

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

**Seventy-Eighth Session
March 3, 2015**

The Senate Committee on Natural Resources was called to order by Chair Don Gustavson at 1:30 p.m. on Tuesday, March 3, 2015, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Don Gustavson, Chair
Senator Pete Goicoechea, Vice Chair
Senator James A. Settelmeyer
Senator David R. Parks
Senator Mark A. Manendo

GUEST LEGISLATORS PRESENT:

Senator Ben Kieckhefer, Senatorial District No. 16
Assemblyman Michael Sprinkle, Assembly District No. 30

STAFF MEMBERS PRESENT:

Alysa Keller, Policy Analyst
Gayle Farley, Committee Secretary

OTHERS PRESENT:

Michael D. Brown, Fire Chief, North Lake Tahoe Fire Protection District
Forest Schafer, Forester, North Lake Tahoe Fire Protection District
Robert D. Haughian, Administrator, Operations Division, Department of Wildlife

Chair Gustavson:

We will begin the hearing on Assembly Joint Resolution (A.J.R.) 3.
Senator Kieckhefer will introduce the resolution.

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)

Senator Ben Kieckhefer (Senatorial District No. 16):

I will be filling in for Assemblyman Sprinkle to introduce A.J.R. 3. I will read from his presentation ([Exhibit C](#)). I was honored to serve as vice chair of the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency (TRPA) and the Marlette Lake Water System during this past interim. This resolution was supported unanimously by that Committee. I would like to explain the issues and the actions that were taken by the TRPA Oversight Committee to resolve this situation.

Since 1998, the Nevada Fire Safe Council (NVFSC) had acted as an administrative clearinghouse for grants and as a community coordinator for fire prevention education, outreach and work, while contracting with numerous entities for hazardous fuels reduction in the Lake Tahoe Basin. In July 2011, the office of the Inspector General (OIG), U.S. Department of Agriculture (USDA), received a hotline complaint about the NVFSC, and a subsequent investigation discovered various accounting irregularities. All relevant grant funding was suspended at the onset of the investigation and corrective actions were later taken. The NVFSC filed for bankruptcy in November 2012, forcing many entities to file claims for their completed work.

During the 2013-2014 interim, the TRPA Oversight Committee discussed the issue during five of the six meetings held. Testimony was heard from NVFSC, individuals, businesses and fire professionals. During a meeting on May 2, 2014, the TRPA Oversight Committee voted unanimously to send a letter to the U.S. Attorney General requesting assistance in securing the release of the federal grant funds to pay the long-standing debt for the hazardous fuels treatment work completed. A link to the response to that letter is included on page 2 ([Exhibit C](#)). The entities completed hazardous fuel treatment in the Lake Tahoe Basin in good faith and continue to suffer economic damages from stalled payments approximately 3 1/2 years later. On August 25, 2014, the TRPA Oversight Committee voted unanimously to request a joint resolution to urge Congress to facilitate the release of the federal grant funds previously awarded to the NVFSC for hazardous fuels treatment in the Lake Tahoe Basin. I

would like to turn this over to Chief Brown so he can go into further detail about why it is critical that A.J.R. 3 is forwarded to the United States Congress.

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

I am joined today by Forest Schafer, of the North Lake Tahoe Fire Protection District, and John Pickett, from the Tahoe Douglas Fire Protection District. We are representing the seven fire departments within the Lake Tahoe Basin that have been affected by this issue. Mr. Schafer and Mr. Pickett are both registered foresters who have prepared an outline of events with supporting documentation and information ([Exhibit D](#)) that led to the filing of the NVFSC bankruptcy. This outline is now being used by the Division of Forestry, the U.S. Bureau of Land Management (BLM) and other agencies to illustrate how, when and where the funds were dispersed.

Forest Schafer (Forester, North Lake Tahoe Fire Protection District):

I am going to provide you with a brief background on the NVFSC and the financial processes that led this organization to owe contractors \$2.7 million for completed fire prevention and fuels reduction work performed. The NVFSC was formed in 1999 as a grassroots organization to implement neighborhood level fire risk reduction work. It eventually grew to 5,000 members in 180 communities across the State. Two things happened in the late 2000s that led to significant growth of the NVFSC and the increased funding.

First, due to an amendment to the Southern Nevada Public Lands Management Act in 2005, NVFSC was awarded funding for projects through the Lake Tahoe Environmental Improvement Program that included fire prevention and fuels reduction work.

The second reason for this growth was the 2007 Angora Fire in South Lake Tahoe that burned 250 homes. The cost of this fire exceeded \$180 million. A bistate Governors Commission convened and determined that the Tahoe Basin needed to have increased capacity for fuels reduction and fire prevention work. One way to accomplish that was to have a single administrative "clearinghouse" for grant funding awarded to State and local government entities to implement this work. Between 2007 and 2011, NVFSC applied for, was awarded and received more than \$25 million in grant funding. Of this amount, approximately \$20 million in work was completed. To date, NVFSC has only received a trace over \$17 million from the federal government.

This is the reason that \$2.7 million is still unpaid to contractors and the NVFSC for work that was completed.

I have presented a summary of work, [Exhibit D](#), completed by the Tahoe Basin Fire Chiefs in 2012 with an accurate set of financial records to illustrate what occurred. This information was compiled by volunteers, as NVFSC had no paid staff or liquid assets when this situation arose. What I am presenting is a simplified cash flow scenario. In this situation, money was fungible, so we could not track a dollar from its source to its final destination, but we could create a plausible scenario based on when the money was drawn, when the money was paid and why contractors were not compensated for their completed work.

Mr. Schafer:

The complications of the NVFSC focus specifically around three grants. Grants 1 and 2 were from the BLM; Grant 3 was from the U.S. Forest Service (USFS). The BLM Grant 1 was a grant for fuels reduction and fire prevention work in the Lake Tahoe Basin. The USFS Grant 3 was also for fuels reduction and fire prevention for the Lake Tahoe Basin. The NVFSC would contract with entities to complete the work, as represented on page 30 of [Exhibit D](#), for \$8 million in work completed on BLM Grant 1 and \$5.5 million in work completed for USFS Grant 3. Upon completion of assignment, the contractor would submit invoices to NVFSC. The Council would then coordinate those invoices, compile a reimbursement package and submit it to the federal government. The federal government would then award the funds to NVFSC, which would pay the contractors for the specific completed work for that appropriate grant.

Grant 2 from the BLM appears to be the source of confusion. This grant was a fuels reduction and fire prevention grant for work performed in the Carson Range, western Nevada, and in the Spring Mountains in southern Nevada. The NVFSC was awarded a \$1-million grant from the BLM to implement this work. The NVFSC hired contractors, the work was completed, and those contractors submitted invoices. However, unlike in the previous situations, NVFSC was incapable of drawing the \$1 million from BLM Grant 2 because the Council did not have a final financial instrument or assistance agreement in place. The reason for this is partly speculation; we do know that BLM grants often provide pre-award agreements where work can begin on the grant before the final financial instrument is in place; however, we were unable to identify that pre-award letter for this particular grant. The 2011 field season

of Grant 2 work continued, applying the Tahoe Basin grants as indicated on page 32 of [Exhibit D](#) as Grant 1 and Grant 3 for a total amount of \$1 million. Those invoices were provided to NVFSC, reimbursement packages were compiled and \$1 million was received from the federal government for work completed on Grants 1 and 3. In the meantime, work in the 2011 season was continuing at a very rapid pace in the Lake Tahoe Basin. Thousands of acres were treated for fuels reduction, and defensible space has been created on thousands of parcels. That work continued through the field season; meanwhile, there was no further reimbursement from the federal government. As a result, a total amount of \$700,000 was owed under BLM Grant 1; \$1.8 million under USFS Grant 3; and \$200,000 under BLM Grant 2. This accounts for the \$2.7 million owed to contractors reflected on page 33 of [Exhibit D](#). The initial audit by the OIG USDA effectively froze all funding to the NVFSC, which is why no reimbursement package could be prepared to pay these outstanding invoices. An additional audit conducted by the OIG of the Department of the Interior (DOI) combined those audits and found no misappropriation of funds. What this audit found were severe financial deficiencies at the NVFSC, including a lack of internal oversight and failure to segregate the individual grant monies. Due to the lack of oversight, the NVFSC failed to file annual audits as required by the CFR. Since then, the missing financial agreements are in place and all audits have been completed and submitted. The NVFSC entered bankruptcy proceedings in November 2012. At this point, there is a stable trusted entity to receive the federal funds. I hope this brings some clarity to the situation with the NVFSC.

Senator Settlemeyer:

This is a big issue; the North Lake Tahoe Fire Protection District is owed \$635,000, the Tahoe Douglas Fire Protection District is owed \$386,000 and I have a constituent that is owed \$19,000. Whether you are a small business or agency trying to balance a budget, when you are owed \$635,000, it is not easy. One of the things I would like to discuss is the insurance policy NVFSC found. I know they tried to pay the contractors with this money; however, the U.S. Department of Justice (DOJ) also has a claim to this money. I find it very problematic that the federal government actually owes this amount of money and then makes a claim for the insurance policy. Would you elaborate on that insurance policy?

Mr. Schafer:

Claims from creditors amount to approximately \$3 million. These creditors include the North Lake Tahoe Fire Protection District, many small businesses and individual contractors. In addition to the claims by contractors and small businesses, the DOJ has filed a claim for just under \$10 million, which accounts for more than three-quarters of the total estate. Their reasoning for this is that \$9.7 million is the sum total of all open grant awards, and under those grant awards \$9.7 million has been given to the NVFSC and paid to contractors who provided important fire prevention and fuels reduction work. Because these grants remain open and the financial deficiencies have been identified, the DOJ has filed a claim against the estate for that funding. The DOJ now controls three-quarters of the claim on the estate. This insurance policy is only about \$1 million, which is not nearly enough to reimburse the contractors for their work.

Senator Goicoechea:

Why is the DOJ suing for \$6 million of this?

Mr. Schafer:

The DOJ became involved in the case because of the bankruptcy proceedings. Our partners at federal agencies who have worked with us attempting to resolve these issues have been prevented from working toward a solution because the DOJ feels there may be a threat of litigation. I cannot comment on the reasons they would seek to obstruct it.

Senator Settlemeyer:

There was discussion during the interim that the DOJ has the opinion that if there is misappropriation of funds, even though there was no fraud, the government can request all funds be returned. I disagree with their opinion.

Senator Goicoechea:

Typically, labor comes first. I assume the contractor claims would float to the top; then they can argue if there was any misuse of the funds and by the time we get to that point, there will not be much left to fight over.

Senator Parks:

Are there certain contractors who have been forced out of business because of failure to be reimbursed for their services?

Mr. Brown:

Yes. We usually get two to three phone calls a week from contractors asking how the process is coming along because they know we are trying to be as aggressive as possible to get this rectified. Equipment has been repossessed, businesses have closed and other numerous issues continue. Our small fire district, as well as the others involved, has been impacted dramatically. We do not have the ability to bring the seasonal personnel back. We are continuing to do the fuel reduction work the best we can, but we need to get this rectified because of the catastrophic fire threat. As mentioned in A.J.R. 3, we have had some big fires in the State over the years. We were lucky and slipped by this last year. With the present drought situation we are experiencing, we have to do as much as we can to continue to protect our communities, our forests and our lands; we are doing that no matter what it takes. Even with the reduction of funds, we are going to make that happen.

Assemblyman Michael Sprinkle (Assembly District No. 30):

Speaking as the chair of the TRPA Oversight Committee, I want this Committee to know we worked with our Congressional Delegation throughout the interim to get this resolved before we came before this legislative body. In the end, the holdup is with the DOJ. This is why you are seeing A.J.R. 3. This will send a strong, clear, bipartisan and unanimous message that this legislative body as a whole is asking that this situation be rectified immediately. This has been a joint effort and has been passed out of the Assembly unanimously.

SENATOR SETTELMAYER MOVED TO DO PASS A.J.R. 3.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Gustavson:

Senator Kieckhefer will bring this resolution to the Senate Floor. We will now open the hearing on Assembly Bill (A.B.) 35.

ASSEMBLY BILL 35: Makes various changes relating to vessels. (BDR 43-363)

Robert D. Haughian (Administrator, Operations Division, Department of Wildlife):
In our agency, we refer to this bill as the U.S. Coast Guard Hull Identification Number Bill. Boat registration, titling, education, safety and enforcement are the responsibilities of the Department of Wildlife (NDOW) in accordance with chapter 488 of *Nevada Revised Statutes* (NRS).

The NDOW receives federal funding based on the number of boats we register every year. That funding amounts to between \$800,000 to more than \$1 million per year. Those funds are expended on education, law enforcement, navigational aids and boat administration. This past year NDOW registered 44,800 boats, almost all were motorboats, which are required to be registered if they are to be put on Nevada's waters. Fifty percent of the boats were registered in Clark County, twenty-seven percent in Washoe County and the remainder were scattered throughout the State. This amounted to \$1.5 million in revenue. By statute, 50 percent of that revenue is to be distributed to the various school districts, by county, where the boats are registered.

The purpose of this bill is to update NRS 488 to comply with the U.S. Coast Guard requirements in Title 33 CFR, which are addressed in my written presentation ([Exhibit E](#)). A key component of the requirement is the verification of hull identification numbers (HIN), which are similar to vehicle identification numbers. This number mainly addresses vessels that were imported or manufactured on or after November 1, 1972. A small percentage, from 1 percent to 3 percent of these boats are noncompliant. Of those boats that are not compliant, it is usually due to the age of the vessel. It may have an old HIN that was compliant under a previous scheme, or the manufacturer had an erroneous HIN on it. Either way, the State must issue a HIN to other noncompliant vessels.

The passage of this bill will secure federal funds to effect minor changes needed and updates the *Nevada Administrative Code*, enabling us to comply and ensure this process is in place by January 2017.

Senator Goicoechea:

Is this strictly for boats with motors?

Mr. Haughian:

On occasion, we will have boat owners who will want to register and title a johnboat or a sailboat without a motor; however, A.B. 35 applies exclusively to motored boats.

Senator Goicoechea:

What about the boats that have flat transoms where motors could be bolted?

Mr. Haughian:

We get a number of people who have that type of boat, but they do not put on motors, and in those situations, they do not have to register them. It is only when it has the motorized propulsion on it.

Senator Goicoechea:

What about a very large boat without a motor?

Mr. Haughian:

There are some large sailboats, but they usually have minor propulsion motors and would need to be registered.

Senator Parks:

Is there a fiscal impact?

Mr. Haughian:

I believe we submitted it as having no fiscal impact. There will be certain minor costs, but we are taking care of them in-house.

Senator Parks:

Are these costs already in your budget?

Mr. Haughian:

That is correct.

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SENATOR GOICOECHEA MOVED TO DO PASS A.B. 35.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Gustavson:

There being so further business, I will adjourn the meeting of the Senate Committee on Natural Resources at 2:08 p.m.

RESPECTFULLY SUBMITTED:

Gayle Farley,
Committee Secretary

APPROVED BY:

Senator Don Gustavson, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A	1		Agenda
	B	2		Attendance Roster
A.J.R. 3	C	2	Senator Ben Kieckhefer	Written testimony of Assemblyman Michael Sprinkle
A.J.R. 3	D	33	Michael D. Brown	Written Presentation
A.B. 35	E	2	Robert D. Haughian	Written testimony