

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

**Seventy-Eighth Session  
February 10, 2015**

The Committee on Natural Resources, Agriculture, and Mining was called to order by Chair Robin L. Titus at 1:01 p.m. on Tuesday, February 10, 2015, in Room 3138 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: [www.leg.state.nv.us/App/NELIS/REL/78th2015](http://www.leg.state.nv.us/App/NELIS/REL/78th2015). In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Robin L. Titus, Chair  
Assemblyman Jim Wheeler, Vice Chair  
Assemblyman Nelson Araujo  
Assemblywoman Maggie Carlton  
Assemblyman Richard Carrillo  
Assemblywoman Victoria A. Dooling  
Assemblyman Chris Edwards  
Assemblyman John Ellison  
Assemblyman David M. Gardner  
Assemblyman Ira Hansen  
Assemblyman James Oscarson  
Assemblywoman Heidi Swank

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Assemblyman Michael C. Sprinkle, Assembly District No. 30  
Senator James A. Settelmeyer, Senate District No. 17



**STAFF MEMBERS PRESENT:**

Susan E. Scholley, Committee Policy Analyst  
Jim Penrose, Committee Counsel  
Donna J. Ruiz, Committee Secretary  
Cheryl L. Williams, Committee Assistant

**OTHERS PRESENT:**

Kay A. Scherer, Deputy Director, State Department of Conservation and Natural Resources  
James R. Lawrence, Special Advisor to the Director, State Department of Conservation and Natural Resources  
Tim Rubald, Program Manager, Conservation Districts Program, State Department of Conservation and Natural Resources  
Colleen Cripps, Ph.D., Administrator, Division of Environmental Protection, State Department of Conservation and Natural Resources  
Eric Johnson, Administrator, Division of State Parks, State Department of Conservation and Natural Resources  
Charles Donohue, Administrator, Division of State Lands, and State Lands Registrar, State Department of Conservation and Natural Resources  
Rebecca L. Palmer, State Historic Preservation Officer, Administrator, Office of Historic Preservation, State Department of Conservation and Natural Resources  
Jennifer Newmark, Administrator, Nevada Natural Heritage Program, State Department of Conservation and Natural Resources  
Michael D. Brown, Fire Chief, North Lake Tahoe Fire Protection District  
Forest Schafer, Forester, North Lake Tahoe Fire Protection District  
John Pickett, Forester, Tahoe Douglas Fire Protection District  
Robert D. Haughian, Administrator, Operations Division, Department of Wildlife

**Chair Titus:**

[Roll was taken. Committee policies and procedures were reviewed.] Welcome to everyone, and anyone listening on the Internet. We are going to hear from the State Department of Conservation and Natural Resources (DCNR). A lot of the members of the Committee are from the rural areas, and there are many new members. It will benefit them to know what your agency does.

**Kay A. Scherer, Deputy Director, State Department of Conservation and Natural Resources:**

I would like to extend the apologies of Director Leo Drozdoff. He was called out of town and will not be able to join us today. I have the pleasure of introducing the different divisions, programs, and the administrators of those programs for our vast and varied department. At the table with me today is Jim Lawrence, the Special Advisor to the Director of DCNR. His presentation to you today will be about the Nevada Sagebrush Ecosystem Program. During each section of the presentation, if you have any questions, please feel free to ask. If the presenter leaves, and you think of something that you would like to ask, I will try to answer your question or we will get back to you right away.

We will go first to our mission statement [page 2, [Exhibit C](#)]; this covers the whole department. We conserve, protect, manage, and enhance the state's resources, in order to provide the highest quality of life for Nevada citizens and our visitors. It is important to point out that the resources we manage and oversee in DCNR are both natural resources and our very important cultural resources. Next we will look at the DCNR agencies [page 3, [Exhibit C](#)]. We are called a super department in state government because we have a lot of independent, uniquely focused divisions and programs that are doing a set of work. What we share together is the enhancement of our mission statement. We work as a close partnership among our divisions. We are all quite proud of the way that we work together to be efficient and effective at what we do.

Within the administration section is our director's office, the Conservation Districts Program, and the Sagebrush Ecosystem Program. Other divisions and programs are listed here [page 3, [Exhibit C](#)]. We also have seven commissions, boards, and councils. Those include the State Environmental Commission, State Conservation Commission, the Board for Financing Water Projects, the Well Drillers' Advisory Board, the board to review petroleum claims [Board to Review Claims], the Sagebrush Ecosystem Council, and the state Land Use Planning Advisory Council. You can tell from the list of those commissions and councils the breadth of our organization. I would now like to turn the presentation over to the actual administrators of these programs so that you can become familiar with them. Later in the session you may see them testifying on bills.

**James R. Lawrence, Special Advisor to the Director, State Department of Conservation and Natural Resources:**

It is a pleasure to be here this afternoon to talk about the Nevada Sagebrush Ecosystem Program. The Sagebrush Ecosystem Program works with a very diverse group of stakeholders. The idea there is that everybody who has a huge interest in the ecosystem needs to be at the table to develop solutions and

implement them. We are going to have a lot of conversations on the greater sage grouse, because that is one of the more pressing issues facing us today.

Assembly Bill No. 461 of the 77th Session did a couple of things. It established the Sagebrush Ecosystem Council and it also established the Sagebrush Ecosystem Technical Team. The Sagebrush Ecosystem Council is made up of nine stakeholders that are voting members, and six agency folks that are nonvoting members or ex officio. These voting members represent stakeholders from ranching, local government, the mining industry, energy, conservationists, and wildlife. The main charge of the group is to establish and carry out strategies for conservation of the greater sage grouse and the sagebrush ecosystem using the best science available. This is a multidisciplinary, interagency initiative. While the program and the council are housed within DCNR, it really is a collaboration between conservation, natural resources, the Department of Wildlife, and the State Department of Agriculture. The threats to the ecosystem are very widespread and they touch all of these different departments. We also involve local groups, so we have conservation districts. Next, I will talk a little bit about the Sagebrush Ecosystem Technical Team.

The technical team is housed in one spot. The team has representatives from the Division of Forestry, Division of State Lands, Department of Wildlife, and the State Department of Agriculture. The council and the technical team had two major milestones last year. One was the adoption of the state plan ["2014 Nevada Greater Sage-grouse Conservation Plan"], which is unique to Nevada. Even though the greater sage grouse is across 11 western states, the threats in Nevada are unique. Our threats are primarily catastrophic wildfire and invasive species. We have a state plan which addresses those threats head on.

We have also adopted what is called a habitat suitability index. The habitat suitability index was done in partnership with the U.S. Geological Survey (USGS), the Bureau of Land Management (BLM), U.S. Department of the Interior, and the council. There was a lot of discussion regarding maps and the ecosystem. We use the habitat suitability index to get on-the-ground data. When we are doing plans to implement protection measures, we want to ensure that we are using the most recent data. To make the best informed decisions, the data we use includes information about topography, terrain, plant species, and telemetry.

Some other program accomplishments include the conservation credit system and the habitat quantification tool. The conservation credit system was established to develop a mitigation program to allow certain disturbances to the landscape to move forward with appropriate mitigation measures in place. We did this in conjunction with the habitat quantification tool. The conservation

credit system is a cutting edge, unique system which we have developed towards the threats in Nevada. The conservation system will provide the strongest incentives for doing conservation measures in the most appropriate locations in the state. It will also provide certain disincentives to do disturbances in the most fragile parts of the ecosystem of the greater sage grouse. In some ways it is a market-based system. It is a market-based system that rewards conservation efforts where they need to occur; it is a market-based system that says, if you are going to do disturbances in the most critical of habitats, then the mitigation measures need to be equal to that disturbance. It has been a long road in the last year getting this passed. It was unanimously adopted by the council last December after two days of workshops. The stakeholders are enthusiastic about getting this implemented. We have also educated our federal partners to ensure that they understand how important this is to Nevada, and how this is the right tool to move Nevada forward.

**Chair Titus:**

Mr. Lawrence, are these documents readily available online for citizens who might want to review them?

**James Lawrence:**

Those documents are easily accessible on the Sagebrush Ecosystem Program website.

One thing that we hear from the U.S. Fish and Wildlife Service, the BLM, and the U.S. Forest Service is that when they are thinking about a listing decision [whether to protect the greater sage grouse under the Endangered Species Act], they need to see regulatory assurances, certainty, and state capacity. Our next steps are to continue to demonstrate those things. We have a major initiative for the program in our budget submittal. It is for the continued efforts of the council and the technical team and to implement projects so that we can show on-the-ground progress such as the continuation of our mapping efforts and the conservation credit system.

To get projects done, we have a strategic action plan that the team is working on. The strategic action plan will be geographically based on what are called biologically sensitive units. Those units will have a plan in place that addresses the specific threats to those units. For example, it might be a unit where the threat is predation. That is one of the primary units. There will be an action plan geared specifically towards predation if that happens to be a threat.

We would work on project implementation. Our major budget initiative does have a dollar request of approximately \$1 million per year to implement projects.

It will do two things: (1) it demonstrates to the U.S. Fish and Wildlife Service certainty in the capacity in the implementation, and (2) it can be used as projects to generate credits for our conservation bank. Those credits can then be used to generate dollars to continue conservation work and to offset some development and mitigation out in the landscape.

We are also working on a memorandum of understanding (MOU) with the BLM and also with the U.S. Forest Service. We recognize that most of the state is under federal land management and that a lot of these projects have to be done on federal land. We are looking at getting something in place so that the state can have an avenue to expedite these projects. I would be happy to answer any questions.

**Chair Titus:**

Mr. Lawrence, I have received a lot of questions regarding the status of the Bi-State population of the greater sage grouse. Can you comment?

**James Lawrence:**

The Bi-State population is a little bit separate from the greater sage grouse efforts that I have been talking about. The reason is because they were on two separate tracks as far as the listing decision. The Bi-State was actually, as far as deadlines and timeframes, about a year or two in advance of the greater sage grouse. When the greater sage grouse program came on in the last session, there were already programs in place and progress being made on the Bi-State population. My understanding of where the Bi-State is now, is that the U.S. Fish and Wildlife Service made a decision recommending it as a threatened species, and has since then said they are going to reevaluate that decision. The Forest Service came out with their plan, I believe it was last week, regarding measures to conserve the Bi-State population. Talking with folks who are involved with that, while there may be some detractors, it seems like across the board there is enthusiasm that the Bi-State plan is scientifically sound. The plan has buy-in from the stakeholders to implement projects, and contains the measures needed to avoid a listing.

**Chair Titus:**

Are there any other questions at this time? [There were none.]

**Kay Scherer:**

Joining us next will be Tim Rubald. Tim is the program manager for the Conservation Districts Program. This is one of the smaller programs in state government, but it is mighty in the work it is able to accomplish.

**Tim Rubald, Program Manager, Conservation Districts Program, State Department of Conservation and Natural Resources:**

The Conservation Districts Program is a unique program. We work with 28 conservation districts throughout the state that cover every inch of the state [page 10, ([Exhibit C](#))]. They are locally elected boards; they are not appointed. Members run for office, just as you folks do, in their specific districts. They also have appointed local government representatives to provide that additional communication. Each county that is covered by a district receives the opportunity to appoint a member to those boards. Any city in those districts has an opportunity to appoint a member. If there is more than one city in a district, they only get one for the group of cities, not one per city. It is a very unique situation in state government and it has been around since 1937. We are happy to help them and provide them technical assistance. We do that through the State Conservation Commission which is seven members appointed by the Governor and two ex officio members. Rather unique in the statutes, they are ex officio, but they vote. They are appointed by the Director of the State Department of Agriculture and the Dean of the Max C. Fleischmann College of Agriculture of the University of Nevada, Reno. It is a very interesting mix of groups that runs the gamut throughout the state and has the opportunity to do some great things.

I am the program manager, and throughout the state we have three regional conservation specialists. I refer to them as our field staff. They are located in Winnemucca, Elko, and Ely, and those positions work very closely with the conservation districts to help them get money on the ground. I have often been asked what the duties are of the conservation specialists? I say very plainly that their job is to put projects on the ground. We have been rather successful with that in the last 1 1/2 years since they were put into place. The program, through the work of the conservation districts, has put a little over \$1 million worth of actual work on the ground. The specialists provide technical assistance to all of the districts. They work extensively with many other government agencies and nongovernmental organizations (NGO). We are bringing in a lot of the NGOs to work with the districts. They have been very successful in that effort, and I have received a lot of help from those NGOs.

The state provides each of these districts a very small pass-through grant which is specifically provided in amounts equal to the amount procured through the Legislature [page 12, ([Exhibit C](#))]. It provides a little administrative support. In addition to that, we have a small, competitive grant pool which will have some adjustments done to it through Senate Bill 45 later on in this session. Again, this issue is to facilitate new project dollars and put that on the ground. We also work very closely with the Sagebrush Ecosystem Program and

implement a lot of the work that will be going on there as we move forward. I will be happy to answer any questions.

**Chair Titus:**

Mr. Rubald, in reference to the picture you are showing us now [page 12, [Exhibit C](#)], which looks like stream restoration, I have had some questions from some of my constituents. They are worried that we do not have anything in our budget for stream restoration. Does that fall solely under the conservation districts or are there other departments that handle stream restoration?

**Tim Rubald:**

Perhaps Kay can answer your question.

**Kay Scherer:**

The kind of work that we are seeing here represents work the volunteer workforce is doing. I think perhaps you are referring to the Account for the Channel Clearance, Maintenance, Restoration, Surveying and Monumenting Program. It is a historic state revolving fund in statute that the resources have not been there to fund. It is typically \$250,000 that is replenished as it is used. But at this time there are no resources to replenish the fund. Should that situation arise, we will need to seek those funds. That is found under the Division of Water Resources.

I want to point out one thing about the conservation districts. We do have three regional specialists in the rural areas, but Tim did not say what his responsibility is. He covers the western Nevada counties and is also primary for central and southern Nevada. Tim and the program manager both cover southern Nevada.

**Colleen Cripps, Ph.D., Administrator, Division of Environmental Protection, State Department of Conservation and Natural Resources:**

I really appreciate this opportunity to be able to introduce myself and my agency to those of you who are new to this committee, and to talk a little bit about all the great work that is being done by my staff.

This work is accomplished by 258 people in ten different bureaus within the agency. We have offices in Carson City and in Las Vegas. We provide staff support to the State Environmental Commission, the board to review petroleum claims, and the Board for Financing Water Projects. All of our programs within this agency are 100 percent fee or grant funded. As a regulatory agency, we implement a number of federal environmental programs including the Clean Air Act, the Clean Water Act, and the Resource



Conservation and Recovery Act. These programs are delegated to the division by the U.S. Environmental Protection Agency (EPA). That delegation provides us with the authority to implement federal air, water, and waste programs in Nevada in lieu of the EPA. This ability to implement these programs in lieu of the EPA is very important in the state. It means that we provide more timely permits to businesses that we regulate. It allows us to develop and provide expertise specific to the industries in Nevada. It ensures there is more of a field presence, so that issues can be identified much earlier and we can provide a more rapid and thorough response. We work very closely with our regulated industries to establish equitable fees and to implement new federal regulations and programs. The programs we implement are very dynamic. We have always made it a priority to ensure that our regulated industries are aware of and understand the new requirements as they are being developed, so that they can be implemented as smoothly as possible.

The work that we do can be divided into seven basic responsibilities. The first is to achieve and maintain healthy levels of air quality and minimize the risk of chemical accidents. We monitor air quality across the state to ensure that established air quality standards for a number of pollutants such as ozone, particulate matter, oxides of nitrogen, and sulfur dioxide are being met. We also regulate facilities that emit air pollutants. This is accomplished through some traditional regulatory tools such as monitoring, permitting, compliance, and enforcement.

The photographs on this slide [page 15, ([Exhibit C](#))] and the previous slide demonstrate a wide range of facilities that we regulate, anything from fugitive dust to large power plants. We adopt regulations and develop plans to demonstrate that we have adequate authority to implement federal air programs, and that we have the controls necessary to ensure that federal air quality standards are, and will continue to be, met. We also implement a chemical accident prevention program. This was created after the Pacific Engineering and Production Company of Nevada explosion in Henderson, to ensure that facilities are designed and operated to prevent catastrophic releases of highly hazardous substances. We implement a smoke management program to minimize the impact of controlled burns, and an alternative fuels and mobile sources program in cooperation with the Department of Motor Vehicles and other agencies. The air program is one of the most dynamic in the agency, and over the next biennium we are expecting to see new federal requirements related to carbon dioxide, energy, ozone, and particulate matter.

We protect waters of the state from discharges of pollutants and contaminants, preserve beneficial uses, and maintain healthy aquatic habitat. We assure that public water systems provide safe and reliable drinking water. We do this by

evaluating the chemical, physical, and biological health of watersheds throughout the state. We develop standards specific to a watershed and its beneficial uses to be able to protect water quality. We develop local, regional, and statewide plans to ensure that water quality standards are maintained and impaired surface waters are restored whenever possible.

This is a slide [page 16, ([Exhibit C](#))] of some stream bank restoration that we funded along the Carson River. Madam Chair, this goes to your question earlier. We do have some funding through our program, as well as under the Clean Water Act, Section 319, that we are able to provide to do some restoration of this type. There are some funds available through the Division of Environmental Protection.

As is true of the air program, we also have the authority to implement these federal water programs in lieu of the EPA through traditional regulatory tools, such as permitting, compliance assurance, and enforcement. We regulate a wide range of facilities including wastewater facilities and drinking water systems. We also regulate pit dewatering, blowdown water from power plants, commercial septic systems and leach fields, and storm water. We operate a lab certification program to ensure that laboratories performing water analyses are adhering to prescribed methods and practices. We provide low-cost financing for improvements to drinking water and wastewater systems, through the Division of Environmental Protection State Revolving Fund. We recently updated our database in the water pollution control program to allow for electronic permitting and electronic reporting. This has resulted in more consistency, fewer errors, and less burden on the regulated community. It has been very well received by the regulated community, and it has reduced the amount of staff time that is required to process permits and do data entry. We have demonstrated this database nationally, and to date, more than half a dozen states across the country have expressed an interest in using our database. A couple of these already have it up and running.

Next, we are responsible for ensuring the safe management of solid and hazardous waste. We do this by regulating facilities that generate, transport, treat, store, dispose of, or recycle hazardous waste, and also those that collect and dispose of solid waste. Again, we do this through traditional regulatory approaches and we are implementing federal programs in lieu of the EPA. We also encourage businesses, institutions, and individuals to reduce the amount of waste generated and to participate in recycling programs, conserving natural resources.

We assess and, if necessary, clean up contaminated properties to levels appropriate for their intended land use and zoning. We investigate and ensure

the cleanup of contaminated sites. The cleanup is typically conducted voluntarily by responsible parties, but in cases where there is an imminent and substantial hazard, or there is an ongoing exposure above a certain risk level, the division has the resources to conduct the cleanup and pursue cost recovery. We are currently managing a number of very large complex cases. These include the Rio Tinto Mine in northern Nevada which we expect to be completed by the end of this year; the Basic Management Incorporated (BMI) complex near Henderson; perchloroethylene releases; cleanups associated with lead, mercury, and arsenic from historic mining; and cleanup activities at U.S. Department of Defense (DOD) facilities. These cleanups typically involve legacy sites with multiple responsible parties. They can involve multiple jurisdictions; they can be complicated by bankruptcy, reorganization, or property transfers; and they often require significant legal resources.

We also regulate underground storage tanks to prevent the release of petroleum products into the environment. We administer the Fund for Cleaning Up Discharges of Petroleum which provides reimbursement for cleanup costs associated with tanks that have already leaked. We administer a certification program for environmental consultants. This program is designed to ensure that competent, knowledgeable individuals are providing environmental cleanup information and services to individuals and businesses.

Next, we provide regulatory oversight at federal facilities. At the Nevada National Security Site (NNSS), formerly the Nevada Test Site (NTS), we oversee efforts to characterize the geology and model potential contaminant migration resulting from underground nuclear testing. We also oversee the cleanup of industrial sites at the NNSS and soil characterization activities. We monitor U.S. Department of Energy (DOE) compliance with air, water, waste, and drinking water regulations. We have nonregulatory oversight over low-level waste disposal and regulatory oversight over the disposal of waste that is a mixture of low-level radioactive waste and hazardous waste. We review all waste streams that are destined for disposal at the NNSS to ensure that they meet established waste acceptance criteria. In addition to conducting inspections of the NNSS, we inspect facilities within the entire weapons complex across the country that are generating waste that will be disposed of at the NNSS.

The map on the left [page 18, [Exhibit C](#)] shows the locations of all the corrective action sites, or those sites where at least one underground test was conducted and how they have been grouped in order to evaluate the groundwater. On the right is a photo of the low-level and mixed low-level waste disposal site at the NNSS which is also known as Area 5.

We ensure that the mining industry is in compliance with state regulatory programs that protect surface water and groundwater and that the land disturbed by mining will be reclaimed. Our mining program is a state-only program. This is one of the few programs in the country to regulate mining, and we regulate fluid management, closure, and reclamation through permitting, monitoring, compliance, and enforcement. Under our mining reclamation program, a mine must obtain a reclamation permit and post financial assurance sufficient to cover the full reclamation cost of the site before they are allowed to even disturb the land. There is currently about \$2.5 billion in total bonding for the reclamation of mines in Nevada. Those bonds are regularly updated to ensure that the bond amount remains sufficient to fully reclaim those sites.

The two photos on the slide [page 19, ([Exhibit C](#))] are photos of mine reclamation. The one on the left shows an installation of a liner at Barrick's Cortez Pipeline open pit mining operation. This is a tailings impoundment that is designed to prevent process fluids from getting into the soils and potentially into the groundwater below. The liner covers approximately 200 acres, so these are sometimes very large construction projects. The photograph on the right shows an award winning reclamation project at Newmont's Twin Creeks mine. Reclamation of the tailings impoundment was completed in 2010. It included a cap, a spillway, and a channel that is designed to remove the precipitation from the top of the tailings impoundment so that it does not leach through the tailings impoundment and seep out the bottom. You can see at the bottom right a small pond, and that is where the seepage was coming out from the bottom of the tailings impoundment. Once they installed the cap with the drainage system, we have clean water. The precipitation coming off of the top has reduced the amount of material coming out of the bottom of that tailings impoundment from 700 gallons per minute to 2.5 gallons per minute, an amount that is easily manageable in that small impoundment through evaporation. So it has been a very effective reclamation project. We will actually shorten the amount of time that it takes to complete closure of this facility.

We also provide education and outreach through a number of different programs, including Project WET, which is a water education program for K-12 teachers and students. This program was designed to integrate water education into any subject in the classroom. Workshops for teachers are conducted throughout the state, and we provide a variety of tools that allow them to teach their students about water and water issues in Nevada. We provide grant funding for environmental education through programs such as river work days and one-day stream monitoring events (Snapshot Days).

We also have an extensive recycling program and we work with local government. We run a recycling hotline and maintain a recycling website. That website contains up-to-date information on recycling services that are available across the state including those for e-waste. It also provides information on starting recycling programs at your school or office and information on recycling rates across the state. It has the K-12 recycling education materials that we have developed for use in the classroom.

This year we held the first statewide recycling art contest. The photo on the left [page 20, ([Exhibit C](#))] is the first place winner in the K-12 category. We had broad participation across the state and we partnered with the Las Vegas Sands Corporation. They provided the prize money to incentivize participation and it was a great event. The winners were displayed at the Palazzo and also at the First Friday event in Las Vegas in November. Photos of all the entries and winners are also on our recycling website. Thank you again for the opportunity to be here and if you have any questions I would be happy to answer them.

**Assemblyman Ellison:**

On page 15 of your overview ([Exhibit C](#)) there is a truck going down a dirt road right next to a highway. With the drought, how would you try to regulate that?

**Colleen Cripps:**

We have worked quite a bit with local government to address issues very similar to this, and I do recognize that with the drought some of these issues will be exacerbated. On some of these fugitive dust issues, we have been working with local governments and with the property owners. If the road is on private property, they often will fence these areas, or somehow discourage access to minimize the dust. Sometimes there are products added to the surface to minimize the fugitive emissions. We have examples where that has occurred across the state.

**Assemblyman Ellison:**

So what happens if a road is five miles from a town or freeway? Would that be considered a dust hazard? How would you handle that?

**Colleen Cripps:**

Usually we deal with fugitive dust coming off of roads like this when there are people living near those roads and we are receiving complaints about the dust impacting individuals who live there.

**Chair Titus:**

Are there any other questions? [There were none.]

**Kay Scherer:**

I would like to introduce Eric Johnson who is the administrator of the Division of State Parks. Eric has been with the organization since he began as a seasonal worker when he was 19 years old.

**Eric Johnson, Administrator, Division of State Parks, State Department of Conservation and Natural Resources:**

There are 23 state parks that cover 145,000 acres. That includes land and water acres. Most of the major bodies of water in the state are associated with a state park in one manner or another. We are located in every topographic and geologic region. You will notice on the map [page 22, ([Exhibit C](#))] that we are in and near the major metropolitan areas in the state, but we also encompass most of the rural areas in the state. As an example, Laughlin is at 500 feet and Cave Lake State Park is a little over 7,000 feet, so we have quite a diverse range of parks. We have 94 permanent and 137 seasonal employees pretty well divided between north and south. We have a broad mix of staff. People think of state parks and they envision just a park ranger; we also have interpreters, engineers, and architects. We are one of the few agencies that actually has our own design and build capability. Most of the facilities in parks we have designed and built ourselves. We also have interpreters, mechanics, equipment operators, and water system operators. I think of most of the state parks as independent small towns with their own utilities and water systems and they are kind of their own community. So our staff members are pretty well versed in dealing with just about anything that comes up.

The economic impact of state parks is obviously an issue nationwide, but specific to Nevada, there are millions of dollars expended by visitors related directly to their visits to parks. Almost half of our visitors are from out of state or out of the country. So it is not just circulating the existing money. We are, we would like to think, bringing new money into the state. We cooperate with private businesses; we have a lot of concessions and commercial use permits. Valley of Fire State Park, for example, runs between 500 and 1,000 weddings every year. We partner with county tourism offices, primarily in Lincoln and White Pine Counties. Lincoln County is an example of where the local economy relies very heavily on the five state parks there.

I think it is important that we get the word out that parks do provide benefits that force you to go outside. We have unique and natural resources in the parks and our mission is to make the residents and visitors more aware of them. We have 250-million-year-old Ichthyosaurs, we have 3,000-year-old petroglyphs, and many historic forts and ranches throughout the state. My personal mission is to get information out to our younger people that those things are out there. We offer 350-plus interpretive programs and guided hikes

every year. We are finding that it is harder and harder for the kids to get to the parks, so we have an outreach program. We are bringing the artifacts and presentations to the schools, which obviously is not as good as having the kids at the park, but for right now that is the avenue we are taking.

Parks offer affordable family recreation. Camping for three days at Rye Patch State Recreation Area costs about the same as going to a movie for a family of four. We think that is a good value. We have 271 miles of improved trails that we maintain. In the last three years we have rehabilitated 88 of those 271 miles.

One of our primary focuses is safety for both the staff and the visitors. Training from the Occupational Safety and Health Administration (OSHA) is important for our staff. Law enforcement training is also a focus, to ensure that our officers are providing a customer service approach and authority of the resource. In other words, explaining to people that what they are doing is wrong "because" gets a little more mileage than just saying what you are doing is wrong.

Weed control, particularly now in this dry cycle, is becoming an increasing problem. We are trying to not just spray weeds. We are trying to use a multifaceted approach. We are following up with some reseeded and rehabilitation for years down the road, not just a one-shot attempt. The biggest problems we are going to have in dealing with drought is reduced visitation and weeds.

Instate travel is a focus for us. We have special events and we try to shuffle our staff around. Oftentimes the seasons in the south are opposite the seasons in the north, so we shuffle staff around to cover special events.

We have a backlog of deferred maintenance. I think the surest way to not get a repeat visitor at the park is to greet them with a dirty facility or a littered campground. We are addressing that issue with a programmatic long term approach. Seasonal staffing is something we will be talking about this session.

Another project we are working on incorporates technology into park operations in an attempt to engage younger people. People have their phones—they are not going to put them down—so I think it is up to us to try to incorporate that technology into a park experience. If you have questions, I will be happy to answer them.

**Chair Titus:**

Are there any questions?

**Assemblywoman Swank:**

I love your bolo tie; it is fabulous. My husband and I go to state parks and national parks quite a bit and I just wanted to say that when we are in the state parks, we are always treated very well by your staff. It does seem that you could probably use a bit more staff.

**Chair Titus:**

Most folks who know me know that my husband just retired as the sheriff of Lyon County, but few people know that he started as a teenager working at Lake Lahontan, a now-empty lake. It is important to my district and very sad to see what it looks like right now.

**Charles Donohue, Administrator, Division of State Lands, and State Lands Registrar, State Department of Conservation and Natural Resources:**

I want to introduce my new deputy administrator, Dave Marlow. Thank you for the opportunity to present before you today about the Division of State Lands. State Lands is a rather small agency where we wear a number of different hats. I would characterize it as having seven unique units within our division. We actively act, and serve other agencies, in a real estate capacity. We provide planning and technical services to other state agencies as well as local governments. We provide record keeping for the historical records of the state, geographic information system (GIS) mapping, and different resource programs.

One of the main functions of the Division of State Lands is securing lands and disposing of lands. When a state agency is successful in a capital improvement plan (CIP), they need someplace to put that building. They would coordinate with us and the State Public Works Division of the Department of Administration to secure those lands. In the past we have gone out and secured fee title. We also have the ability to work with the federal government and secure land via the Recreation and Public Purposes Act. We can secure lands, and the state can then submit a plan of development and have that land secured for a state agency's need. We engage in land exchanges. We are presently working on one here in Carson City with a private party. We do disposals, and you will hear about some disposal issues later on during the 78th Session.

We authorize different activities on state land. A heavy workload for us is authorizing activities at Lake Tahoe and on the Colorado River. The bed and banks of the navigable waters of the state including Lake Tahoe are sovereign lands. They are owned by the state and for someone to drop an anchor block for their buoy or construct a pier requires a permit from the state. That is processed through my office and there is a fee associated with it. I wanted to point out to you the graphic on the left side of the slide [page 30, [Exhibit C](#)].



That is the Nevada State Prison site here in Carson City. The reason I have this up is to give you a little bit of an idea of all the different authorizations that take place. We have disposed of property to Carson City on the original property that the state acquired. We have issued right-of-ways for streets, authorized bike paths, and authorized utility and gas improvements on that property.

As I mentioned, we are the record keepers of the historical land records. The patents are in the Division of State Library and Archives, Department of Administration, but we hold the applications in a vault on the fifth floor in the Richard H. Bryan Building. We record all of our land transactions so they become part of the public record; individuals would have the ability to research what the encumbrances are on that property if we were to actually dispose of a property. We also do construction certification for the State Public Works Board. This ensures that a permanent facility that they are proposing is actually constructed on state property and not in a Department of Transportation (NDOT) right-of-way or in a local jurisdiction right-of-way.

The green on the current slide [page 31, ([Exhibit C](#))] shows the distribution of all state managed lands. We own fee title to land and the Division of State Parks has recreation-purpose lands that they manage. I think you all know that the majority of the land in the state is federally owned and controlled. We are less than 1 percent, but that is the distribution of our less than 1 percent.

We provide planning services. One of our objectives over the last two years has been to work with our state land use planner and to develop a more comprehensive inventory of our state lands. It has also helped us engage with state agencies to find out their future state needs so that we are not just being responsive to them at the time of the CIP, but we are actually having a vision and working with them to move that forward. We look at lands as to whether they are a performing asset or whether they should be put on a disposal list. This has been a truly informative and enlightening process for a number of members of the agency.

As I mentioned, we provide technical planning assistance to state agencies as well as local communities. This is a land use planning agency of one. That individual operates the clearinghouse which processes and distributes all the environmental documentation for federal projects in the state. That individual gathers comments from state agencies as well as local jurisdictions and provides that feedback to the federal agencies. That individual is currently working with the Nevada Joint Military Affairs Committee today. They are holding their annual winter meeting at Nellis Air Force Base.

As you noticed in our mission statement, we are engaged and involved in natural resource management issues. We are the lead agency coordinating the Environmental Improvement Program on behalf of the state at Lake Tahoe. We have the interagency team, the Nevada Tahoe Resource Team, housed within the Division of State Lands. This team has membership from the Division of State Lands, the Division of State Parks, the Division of Forestry, the Department of Wildlife, and the Department of Transportation. This team also includes local entities like the Nevada Tahoe Conservation District. Since the late 1990s, over 100 projects have been implemented. Those project areas are focused on water quality and storm water load reduction to address the total maximum daily load (TMDL) that was recently adopted for Lake Tahoe.

Working with the local fire chiefs on forest health issues has been very critical in terms of addressing wildland urban interface (WUI) issues. We look at it not just in terms of fuel reduction, but one of our forester's objectives is to grow tall, large trees and return the land back to the way it was in the 1800s where we had large trees and open forests.

One of the issues facing the Environmental Improvement Program has been that in 2009 the state was the first to make \$100 million of the Environmental Improvement Program Phase 2 commitment. Since that time, with the reduction in bond sales, that has disrupted project delivery. We have been very successful in going out and chasing after federal dollars for our forest restoration and fuel reduction work. We have been working with Division of Environmental Protection and the local jurisdictions to be rather strategic in terms of the water quality implementation projects. We want them to know they are addressing the hot spots and where they are going to get the most bang for the buck for their load reduction.

We also administer the Lake Tahoe license plate program. That is the program where funds are collected through the Department of Motor Vehicles and disbursed to the Division of State Lands for projects at Lake Tahoe. Our last program is the 2002 Conservation Bond program that is referred to as the Question 1 Program. State Lands administers a grant program to local jurisdictions as well as nonprofits for resource protection work. The reduction in bond sales has impacted the delivery of these programs, but we are still moving forward. We do have a number of projects on the books and that has been a successful program where we have had projects implemented in 14 out of the 17 counties. I will be happy to take any questions.

**Chair Titus:**

Are there any questions? [There were none.]

**Rebecca L. Palmer, State Historic Preservation Officer, Administrator, Office of Historic Preservation, State Department of Conservation and Natural Resources:**

The Office of Historic Preservation, also known as the State Historic Preservation Office, was established in 1977 in the Department of Conservation and Natural Resources and we returned to our original roots in 2011. This agency has three offices staffed with 14 employees around the state. One of our duties is the maintenance of a cultural resource database for the state. This database currently includes records for 91,000 archeological resources and 9,000 architectural resources. One is the Cold Springs Pony Express Station Ruins site in Churchill County that is listed on the National Register of Historic Places and is shown on the screen [page 35, [Exhibit C](#)].

Next you can see images representing two of our most popular programs: the Nevada State Register of Historic Places and the Nevada Site Stewardship Program [page 36, [Exhibit C](#)]. The Nordyke House, built in 1903, is a fine example of Nevada's unique history of recycled architecture and mobile buildings. Since 1979 this division, along with the support of many proud property owners, has placed 148 resources on the list and there are many more to come. The Nevada Site Stewardship Program, established in 2005, has 273 active volunteers ranging in age from 8 to 86. They visit, inspect, and monitor over 283 archeological and historical sites across Nevada. Nevada citizens and diehard Nevadaphiles provided 3,700 hours of volunteer service to the state in fiscal year 2014. They drove over an astonishing 40,000 miles of Nevada's roads to visit these fragile and vulnerable cultural resources.

Another visible program in our division are the 270 Nevada historical markers located along the highways and byways of Nevada. With the very welcome assistance of NDOT and multiple local, regional, national, and international organizations, we maintain these markers to continue to inform the traveling public across the state. The division also assists federal agencies, state applicants, and local governments to comply with provisions of the National Historic Preservation Act, and to ensure that the over 2,000 critical infrastructure, mining, transportation, and other development projects reviewed every year move quickly through the system.

This division manages a number of grant programs to assist local governments and nonprofits rehabilitate, preserve, and protect Nevada's cultural resources. Since 1976, Nevada has provided between \$100,000 and \$200,000 in grants each year to such worthwhile projects as the structural analysis of the Caliente Railroad Depot pictured in the top left of the slide [page 37, [Exhibit C](#)]; the structural support of the Fallon City Hall to prevent further catastrophic

subsidence of this National-Register-listed resource, in the bottom left of the slide [page 37, ([Exhibit C](#))]; and the documentation of the remains of the historic Mormon townsite of St. Thomas, which was once submerged under the waters of Lake Mead, but is now available to researchers to capture the memories of its former residents.

The division is staff to the Commission for Cultural Affairs which has distributed a total of \$40 million in general obligation bond funds since 1993. These funds were used to establish cultural centers across Nevada in 90 historic buildings. The return on investment is usually one to ten. For every dollar of general bond money, there is ten dollars returned to the community. Some of the resources that have been rehabilitated include the Jarbidge Community Center in Elko County; Oats Park School in Fallon; Goldfield High School which is depicted on the top right of the slide [page 37, ([Exhibit C](#))]; St. Mary's Art Center in Virginia City; Reno's Riverside Hotel; and the post office and federal building in Las Vegas, just to mention a few of the 90 buildings.

This division provides technical assistance to commercial property owners who wish to avail themselves of the 20 percent rehabilitation tax credit offered by the National Park Service and the Internal Revenue Service (IRS). Recent projects have included the previously mentioned post office and federal building in Las Vegas, now known as the Mob Museum, and the B Street House Bed and Breakfast in Virginia City. I thank you for your time and I would be happy to answer any questions you might have.

**Chair Titus:**

Will your department be involved with the Stewart Indian School preservation that the Governor has recommended?

**Rebecca Palmer:**

Yes, we will. In accordance with the deeds that transferred the property from the federal government to the state, we are responsible for ensuring that activities at that facility are consistent with the Secretary of the Interior's standards.

**Chair Titus:**

In my district, we have areas in Wilson Canyon where we have petrified forests and we have a lot of fossils. Who helps maintain and protect some of those areas?

**Rebecca Palmer:**

It depends on who manages the land. If it is federally managed, it would be the federal agencies responsible for the preservation of those resources. If it is on

state land, the state does have a state paleontologist who could assist in the preservation of those resources. However, if they are cultural in nature, our office can provide technical assistance, both to the federal agency and the state agencies, to ensure the preservation of those resources. Also, I am aware we have a historic marker at Wilson Canyon.

**Chair Titus:**

For my southern colleagues, as you drive up U.S. Route 95 Alternate, you should make a point to come through Yerington. Buckland Station and Fort Churchill are worth the stop on your way up. Are there any other questions?

**Assemblyman Oscarson:**

Ms. Palmer, I have had the opportunity to work with you throughout the interim and I appreciate all the services that you provide, and the challenges sometimes presented to you. I want to get that on the record. You have done some great things in southern Nevada with some of the archeological issues. You have been a great resource and asset and I want to thank you and your staff for that.

**Rebecca Palmer:**

Thank you very much.

**Kay Scherer:**

Two of our major agencies are going to be presenting to you in separate presentations at a later date: the Division of Forestry and the Division of Water Resources.

**Jennifer Newmark, Administrator, Nevada Natural Heritage Program, State Department of Conservation, and Natural Resources:**

The Nevada Natural Heritage Program is a small nonregulatory agency within the Department of Conservation and Natural Resources. We have eight staff members located in Carson City, but we have statewide responsibility. The heritage program is part of an international network. There are heritage programs in all 50 states and the Canadian provinces as well as some Latin American countries. Our mission is to compile and maintain data on the state's at-risk plants, animals, and invertebrates. Part of this duty is to give status information on the species themselves: how rare they are and which ones the state should be concerned about. Once we know what species we should be concerned about, the other part of our mission is to gather and maintain the data, and use that data for environmental clearance duties.

Nevada is incredibly diverse in terms of its geography, its ecosystems, and in the number of species that we have. We are the 11th most species-diverse

state in the Union and we are ranked 6th in the number of endemics. Those are the species that are found here in Nevada and nowhere else in the world. We have 344 of those species. Our staff assesses all species including the subspecies and varieties for their rarity and their conservation status. This is a really rigorous scientific review process, but it results in a relatively straightforward ranking on a scale of 1 to 5. For example, the Northern Saw-whet Owl that you see here on the left of the slide [page 39, ([Exhibit C](#))] is ranked as an S4. It is secure even though we have some long-term concerns. The Sonoran mountain kingsnake pictured on the right [page 39, ([Exhibit C](#))] is ranked as an S2. That means it is at risk and we are concerned for its conservation values in the future. What that means in practicality is we put that species on what we call our track list. Generally species that are ranked between 1 and 3 become our tracking priorities. The species that are on our track list are the species that we gather and maintain information on; we actively seek that information. We currently have 567 species, 2 of which are pictured here [page 40, ([Exhibit C](#))]. On the left is the adorable little pika. Those animals occur on the very top parts of our mountain ranges. Pictured on the right is the Carson Valley monkeyflower and that is a species that is located right here in the Carson Valley. We know of no other occurrences besides this valley.

We also maintain a watch list; these are species that are not quite rare enough to warrant tracking, but they are species that we want to keep on our radar for the future. We have over 13,000 records in our database. Each of these records has a spatial location so that we can locate it on the map. Each of those records have references that back it up. It is not just us putting a dot on a map; it has actual references for it. We also include biological information such as the conditions of the species and when was the last time it was observed. Our staff are constantly adding new information to this database. This is really important, because a static database that does not keep up with the changing landscape and the changing conditions and is not incorporating all the newest information is quickly going to become outdated. It is not going to be useful in our environmental clearance duties.

At this point you may be wondering what do we do with all this data? We provide our data and our biological expertise to other state agencies, federal agencies, private consultants, scientific researchers, all in an effort to better manage our state's natural resources. Our largest data consumer is NDOT. We provide on-demand data services to them to assist them with their environmental impact analyses that are required by federal and state laws. Seventy-nine percent of NDOT-maintained roads are within 3 miles of one or more locations of a rare species. Having access to our database is really critical

for them, and it helps to shorten their project timelines and saves funds by negating the need to hire private consultants.

Other agencies and businesses use our data for setting management priorities for implementing best management practices on the landscape and advancing economic development by decreasing conflicts with natural resources. Overall we serve as a single comprehensive point of contact for data related to environmental reviews and for conservation planning. We seek to minimize natural resource conflicts and help prevent species from becoming threatened and endangered in the future. I would be happy to answer any questions that you may have.

**Chair Titus:**

Are there any questions?

**Assemblyman Gardner:**

You said that you had a tracking system. How do you determine whether a plant or animal should be put on there as opposed to maintaining a 4 or 5 designation?

**Jennifer Newmark:**

We have a rarity assessment that we go through. It is based on six factors that include everything from how extensive is the range of the species; what are the conditions of the known populations that we have; are there biological characteristics that might make it vulnerable, for example, it only grows on certain soils or things like that. That is how we are able to provide it with the conservation ranking of 1 to 5. Those species that are ranked 1 to 3 are the species that we put on our tracking list and actively manage.

**Assemblyman Gardner:**

When you determine that it is a 1 through 3, are you only looking at whether the plant is in the state of Nevada or do you also look throughout the rest of the United States or perhaps the world?

**Jennifer Newmark:**

That is an excellent question. We actually do rank the species on three different scales. Our heritage program ranks Nevada species and that is referred to as the S rank for state rank. However, through our international network, species are also ranked on a national scale within the United States and then globally on their entire range. That is important because it does provide context. For example, if you have a species that barely gets its range into the state of Nevada, we would rank it as an S1 because it is a very small population. We might only know it from one or two locations. However,

in the neighboring state, it may be very common and secure and so by looking at those two ranks in conjunction with each other it does help us set better priorities.

**Chair Titus:**

Are there any other questions? I did have the pleasure of having one of those pikas join me in camp on top of the Sweetwater Mountains. I had never observed one before and it was quite noisy and quite annoying, but I had to come down off the mountain to look it up and see what it was.

**Kay Scherer:**

Again, a major agency that you will be hearing from in the future is the Division of Water Resources. They are responsible for all the appropriation reallocation of all the state's waters except the Colorado River. That presentation is scheduled for Tuesday, February 24. The other upcoming presentation is the Division of Forestry, and it is scheduled for Tuesday, March 10.

**Chair Titus:**

I will now open the hearing on Assembly Joint Resolution 3. The first witness will be Assemblyman Sprinkle.

**Assembly Joint Resolution 3: Urges Congress to facilitate the payment of contractors who completed hazardous fuels treatment projects in the Lake Tahoe Basin pursuant to contracts with the Nevada Fire Safe Council. (BDR R-431)**

**Assemblyman Michael C. Sprinkle, Assembly District No. 30:**

This last interim, I was honored to chair the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System. I am here to present Assembly Joint Resolution 3. I have several witnesses who will explain to you exactly why we are sitting in front of you today. As a quick synopsis, this was an interim committee action that was approved unanimously.

The situation in a nutshell is this: the Nevada Fire Safe Council (NVFSC) acted as an administrative clearinghouse for grants and as a community coordinator for fire prevention education, outreach, and work. They contracted with numerous entities for hazardous fuels treatments in the Lake Tahoe Basin. As you will hear, this went on for many years and a lot of really good work was done in one of the most pristine parts of the state of Nevada; and, certainly from a fire standpoint one with the most potential for damage should a fire ever happen in the Lake Tahoe Basin.



In July 2011, the Office of the Inspector General, U.S. Department of Agriculture (USDA), received a hotline complaint about the NVFSC. A subsequent investigation discovered various accounting irregularities. All relevant grant funding was suspended at the onset of the investigation; corrective actions were later taken. The NVFSC filed for bankruptcy in 2012, forcing many entities to file claims in the bankruptcy proceedings for their completed work. As you will hear, that is an extremely important part of all this because of the bankruptcy proceedings.

At five of the six meetings in the 2013-2014 Interim, the Committee discussed the NVFSC issue, listening to testimony from individuals, businesses, and fire professionals. One other legislator and I held some private meetings in addition to these so that we could get a good understanding of what we were dealing with. On May 2, 2014, the committee voted unanimously to send a committee letter to the Attorney General, U.S. Department of Justice, to request assistance in securing the release of the federal grant funds to pay the long-standing debt for hazardous fuels treatment work completed in good faith. A link to the response to that letter is posted on the Nevada Electronic Legislative Information System [page 2, ([Exhibit D](#))]. It gets us to why we are here today.

The entities that completed the hazardous fuels treatments in the Lake Tahoe Basin per agreement with the NVFSC did so in good faith and continue to suffer economic damages from the stalled payments approximately 3 1/2 years later, which is where we are today.

**Senator James Settelmeyer, Senate District No. 17:**

Having served on the interim committee and looking at this issue, I have some very strong opinions. I have constituents who are owed over \$40,000 and represent a fire department that is owed well over \$2.5 million. They are still trying to figure out how to balance their budget when the federal government will not write them a check. [Senator Settelmeyer continued to read from prepared testimony ([Exhibit E](#)).]

It was admitted during testimony that none of these funds were misappropriated nor misspent. Unfortunately, they were paid for out of the wrong pot of money. But that should be no fault of the fire departments and the private contractors that already performed the work that was agreed upon. Thank you for your support.

**Michael D. Brown, Fire Chief, North Lake Tahoe Fire Protection District:**

I am fire chief of the North Lake Tahoe Fire Protection District in Incline Village and Crystal Bay on the Washoe County side. Behind me is Chief Ben Sharit of

the Tahoe Douglas Fire Protection District along with his forester John Pickett. Chief Sharit and I represent the two Nevada-based fire departments in the Tahoe Basin. Associated with us are seven departments, as well as several contractors involved in this process. Today we are here representing the contractors that are also impacted by the nonpayment of these funds. I would like to introduce Forest Schafer who is a forester for the North Lake Tahoe Fire Protection District. Forest Schafer and John Pickett are the foresters who work with our departments. They have worked for numerous hours to come up with the conclusions that have been proven to both the U.S. Forest Service and the Bureau of Land Management, U.S. Department of the Interior, as accurate. Their accountants have looked at this information. They spent countless hours to make this possible and I am going to have Mr. Schafer give you a brief overview of where we are today and what transpired with the Nevada Fire Safe Council funds.

**Forest Schafer, Forester, North Lake Tahoe Fire Protection District:**

I appreciate the opportunity to speak today. We would like to provide a discussion of several items related to the Nevada Fire Safe Council, specifically the background of why the Nevada Fire Safe Council ended up managing substantial amounts of funding to complete fire risk reduction and prevention work throughout the state. We will also provide some detail on the financial process that led to \$2.7 million being owed to contractors.

The Nevada Fire Safe Council was formed in 1999 as a grassroots organization. It was a neighbor speaking to neighbor effort to get some community structure in place, in order to complete important projects related to defensible space, clearing vegetation around communities, and creating shaded fuel breaks around those communities. In time, the Nevada Fire Safe Council would grow to have over 5,000 volunteer members across 180 communities in the state.

In 2005 there was an amendment to the Southern Nevada Public Lands Management Act (SNPLMA) which made that funding source available to local jurisdictions and nongovernmental organizations. Fire departments, land management agencies, and regulatory agencies worked together in 2007 to complete a multijurisdictional strategy to address issues with wildfire without regard for property boundaries. The need was identified to have a single financial entity that could manage implementation money for this multijurisdictional strategy. That happened around the same time as the Angora Fire in 2007 which destroyed over 250 homes in South Lake Tahoe.

A bistate commission was formed and issued several recommendations including the need to collectively address among all agencies that one goal of reducing wildfire risk in the Lake Tahoe Basin. So, very quickly the Nevada Fire

Safe Council went from a small organization that had limited experience in managing federal grant money to an organization that applied for and received millions of dollars every year between 2008 and 2012, not just for work in the Tahoe Basin but for work throughout the state, especially in the Carson Range and the Spring Mountains in southern Nevada.

I have a PowerPoint presentation with a simplified representation of the cash flow of the Nevada Fire Safe Council ([Exhibit F](#)). This will show what led to \$2.7 million being owed to contractors for which work had been completed under federal grants, but for which the Nevada Fire Safe Council did not receive money from the federal government and therefore never paid the contractors that were owed for the work.

Bureau of Land Management (BLM) Grant 1 is a combination of multiple fuels reduction grants for the Carson Range and the Lake Tahoe Basin. United States Forest Service (USFS) Grant 3 represents two fuels reduction grants specifically for the Lake Tahoe Basin. The \$8 million under BLM Grant 1 represents work that was contracted for by the Nevada Fire Safe Council under approved federal grants and \$8 million of work was completed. Likewise, the \$5.5 million under USFS Grant 3 represents \$5.5 million of fuels reduction work completed in the Lake Tahoe Basin. In order to pay those invoices, the Nevada Fire Safe Council would draw money from either the BLM or the USFS, represented by the green arrows [page 8, ([Exhibit F](#))] leading to the \$8 million and the \$5.5 million respectively marked paid.

The BLM Grant 2 in the lower left corner of the slide represents two grants to complete work on the Carson Range and in the Spring Mountains. The Nevada Fire Safe Council contracted for this \$1 million worth of work to be completed and invoices were sent by the contractors to the Nevada Fire Safe Council. The Nevada Fire Safe Council was unable to draw that \$1 million from the BLM to pay that \$1 million in contractor invoices. The reason for this is that the Nevada Fire Safe Council failed to obtain a completed and signed financial assistance agreement with the BLM. It was common practice with the BLM Nevada State Office to approve pre-award costs so work could commence before the receipt of a signed financial instrument.

We could not find evidence of that letter approving pre-award costs for these two particular grants. At the same time this is happening during the field season of 2010 and 2011, we see under BLM Grant 1 and USFS Grant 3, additional invoices being developed by work being completed under those two grants: \$200,000 for the BLM, \$800,000 for the USFS. The Nevada Fire Safe Council at this point drew money from both BLM Grant 1 and USFS Grant 3, to pay contractors for work that should have been paid from funds in

BLM Grant 2. They should have used the combined \$1 million to pay the invoices due to the contractors who did the work under the grants from which the money was drawn. Instead, that \$1 million went to pay contractors for BLM Grant 2 work in the Carson Range and the Spring Mountains.

In the 2011 field season it was common practice that the Nevada Fire Safe Council would have some substantial delays in getting payments to contractors. Work continued through the 2011 field season on all three grants and the total amount now owed by the Nevada Fire Safe Council is about \$2.7 million. When these deficiencies were identified by the Office of the Inspector General, U.S. Department of Agriculture, both the BLM and the USFS halted all grant payments to the Nevada Fire Safe Council, even for work that had already been completed. At this point we have private contractors, fire departments, and individual homeowners owed substantial funds for which the work has already been completed. Because of the financial irregularities at the Nevada Fire Safe Council and taking money from one grant to pay the invoices from another, all reimbursement was halted. My hope is that this has provided an overview of what led to this situation.

**Chair Titus:**

Thank you. Are there any questions?

**Assemblywoman Carlton:**

I remember in 2011 and 2012 when this was going on. When the Nevada Fire Safe Council was established, who actually bears the fiduciary responsibility for the council?

**Michael Brown:**

That would be the board that oversaw the Nevada Fire Safe Council.

**Assemblywoman Carlton:**

With these irregularities in the audit, how did the board handle this and did anything happen to the board because of these irregularities?

**John Pickett, Forester, Tahoe Douglas Fire Protection District:**

The board of directors was a volunteer board. In the state of Nevada they are not held to the same standards as a compensated board.

**Assemblywoman Carlton:**

So in essence, no one really had fiduciary responsibility. This was not that type of board.

**John Pickett:**

They did not have personal direct fiduciary responsibility because they are a volunteer board. That is correct.

**Assemblywoman Carlton:**

Was there an accountant or an employee who was held accountable for any of this in any way?

**John Pickett:**

There was an independent CPA firm that had been retained by the Nevada Fire Safe Council to compile the financial statements of the entity. A compilation is different in scope and manner than an audit and they were not paid to and in fact did not opine as to the quality of the financial statements. There have been no charges brought against the executive director of the Nevada Fire Safe Council. Obviously he has had to live with this in the newspapers, but that is about the extent of it.

**Assemblywoman Carlton:**

This is a really tough one because we have all of this audit information. I guess this is one of the hazards of a nonprofit board without a professional staff. They did not mean to do anything wrong, just trying to get things taken care of, and just went down the wrong road. I will do some more investigation on the audit and figure this out.

**Chair Titus:**

Thank you for those questions. I, too, wonder what corrective actions were taken so this does not happen again. It is a lot of money and there are a lot of different silos for those monies and I can see several corrective actions, but I am still worried if there is enough oversight now to prevent it from happening in the future.

**Forest Schafer:**

The initial audit of the Nevada Fire Safe Council by the Office of the Inspector General, USDA, identified a list of items that needed to be corrected. In 2012 the board took the steps listed in Attachment A [page 5, ([Exhibit G](#))]. In November 2012, the Nevada Fire Safe Council declared bankruptcy. At that time, and still, the Nevada Fire Safe Council has virtually no assets to distribute to its creditors. The estate is in the hands of a trustee at this point, which we believe creates a neutral responsible party to handle any financial transactions.

**Chair Titus:**

Are there any questions?

**Assemblyman Ellison:**

Looking at the last two charts [page 33, ([Exhibit G](#))] it looks like the BLM and the USFS realized that there was a commitment owed to the Nevada Fire Safe Council. Did you ask for a congressional hearing with our congressional representative, the Nevada Fire Safe Council, USFS, and the BLM to try to resolve these issues prior to requesting this joint resolution?

**Michael Brown:**

Yes, we have. We have worked with several members, both on the California side and the Nevada side, and progress is being made. If they do not get answers by the end of this month, they will be requesting a congressional hearing. That is through Congressman Mark Amodei and his staff.

**Assemblyman Ellison:**

I think this is pretty serious. What about the people who were affected by this? Did they file insurance claims or are they going to file bankruptcy on their homes? What are they going to do?

**Michael Brown:**

Chief Sharit and our foresters get phone calls three or four times a week from the contractors affected by this. Several have closed their businesses and laid off their employees. They have lost their equipment and it has resulted in a lot of negative impacts on the contractors as well as the fire districts that are involved. They would like to see a resolution to this just like everyone else. So it has gravely impacted several businesses as well as their employees.

**Assemblywoman Swank:**

The Nevada Fire Safe Council is a registered 501(c)(3). It seems to me that the majority of 501(c)(3)s have volunteer boards of directors and they have fiduciary responsibility. Did the directors and officers have insurance in place to protect the board and was not that a way of recourse?

**Forest Schafer:**

Attachment B [pages 7-18, ([Exhibit G](#))] is a list of creditors from the bankruptcy court. In there you will note two claims by the U.S. Department of Justice totaling \$9.7 million. These are claims on behalf of the USFS and the BLM that determined because of the financial irregularities in place at the Nevada Fire Safe Council, they would seek to get back the sum total of grants that had been given and closed out and spent with the Nevada Fire Safe Council over the course of about 3 1/2 years. The Nevada Fire Safe Council between 2008 and 2012 completed approximately \$17 million worth of fuels reduction work and received \$17 million from grants. There is an additional \$2.5 million worth of

work that was completed but not paid for by either the Nevada Fire Safe Council or the federal agencies.

**Assemblywoman Swank:**

Just to clarify, the work was not paid for and there were some financial irregularities and that is why it did not get paid for. Correct?

**Forest Schafer:**

Because the Department of Justice had a claim in the bankruptcy court, it created complications for being able to take a limited amount of insurance, about \$1 million that is available from the organization's liability insurance to distribute equitably.

**Chair Titus:**

If you finally get the money now that the Nevada Fire Safety Council is in bankruptcy, generally the courts then decide what percentage of the money is actually paid, and it never is usually dollar for dollar. Do we have any idea how that will all transpire?

**Forest Schafer:**

It is believed that because this money was initially earmarked for a dedicated purpose, the money could not be distributed on a percentage basis to other creditors. There may then be other funds that would go to the state to be distributed in a more traditional manner.

**Chair Titus:**

Are there any other questions?

**Assemblyman Oscarson:**

I have another concern, and if it was already addressed please excuse me, but I think it needs to be stated again for the record. So work you and your colleagues have already done and you have already been paid for they now want refunded?

**Forest Schafer:**

At this point, the individual contractors have not been asked by the Nevada Fire Safe Council to repay any amounts for work already completed. That has been requested of the Nevada Fire Safe Council by the Department of Justice.

**Assemblyman Oscarson:**

So the federal government has requested that money be refunded from the Nevada Fire Safe Council?

**Forest Schafer:**

The federal government has requested that of the Nevada Fire Safe Council.

**Assemblyman Oscarson:**

That is obscene. The work was done in good faith and was done to the specifications of the contractual obligations and then to come back and ask for that money back I think is very disheartening.

**Chair Titus:**

Obscene is probably the cleanest word you could have used Assemblyman. Are there any further comments from the Committee? Is there anyone who would like to testify in favor of Assembly Joint Resolution 3? [There was no one.] Is there anyone who would like to testify in opposition to this resolution? [There was on one.] Anyone neutral? [There was no one.] We are going to close this hearing now.

Does the Committee want to vote to suspend Rule 57, subsection 4 of Assembly Resolution 1? It will require a unanimous vote if we are going to waive the 24-hour rule to vote on A.J.R. 3 today. I will entertain a motion.

ASSEMBLYMAN ELLISON MOVED TO SUSPEND  
ASSEMBLY RESOLUTION 1, RULE 57, SUBSECTION 4.

ASSEMBLYMAN WHEELER SECONDED THE MOTION.

**Assemblywoman Carlton:**

Excuse me I have some comments. Nothing personal to the sponsor, he has worked very hard on this. I still have some questions and I would like to do some research, so unfortunately this would not be a unanimous vote. We are still in the second week of session and we have some time. If you would permit me, I would like to do a little more research so that I am prepared to understand this. I still have some unanswered questions, so if we could wait that would be fine.

**Chair Titus:**

I appreciate your comments. Are there any other comments? [There were none.] There is no need to vote because it has to be unanimous. We will schedule this for a work session at a later time.

We are now going to move into a work session for Assembly Bill 35.



**Assembly Bill 35: Makes various changes relating to vessels. (BDR 43-363)**

**Chair Titus:**

We heard Assembly Bill 35 ([Exhibit H](#)) last week. Are there any comments on this bill?

**Assemblyman Hansen:**

I missed the hearing. They interchangeably use motorboat and vessel. Does this apply only to motorboats? A "vessel" as defined on page 3, line 31, "means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water." Yet motorboats seem to be the focus of it. I wanted to make sure that this only applies to motorboats, not canoes, inner tubes, inflatable kayaks or whatever.

**Jim Penrose, Committee Counsel:**

It appears to me that it is not limited strictly to motor vessels. It would apply to every vessel that is governed by the United States Coast Guard hull number requirements. I cannot tell you definitively what those vessels are, but it does appear that it is not just limited to motor vessels.

**Assemblyman Hansen:**

I do not want everybody who has a canoe, or the Boy Scouts, to have to meet another requirement for another number or whatever this may imply.

**Chair Titus:**

My understanding is that this is not a new number. It is placing the number where the U.S. Coast Guard has required the number to be placed.

**Assemblyman Hansen:**

I guess in the absence of knowing what the Coast Guard requirements are I am just kind of uncomfortable with it being a little too vague. I apologize since I was not at the hearing. I probably could have got that answered at the time.

**Assemblyman Ellison:**

Assembly Bill 35 was also for following up with their grant process. Correct?

**Jim Penrose:**

That is correct. My understanding of the testimony, and I do not know if there is anyone from the agency who may be able to respond to the question, if so it might facilitate matters. But my understanding is that compliance with the Coast Guard requirements was necessary to ensure that the federal grant money continued to flow.

**Robert D. Haughian, Administrator, Operations Division, Department of Wildlife:**  
I can address the earlier question about motorboats or not motorboats. It has to do with the registration and our requirement for registration of motorboats. People can come in and title and register a boat that is not a motorboat on their own volition, but this goes to motorboats.

**Assemblyman Hansen:**

So the definition of motorboat is all that is mandatory, but if you wanted to for whatever reason register a canoe or anything without a motor you are essentially okay?

**Robert Haughian:**

That is correct.

**Chair Titus:**

Are there any other questions? [There were none.] I will entertain a motion on A.B. 35.

ASSEMBLYMAN ELLISON MOVED TO DO PASS  
ASSEMBLY BILL 35.

ASSEMBLYMAN HANSEN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Chair Titus:**

We are now going to move on to Bill Draft Request (BDR) 26-554.

**BDR 26-554**—Makes various changes relating to the Executive Council of the Land Use Planning Advisory Council. (Later introduced as [Assembly Bill 144](#).)

Bill Draft Request 26-554 originated in the 2013-2014 Interim Sunset Subcommittee of the Legislative Commission. This measure addresses the duties of the Executive Council of the Land Use Planning Advisory Council. Today we will vote to introduce the bill draft request. This does not imply a commitment to support the measure later. All this does is allow the BDR to become a bill and be referred to a committee for possible hearings. I will entertain a motion to introduce BDR 26-554.

ASSEMBLYMAN WHEELER MOVED FOR COMMITTEE  
INTRODUCTION OF BDR 26-554.

ASSEMBLYMAN HANSEN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Chair Titus:**

The bill will be introduced on the floor.

**Assemblyman Ellison:**

Due to the seriousness of the issue with Assembly Joint Resolution 3, I would like to see that be set for a work session for the next hearing.

**Chair Titus:**

Assemblywoman Carlton, would that work for you?

**Assemblywoman Carlton:**

I will do my best. If I cannot, I will just vote against it.

**Chair Titus:**

Are there any other comments? [There were none.] Are there any public comments? [There were none.] The meeting is adjourned [at 2:56 p.m.].

RESPECTFULLY SUBMITTED:

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Donna J. Ruiz  
Committee Secretary

APPROVED BY:

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Assemblywoman Robin L. Titus, Chair

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

**EXHIBITS**

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

**Date:** February 10, 2015

**Time of Meeting:** 1:01 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
	C	Kay A. Scherer, State Department of Conservation and Natural Resources	Department Overview
A.J.R. 3	D	Assemblyman Michael C. Sprinkle	Remarks
A.J.R. 3	E	Senator James Settelmeyer	Letter of Support
A.J.R. 3	F	Forest Schafer, North Lake Tahoe Fire Protection District	PowerPoint Presentation
A.J.R. 3	G	Tahoe Basin Fire Chiefs	Nevada Fire Safe Council Information and Statements
A.B. 35	H	Susan E. Scholley, Committee Policy Analyst	Work Session Document