are not a threat to us in any way. There is not a person in Incline that I can think of who condones this bear hunt. We are all against the bear hunt, for the sake of the bears.

Patrick McLaughlin, Private Citizen, Verdi, Nevada:

I live in Verdi, Nevada. I represent the majority of the people in Verdi concerning the bear hunt. We would be more than happy to give the state \$2,200 just to save the bears. There is nothing wrong with the bears. Verdi had a cinnamon-colored bear, even though she was called a black bear. This cinnamon-colored bear visited our entire neighborhood. After a couple days of missing the bear, we found out somebody had shot her. I went to the Department of Wildlife to find out what was going on, because it was against the law to kill a bear in Nevada. I am not supposed to use the word "kill" because they never found her body. She was shot, and the man who shot her admitted to shooting her. But if you cannot find the body you cannot say "killed." I can tell you it is not a sportsman who will walk up and shoot a black bear. The black bear is about as docile as a cow. You might as well just walk up and shoot a cow in the head as shoot a black bear. The black bears in our neighborhood have never done anything except to my next-door neighbor, who refuses to put his trash in his garage, so the bear sometimes takes his trash can out. All the residents of Verdi ask is that you not allow hunting of black bears in Nevada. It will only open a Pandora's box that will allow people to come into this state and begin poaching bears.

Chair Carlton:

Thank you all for coming to the meeting today. We are adjourned
[at 3:17 p.m.].

RESPECTFULLY SUBMITTED:

Judith Coolbaugh
Recording Secretary

RESPECTFULLY SUBMITTED:

Jean Bennett
Transcribing Secretary

APPROVED BY:

Assemblywoman Maggie Carlton, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Natural Resources, Agriculture,
and Mining

Date: March 10, 2011

Time of Meeting: 1:32 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Scott Raine	Excerpt from NRS 501.167-501.354
	D	Scott Raine	Testimony
	E	Kathryn Bricker	Testimony
	F	Christine Schwamberger	Testimony
	G	Elaine Carrick	Testimony