

**MINUTES OF THE MEETING OF THE
SENATE COMMITTEE ON FINANCE
AND
ASSEMBLY COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEES ON PUBLIC SAFETY, NATURAL RESOURCES, AND
TRANSPORTATION**

**Seventy-ninth Session
February 17, 2017**

The joint meeting of the Subcommittees on Public Safety, Natural Resources, and Transportation of the Senate Committee on Finance and the Assembly Committee on Ways and Means was called to order by Chair David R. Parks at 8:04 a.m. on Friday, February 17, 2017, in Room 2134 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

SENATE SUBCOMMITTEE MEMBERS PRESENT:

Senator David R. Parks, Chair
Senator Aaron D. Ford
Senator Pete Goicoechea

ASSEMBLY SUBCOMMITTEE MEMBERS PRESENT:

Assemblyman Michael C. Sprinkle, Vice Chair
Assemblywoman Irene Bustamante Adams
Assemblyman Chris Edwards
Assemblywoman Heidi Swank
Assemblywoman Robin L. Titus

COMMITTEE MEMBERS ABSENT:

Assemblyman Jason Frierson (Excused)

STAFF MEMBERS PRESENT:

Mark Krmpotic, Senate Fiscal Analyst
Sarah Coffman, Principal Deputy Fiscal Analyst
Jennifer Gamroth, Program Analyst
Jay Kriebel, Program Analyst

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Barbara Williams, Committee Secretary
Kurt Englehart, Committee Assistant

OTHERS PRESENT:

Jayne Harkins, P.E., Executive Director, Colorado River Commission
Gail L. Benton, CPA, CPM, Senior Energy Accountant, Colorado River
Commission
Douglas N. Beatty, CPA, Division Chief, Finance and Administration, Colorado
River Commission
James R. Lawrence, Deputy Director, Nevada Department of Conservation and
Natural Resources
Greg Lovato, Administrator, Division of Environmental Protection, Nevada
Department of Conservation and Natural Resources
Kevin J. Roukey, Nevada Association of Conservation Districts

CHAIR PARKS:

I would like to begin the meeting by hearing budget account (B/A) 296-4490,
The Colorado River Commission.

INFRASTRUCTURE

COLORADO RIVER COMMISSION

CRC - Colorado River Commission — Budget Page COLORADO RIVER COMM-4
(Volume III)
Budget Account 296-4490

JAYNE HARKINS, P.E. (Executive Director, Colorado River Commission):
The Colorado River Commission (CRC) was created in 1935 by an act of the
State Legislature. We are governed by seven Commissioners. The CRC is
customer funded and receives no tax or General Fund revenues. Our operational
budget for the power side is provided by a small fee charged with each
kilowatt-hour of power we sell. Our power delivery project is funded through
contracts with the specific entities we provide with power. On the water side,
under statute, our water customers fund our budget.

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On page 3 of my testimony ([Exhibit C](#)) there are a couple of graphs. The first graph illustrates the customers and percentages which fund B/A 296-4490. The Southern Nevada Water Authority (SNWA) and the Silver State Energy Association are our two largest customers and account for the majority of the funding, with over 14 smaller customers making up the balance. The second graph is the CRC total budget and shows all revenue sources by customer.

Regarding Glen Canyon Dam Operations, the U.S. Department of the Interior has a federal advisory committee advising on Glen Canyon operations and its impact on the resources of Grand Canyon National Park. Each of the seven Colorado River Basin states and a number of other entities have a seat at the table. I am the Governor's representative on the federal advisory committee.

We have been working on a Drought Contingency Plan (DCP) for Lake Mead in conjunction with SNWA and other states. Lake Mead is down 140 feet since the year 2000. However, there has been significant snowfall in the Rockies, and our April to July runoff is expected to be at 139 percent. That water will go into Lake Powell, and we have to wait for the operational criteria to move it down to Lake Mead. There have also been intervening inflows below Lake Powell, like the Little Colorado River, the Virgin River and the Muddy River, resulting in an inflow at 200 percent in January 2017.

In addition, the Metropolitan Water District of Southern California is going to get more water from northern California, allowing them to conserve some water and put it in Lake Mead. Our February measurements show us at three feet above the shortage trigger elevation. We continue to hope we will not reach that level. Nevertheless, we have been working on the DCP, trying to preserve Lake Mead elevations above 1,020 feet through voluntary reductions and incentives.

The CRC continues to operate the power delivery system which provides reliable electric power resources for water deliveries into the Las Vegas Valley. We own and operate transmission and substations to provide power for SNWA pumping loads.

The only bill we are bringing forth this Session is Assembly Bill (A.B.) 11, requesting an inclusion of the CRC transmission line in previously enacted

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language dealing with the protection of critical infrastructure from aerial drone intrusion.

[ASSEMBLY BILL 11](#): Revises provisions governing the operation of unmanned aerial vehicles. (BDR 44-137)

Our performance measures are outlined on page 6 of [Exhibit C](#). Our largest project over the last decade is the replacement of the Hoover hydropower contracts, which expire September 30, 2017. Hoover hydropower was allocated by congressional legislation from the beginning, and we have received a new 50-year allocation. The new contract will run from October 1, 2017 through September 30, 2067. We have allocated all that power within the State and all of the contracts with the customers are complete as well. The listing in the second table on page 7 shows the contractors who will receive power starting October 1, 2017. The list includes current and new customers.

Our internal budget process is customer funded. We meet with all our customers, answer their questions, work with them and take it to our Commission. We had unanimous approval on this budget.

Today you have asked to review our operating budget, B/A 296-4490, which includes our staff and other things related to our operations. We have asked for some additional training. The energy market is evolving, and we would like to have on staff a certified energy manager going into the next biennium.

CHAIR PARKS:

I would like to hear about the two unclassified positions you are recommending for elimination, which have apparently been vacant for some time.

GAIL L. BENTON, CPA, CPM (Senior Energy Accountant, Colorado River Commission):

I have provided my testimony ([Exhibit D](#)). In reference to decision unit E-815, we are asking to eliminate two unclassified positions. The network administrator position assigned to our Energy Services Group (ESG) was intended to maintain the information technology (IT) of the group. The ESG is colocated with the energy program employees of the SNWA. Instead of filling this position, SNWA replaced all of the CRC system and now provides full IT services to both groups.

E-815 Unclassified Position Changes — Page COLORADO RIVER COMM-9

The energy accountant (EA) position is an entry level position for fiscal accounting and energy procurement accounting functions within the ESG. One EA position will be sufficient for the CRC as this position is generally designed to accommodate a new hire for a short period.

ASSEMBLYMAN SPRINKLE:

I would like to hear more about why these positions, which we approved two years ago, were never filled.

Ms. HARKINS:

We are always working with the customers to keep our staff as efficient as we can, since we pass those costs along to the customers. We have been trying to clarify our staffing needs throughout the process of getting the hydropower contracts negotiated and increasing from 11 to 23 customers. We brought on one contractor to help us do administrative record work, knowing we would not staff that fully after the new contracts were in place. We are still trying to figure out how many staff we need at the end of the process, so we have carried these positions, not filling them, while we analyzed the situation. If we need them, we would fill them. Once we are past October 1, 2017, and our customer base is complete, we can be more certain of our staffing needs.

ASSEMBLYMAN SPRINKLE:

I understand the CRC is in flux until the new customers' contracts begin. We do not want to keep these positions in the budget if they will never be filled, but I cannot help noticing you have a power facilities communication technician position that has been vacant since July 2014. When do you think you will know whether these positions are necessary?

Ms. HARKINS:

I want to remind you we are customer funded, so our budget does not receive any General Fund appropriations. I think it will be October 2018 before we have a firm idea of personnel needs. We plan to build new and robust computer systems to help with our billing and data checking. The more we can automate, the more we can reduce our staff. At this point, the positions will be needed to get us through the transition.

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SENATOR GOICOECHEA:

We are eliminating two unclassified positions. Of the three positions authorized last Session, is it correct we are only holding one vacant position?

DOUGLAS N. BEATTY, CPA (Division Chief, Finance and Administration, Colorado River Commission):

That is correct with respect to the Hydropower Department. We are still holding one of the natural resource specialist positions open. The facilities technician position that Assemblyman Sprinkle referred to has been with us for quite a while and applies to the Power Delivery Project. The individual in that position was promoted, and we have held the position because of a couple of solar projects they are working on. My understanding is they do intend to fill that position this year when the solar project will begin operating.

Our billing practices provide that we only bill the customers for those positions that are filled, so no customer is paying for unfilled positions.

ASSEMBLYWOMAN BUSTAMANTE ADAMS:

Do the customers approve the recommendations for the positions?

MS. HARKINS:

As we are working through the budget, the customers see the positions we have, as well as the vacancies. The customers are aware of the positions we are eliminating and the ones we are holding, and do not object. Before we fill a vacant position, we consult with customers.

CHAIR PARKS:

I would like to talk for a moment about the Hoover Power Allocation Act (HPAA) of 2011. You referred to your increase in customers. Will some of your new customers be Native American tribes?

MS. HARKINS:

The HPAA allowed that all the current customers got 95 percent of their entitlement. This includes the two Nevada entities that were affected, the CRC and the City of Boulder. The Act provided for Native American tribes to qualify for Hoover power from the five percent pool. The Las Vegas Paiutes are now able to get Hoover power, but their contract is directly with the Western Area

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Power Administration (WAPA), not with the CRC. None of the tribes would contract with the State entity because they are sovereign nations. There are other tribes in California and Arizona contracted with WAPA as well.

CHAIR PARKS:

I would like to move on to discuss the requested funding for a water conference. It was not approved in the 2015-2017 budget. Please explain why a conference is necessary and how the SNWA would benefit from such a conference.

MS. HARKINS:

In the distant past, we received some funding and had some conferences on water. Some of these conferences dealt with the Lake Mead operations. We feel a conference would be very helpful in discussing environmental issues, sharing information and furthering the cooperation between upper and lower Colorado River basin entities. The SNWA has helped us in the past with staff time and organization. We did ask for such funding last Session, but it was declined, so we are asking again. It is up to the Legislature to direct us in how you would like us to move forward. Our customers have seen this request and do not have a problem with it in our budget.

CHAIR PARKS:

What does the CRC hope to gain from such a conference?

MS. HARKINS:

Our work involves the Endangered Species Act program in the lower basin, Glen Canyon operations in the middle of the basin and other environmental programs in the upper basin. We are part of all that, but we do not see a lot of sharing of information among the entities. We were hoping a conference would help us achieve economies of scale and efficiencies among all the governmental entities as information is shared.

CHAIR PARKS:

Would the Colorado River Basin Ten Tribes Partnership Tribal Water Study be a part of the conference?

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MS. HARKINS:

We did not have a specific plan for that, but if there was a request for their inclusion, we could certainly accommodate it.

CHAIR PARKS:

We note there are a few other decision units, but I do not think we are concerned with your office furniture and computer equipment requests.

SENATOR GOICOECHEA:

Since 95 percent of your power is provided through a 50-year contract with WAPA, we have to be cognizant of the effect of the 2016 Ballot Question 3, The Energy Choice Initiative. Could you discuss the ramifications of the passage of the Initiative?

MS. HARKINS:

I do not have a thorough answer to that question. We receive power from Glen Canyon Dam, Hoover Dam, Davis Dam and Parker Dam. We then sell to various customers in the State. Our Hoover Dam allocation for the CRC and for Boulder City comes from Congress through the HPAA. It is not likely anything this Legislature does can change that allocation. Our contract through 2067 is only for Hoover Dam; the other projects have contracts of different terms. Many of the entities to which we have allocated, such as University of Nevada, Las Vegas (UNLV), will continue as contracted. There may be a rate question as to how some of the entities in NV Energy's service territory will get their benefit. We have negotiated and had approved by the Public Utilities Commission a process wherein an entity such as UNLV receives their Hoover power benefit from their provider, NV Energy, based on a formula we have supplied.

The Energy Choice Initiative, depending on how it is handled, may force us to change how some of our new customers get their Hoover power benefit. I know we will have to work that out when the details emerge. We have five utilities we sell to wholesale and the Initiative impacts those entities. They are Boulder City, Valley Electric, NV Energy, Lincoln County Power District and Overton Power District. Our contracts with them are completed and become effective October 2017 through September 2067. Some discussions with lawyers regarding contracts and property rights will probably be in order. If any

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of those entities want to give us back their allocation, we could reallocate it to other entities. I will be present on Monday, February 20, before the Assembly Committee on Commerce on Labor, Subcommittee on Energy, and will have a presentation with a little more detail at that time.

My goal is that Nevada not lose hydropower. There are other entities that have hydropower with Bonneville Power Administration and WAPA that do not get processed through the CRC. Our Hoover allocation comes from Congress and I do not think it is at risk. Our other contracts come from direct allocations through WAPA. If we were somehow forced to give that back, the State of Nevada would never be able to recover it.

CHAIR PARKS:

We are going to move now to the Department of Conservation and Natural Resources.

JAMES R. LAWRENCE (Deputy Director, Nevada Department of Conservation and Natural Resources):

Budget account 101-4150 funds the Department of Conservation and Natural Resources (DCNR) director's office and enables it to provide leadership, direction and administrative support to the divisions within the Department. My budget presentation is before you ([Exhibit E](#)). We also manage the Nevada Sagebrush Ecosystem Program within the budget. The Conservation Districts Program within the director's office is B/A 101-4151. Assembly Bill 29 is before this Legislature to put the Off-Highway Vehicle Commission within the director's office, but is not being heard today.

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CONSERVATION AND NATURAL RESOURCES

DCNR - Administration — Budget Page DCNR-17 (Volume III)
Budget Account 101-4150

DCNR - Conservation Districts Program — Budget Page DCNR-27 (Volume III)
Budget Account 101-4151

ASSEMBLY BILL 29: Revises provisions governing off-highway vehicles.
(BDR 18-220)

This budget account does not have any major decision units, and we have stayed within capped limits with minor increases in travel and operating support. I would like to bring your attention to the fact that we will request a one-shot appropriation for the Sagebrush Ecosystem Program. In the 2015-2017 biennium the Legislature appropriated \$2 million, \$1 million for each fiscal year, for the Department to fund conservation projects for the greater sage-grouse. The goal was not only to do great conservation work, but also to front-load our Conservation Credit System (CCS) so the credits will be available when mitigation is required in the ecosystem.

In the 2015 Legislative Session, we failed to use the appropriate carry-forward language. These projects take multiple years to get uplift out in the sagebrush ecosystem. We had always known that once we got these agreements in place with landowners it would take years to see the mitigation benefits. The purpose of the one-shot is to fully account for the expenditures of the original \$2 million, and then carry forward any extra amount.

When we asked for the \$2 million in the last Legislative Session, it was in advance of the listing decision of the U.S. Fish and Wildlife Service (USFWS). The USFWS, when evaluating a species for a possible listing, requires a plan, financial commitment and regulatory assurances that the plan would be implemented. The \$2 million was the financial commitment that USFWS needed.

CHAIR PARKS:

Could you discuss the findings and recommendations included in the CCS 2016 report prepared by the Sagebrush Ecosystem Technical Team (SETT)?

MR. LAWRENCE:

The SETT released a draft report outlining findings and created a Habitat Quantification Tool (HQT). When we started this program, we heard from environmental groups and industry that there were no good means for quantifying the environmental improvement outcome when it came to mitigation. The HQT is a model that covers the full range of the greater

sage-grouse down to actual fieldwork on the ground. It quantifies and provides the metrics to illustrate the net conservation gain. When USFWS revisits the issue in 2020, the results from the HQT will prove invaluable in confirming the conservation work that has been done. Nevada is at the forefront of using this useful tool.

We recognize that the HQT is new and that it is an adaptive management process. Because it is still developing, we will be revisiting projects on an annual basis and requantifying the data to see where we need to make changes. As part of our last adaptive management process, we identified some areas that needed improvements and found our model was not accurately quantifying areas where there was pinyon juniper encroachment. With all our projects, we have learned, we need to monitor indirect impacts from things like power lines. Quantifying that impact is something we still need to learn how to do.

CHAIR PARKS:

I understand you have been awarded four projects for funding to generate sage-grouse habitat credits. Has there been any effort to sell the credits? How does that work?

MR. LAWRENCE:

We have been awarded 4 projects to date, and have an additional 11 project requests for \$2.1 million, which is more than we have available. The credits are for advanced mitigation and we do not receive them until the uplift on the landscape is quantifiable. We have signed project agreements with the State, and the preliminary field survey has been done. Moving forward this season, we will be doing the work on the ground, and the monitoring and management commitments will be signed. In order to get the credit, there must be a 30-year assurance that it will be maintained. The first round of credits will be available for release later this year or early next year.

The transfer is really a market based transaction. The first demand for credits will be when there is a disturbance permitted by the U.S. Bureau of Land Management (BLM). Part of their mitigation can be to use the credit system, which the user could purchase from us.

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CHAIR PARKS:

Could you share with us why the Department is requesting authority to transfer any unexpended balance from the \$185,000 recommended for contract costs from fiscal year (FY) 2017-2018 to FY 2018-2019?

MR. LAWRENCE:

Those are the contract dollars for the adaptive management component of the CCS. The contracts tend to run over multiple years. Originally, we were looking to balance those dollars forward. Since that time, we have decided to put those contract dollars in B/A 101-4150. Our preference is to continue to have the dollars balance forward for more efficient contract administration.

SENATOR GOICOECHEA:

It is important to point out that the SETT is out there to assess these lands, and ensure they are, in fact, critical habitat. If they are not, they are not eligible to be part of the credit program. The SETT is crucial in identifying the habitat eligible for mitigation before we can get the payback on this program. Clearly, the demand is there, but we do not yet have enough habitat in place for the conservation credits.

MR. LAWRENCE:

You are correct. That is what makes this program so exciting. When we are doing mitigation on the sagebrush ecosystem, it is vital that we are doing it in the most critical places for the conservation of the species. The program is market based. On the supply side, we need to encourage the landowners to do the stewardship, and once they get the uplift, the demand side is industry driven. With 85 percent of the land in Nevada being federally managed, a lot of the demand side will be on projects on federal land that must go through the BLM permit process. This can be lengthy because there is more to it than just greater sage-grouse.

SENATOR GOICOECHEA:

I think it is important to note that the land enrolled in the CCS is all privately owned.

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ASSEMBLYWOMAN TITUS:

Last Session I was told we were too early in the process of these projects to see results or credits. I have seen a lot of habitat improvement in my District. When do you anticipate seeing results from the money we are investing?

MR. LAWRENCE:

When we are discussing as many acres as are involved, results are often discussed in two ways. One result is the actual status of the population and the other is the status of the habitat, which are two different metrics. The Nevada Department of Wildlife does the surveys and keeps track of the populations. In the last year, population counts of the greater sage-grouse have been up. It is difficult to correlate those increases directly to specific habitat projects, even though we know that the birds need a certain quality and amount of habitat to survive. It is encouraging that the population counts have been up.

ASSEMBLYWOMAN TITUS:

Restoration of habitat also ultimately decreases the fire danger and the cost of fire suppression. I am encouraged, and I think we will see good things out of it. With the wet winter we have had, we are really at risk for fire this season. I hope some of these projects have been helpful in mitigating that risk.

MR. LAWRENCE:

There is a reason this is called the Sagebrush Ecosystem Council and not the Sage-grouse Ecosystem Council. We talk a lot about greater sage-grouse because when the program started up we had the potential endangered listing of the species and then amendments to the BLM and U.S. Forest Service plans. Most of the projects that we are doing, while they are directly beneficial and are being measured to the greater sage-grouse, have multiple benefits across the board for the entire sagebrush ecosystem. The work benefits fire suppression, multiple species of plants and animals, and all Nevadans.

CHAIR PARKS:

Could you discuss the Department's intent with the request for a \$1.7 million one-shot appropriation for the CCS projects including any balances that might remain at the end of the 2017-2019 biennium?

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MR. LAWRENCE:

The original \$2 million was for long-term projects, but lacked the carry-forward language. We have four projects underway and there are going to be expenditures throughout the Session on those projects. Our intent with the one-shot General Fund appropriation is to true up, once we get further into the Session, the exact amount that needs to carryforward from the \$2 million. We need to make sure that the \$2 million we committed to do conservation work can be fully carried into the next biennium. We will include carry-forward language in the one-shot appropriation. These projects frequently span multiple years, and we want to ensure that the habitat work is completed and maintained.

CHAIR PARKS:

We will move on to the bond program for DCNR, on Budget Page APPENDIX-9 of the *Executive Budget*.

ASSEMBLYWOMAN SWANK:

I wanted to talk a little about the Commission for Cultural Affairs grant program. The budget request is for \$1 million, which I feel will not go far. I would like to get more information on the number of grants that were approved in the 2015-2017 biennium. I would also like to know how many were not approved, and for what reason. Do we have great projects out there that we just do not have the funds in the grant program to cover?

MR. LAWRENCE:

The grant for the Commission for Cultural Affairs is within the State Historic Preservation Office and not within B/A 101-4150. Nevertheless, I will make sure the information is provided to you.

We have four bond programs within DCNR. They are dependent on the sale of general obligation bonds and therefore the amount available is largely dependent on the State's debt capacity as determined by the Office of the Nevada State Treasurer. Although there is only \$1 million in the budget now, I know there are great projects out there that are ready to go if we can find adequate funding.

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ASSEMBLYWOMAN BUSTAMANTE ADAMS:

Could you expand on what kind of improvements fall under the Water Infrastructure Grant Program?

MR. LAWRENCE:

That program is administered by the Division of Environmental Protection, and it may be one of the budget accounts you will hear later. Regardless, I will provide those details to you.

CHAIR PARKS:

We will now move on to B/A 101-4151, Conservation Districts Programs. There are 28 locally elected conservation districts. Our concern with this budget is the continued increase in funding for the Sage Grouse Competitive Grants Program.

MR. LAWRENCE:

The Conservation Districts Program within the DCNR director's office provides the support and staff to the State Conservation Commission, which develops policy and regulations for the locally elected districts. My budget presentation is before you ([Exhibit F](#)). These districts are the boots-on-the-ground for conservation work in Nevada.

There are four staff within the program, one program manager and three regional specialists. The specialists are located in Winnemucca, Ely and Elko. They are invaluable in the field, working with landowners and the National Resources Conservation Service (NRCS) to get projects done.

In the 2015-2017 biennium, the Legislature appropriated \$40,000 for the Sage Grouse Competitive Grants Program in FY 2015-2016, and \$75,000 in FY 2016-2017. Because the \$40,000 is in our base budget, we are asking for continued increase of \$35,000 to arrive at a level \$75,000 each fiscal year.

The Competitive Grants Program has been a success. In FY 2015-2016, the agency leveraged the \$40,000, matched by the NRCS, and leveraged again into \$261,913 for on-the-ground projects to improve greater sage-grouse habitat. We want to keep the program successful and are therefore seeking the \$35,000 increase.

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CHAIR PARKS:

I also note the request for increasing the funding by \$500 to each of the conservation districts in order to meet previous levels of funding.

SENATOR GOICOECHEA:

I want to say that these projects are working and it is a worthy use of State dollars. The work done truly enhances habitat at bargain prices.

CHAIR PARKS:

We will now proceed to B/A 101-3173.

DCNR - DEP Administration — Budget Page DCNR-154 (Volume III)
Budget Account 101-3173

GREG LOVATO (Administrator, Division of Environmental Protection, Nevada Department of Conservation and Natural Resources):

My budget presentation is before you ([Exhibit G](#)). The Nevada Division of Environmental Protection (DEP) is entering its 40th year. One item not in the budget presentation is a pending settlement with Volkswagen. The settlement would provide approximately \$25 million to the State of Nevada for DEP to administer pollution reduction projects. The timing of the settlement is unclear and may not occur until the end of the year. We are preparing a mitigation plan that will be reviewed by the Department of Motor Vehicles Advisory Subcommittee on the Control of Emissions from Motor Vehicles, the Governor's Office and the Nevada Department of Transportation (NDOT). We are designing a process to review pollution reduction projects throughout the State.

New requirements from federal regulatory programs cause us to constantly reassess and adjust our programs. When projects are completed we sometimes shift staff among our budget accounts. For the Division overall we project a net zero increase in the number of positions. Some of the programs to which we are adding positions include the Water Pollution Control and Safe Drinking Water Regulatory Program.

CHAIR PARKS:

Within B/A 101-3173, our concern is the reclassification of an accountant technician position to a publications editor. My understanding is the position

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would be responsible for creating internal and external newsletters, evaluating content for the Division's Website and Website maintenance. Is that correct?

MR. LOVATO:

That is correct. Our staff mostly consists of scientists and engineers who are currently producing our written publications and Website material. We would like our information to be more understandable to the public. The publications editor position would ensure consistent and clear information throughout our publications and Website.

CHAIR PARKS:

Is the accountant technician position no longer necessary?

MR. LOVATO:

That is correct.

ASSEMBLYMAN SPRINKLE:

Who is providing the material for publications and the Website currently?

MR. LOVATO:

The material is primarily provided by our current staff, who are inspectors and permit writers with scientific backgrounds. There is a benefit to having a single individual with a language background to maintain the information for consistency and clarity. Right now the job is being done, but DEP feels it is not as clear and understandable as it could be.

ASSEMBLYMAN SPRINKLE:

Would the workload transfer to this individual justify a full-time position? Could the work be done as it is now with oversight from an ancillary position?

MR. LOVATO:

We feel there is a need for a full-time position. We have integrated reports we produce for water-quality protection and air-trend monitoring that are somewhat inscrutable to the public.

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CHAIR PARKS:

We will now move on the B/A 101-3185. Please discuss the Nevada Business Environmental Program, which is our major concern.

DCNR - DEP Air Quality — Budget Page DCNR-164 (Volume III)
Budget Account 101-3185

MR. LOVATO:

The University of Nevada, Reno Business Environmental Program (BEP) has provided confidential consultation services for a number of years on behalf of DEP for our Hazardous Waste Program. It is a successful way to provide information to small businesses and others who may not feel comfortable calling the regulator to find out what they should and should not be doing. They have a very competent program and staff, making it an efficient way to disseminate information. Recently we have revised our tiered permitting program within the Air Pollution Control Program and have moved some business and sources to a higher or lower permitting regime requiring more rigorous detailed permit application modeling. We want these businesses to have an available resource for navigating these changes, and the BEP provides this service.

CHAIR PARKS:

What other outcomes do you expect from the proposed contract?

MR. LOVATO:

Over the years, our Hazardous Waste Program federal grant funding has been in decline, which has caused difficulties in keeping talented staff at the BEP. Sometimes positions are cut to part-time and talented individuals leave. We believe with this additional funding we will be able to hold on to high-quality individuals and continue to provide these important services.

ASSEMBLYWOMAN BUSTAMANTE ADAMS:

Are the BEP services offered throughout the State, or just northern Nevada?

MR. LOVATO:

Throughout Nevada, businesses can access the services of the BEP, either on-site or by email.

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ASSEMBLYWOMAN BUSTAMANTE ADAMS:

How do you publicize the existence of the program for businesses in southern Nevada?

MR. LOVATO:

Permit applications and our Website include information about who to contact with questions.

CHAIR PARKS:

It appears the reserves in the DEP Air Quality Program are declining. Can you comment?

MR. LOVATO:

We are projecting a modest decline in reserves over the 2017-2019 biennium. That is a function of successful pollution reduction, since our program is based on emission and maintenance fees. We increased emission and maintenance fees by 2 percent in 2016, which was allowed by statute. As I mentioned earlier, we are changing the tiers of permitting which may have an effect on our overall revenue. In this budget we are proposing supplementing fees in FY 2017-2018 with federal Department of Energy grants. We will continue to assess the reserve and decide whether any further adjustments need to be made.

CHAIR PARKS:

Would it be correct to assume the Volkswagen settlement is going to occur later rather than sooner?

MR. LOVATO:

That is correct, but it is dependent on the court at this point. We are prepared to move forward with a mitigation plan when funds are available. I would add that in the consent decree Nevada will participate in, there is a 15 percent set-aside for the Nevada Electric Highway Program, which includes electric vehicle fueling stations. We are currently putting together those plans in cooperation with the Governor's Office of Energy.

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ASSEMBLYMAN SPRINKLE:

It appears the Department of Motor Vehicles Advisory Subcommittee on the Control of Emissions from Motor Vehicles will ultimately determine how this sizeable settlement money will be allocated. Will someone report to the Legislature and advise us as to how the money is being used?

MR. LOVATO:

The Subcommittee you refer to will be advising DEP on the overall mitigation plan and the criteria for the projects. The Division will be making the actual decisions, reviewing the projects and reporting to the Legislature.

CHAIR PARKS:

We will move on to B/A 101-3186, Water Pollution Control. We have some concern, and would like to hear more about the two new positions and one position reclassification requested for the DEP Storm Water Program.

DCNR - DEP Water Pollution Control — Budget Page DCNR-171 (Volume III)
Budget Account 101-3186

MR. LOVATO:

The DEP Storm Water Program is wide-ranging in the State. In the last biennium we saw the effects of storm water regulation on our Department of Transportation program, and there is a lesson to be learned there in terms of up-front investment and bringing entities into compliance to avoid future enforcement actions. Currently we have almost 1,200 permittees in the Storm Water Program, and we do not have adequate staff to handle them. Separately we have another 1,200 entities that self-identify as exempt from the requirement for a permit, and we need to inspect some of those to verify they do not require a permit.

The Storm Water Program is intended to protect storm sewer systems and water quality in our streams. The requested increase in staff will help ensure we are able to fulfill the Division's duty to inspect and regulate discharges that may introduce harmful pollutants. In addition, DEP is responsible for oversight of the permit we issue to NDOT for their own massive storm water program. Entities operating within NDOT's roadways and right-of-ways are overseen by them, but it is DEP's responsibility to oversee the work NDOT does.

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CHAIR PARKS:

You indicate there will be no fee increase necessary to support these additional staff. Is that correct?

MR. LOVATO:

That is correct. No fee increase will be required, although there may be an increase in fee revenue as new permittees come into the program.

CHAIR PARKS:

I recall a news story from some years ago about trucks from California unlawfully dumping their loads in Nevada. Is that a continuing problem?

MR. LOVATO:

I am not aware of it being an ongoing issue, but I will ask staff to follow up and let you know.

ASSEMBLYMAN SPRINKLE:

What are the typical violations you find, and what action is then taken?

MR. LOVATO:

The most commonly encountered violation is construction sites, which can start work quickly and not use best management practices to prevent silt erosion. We do not have the staff, nor would it be necessary, to permit every project before it takes place. Typically, the entity would file a general permit with DEP. We follow up by inspecting the site and verifying compliance, making sure silt fences or other prevention measures are used to control runoff. Sometimes those measures are not maintained well, triggering complaints on which we follow up. Right now, we have one staff position which covers all of Clark County and one staff position for other areas. The follow up work typically involves clearing out retention ponds and redigging drainage ditches.

ASSEMBLYMAN SPRINKLE:

Do you feel you are able to supervise these sites adequately, or do you feel many infractions are missed due to limited personnel?

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MR. LOVATO:

The sheer magnitude of the number of sites means it is likely there are violations of which we are not aware.

CHAIR PARKS:

Please discuss why you are seeking to reclassify a vacant administrative assistant position to an environmental scientist.

MR. LOVATO:

The new position will be based in Las Vegas where we need more coverage for our Storm Water Program. The duties of the vacant administrative assistant position have been consolidated into other positions in our Las Vegas office as we have become better at electronic record keeping and filing.

CHAIR PARKS:

If the reclassification were not approved, would you still recommend elimination of the administrative assistant position?

MR. LOVATO:

Yes, we would.

CHAIR PARKS:

We will move on to B/A 101-3187, Waste Management and Corrective Action. In this budget, our major concern is a new contract to provide technical services for the Three Kids Mine site.

DCNR - DEP Waste Mgmt and Corrective Action — Budget Page DCNR-179
(Volume III)
Budget Account 101-3187

MR. LOVATO:

The Three Kids Mine is a former manganese mine on 1,200 acres near Henderson. The Division is working on an overall cleanup plan in cooperation with the City of Henderson, the BLM and prospective developers, under the Three Kids Mine Remediation and Reclamation Act passed by Congress in 2014. Our role, under the Act, is to provide regulatory oversight of the cleanup. The mine left behind three large pits and a large area of tailings behind a dam. The

entire area will require remediation prior to development. Some material may need to be treated and put in a repository, possibly on site. The pits will need to be backfilled and regraded. The tailings have concentrations of lead and arsenic which are above acceptable levels for residential land use. Before any redevelopment can occur, DEP must evaluate the site using human-health-risk assessments and perform reviews of the geotechnical engineering associated with any backfill. We are requesting this contract to help us oversee that work. Approximately 900 acres belong to BLM, and the remaining acreage is private land.

The purpose of the Act is to allow BLM to transfer the land to a developer, provided a cleanup selected by DEP is scheduled to occur and financial assurance is demonstrated. The BLM must go through their own environmental review process in parallel with DEP. The developer is currently firming up their plans and coming up with proposals. Once those are ready, we will meet with all entities to review the plan. It is expected to take two years to develop a plan, and more time to implement it.

CHAIR PARKS:

I had a tour of the facility, and there was unlawful dumping on the site as well. It will truly be a major cleanup effort. Please discuss the sale of the BLM land once remediated and the potential development.

MR. LOVATO:

The language in the Act opens the possibility the federal government may have some liability as the land manager associated with the site, yet there are no available funds. The cleanup is estimated at over \$200 million. This would allow the BLM to transfer liability to a party with an approved remedy and financial assurance.

CHAIR PARKS:

Have you any estimate of how many individuals and hours of staff effort will go into this project?

MR. LOVATO:

At this time we think it will require one full-time staff person to oversee the project, as well as some management and legal time as we negotiate

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agreements. We think we can absorb the workload within our current staff and are not requesting any additional positions associated with it.

ASSEMBLYWOMAN TITUS:

Please address the status of reclamation and cleanup of the Buckskin Mine and Anaconda Mine, which are in my district. The BLM owns a lot of the land around the Buckskin Mine, but is the State responsible for the land within private ownership?

MR. LOVATO:

Yes, that is correct. Portions of the Buckskin Mine lie on both public and private land. What we are trying to do in this case is advance the closure of the mine, which has not been operational for some time. During the interim, we saw available funds in our Mining Reclamation Fees, and with the agreement of our mining partners, we requested \$500,000 from the Interim Finance Committee to fund specific abandoned mine cleanups. Buckskin was allocated \$50,000. When we spend State funds, we are obligated to seek cost recovery where possible. We have to weigh a number of factors in deciding how to follow up.

ASSEMBLYWOMAN TITUS:

I appreciate that. Am I correct that the State has committed to 10 percent of the cost of some remediation at the Anaconda Mine?

MR. LOVATO:

There is a need to address what we call the orphan share for the Anaconda Mine. The orphan share refers to the portion operated by Arimetco Copper Company. The cost of the cleanup is currently estimated at approximately \$30 million. The long-term plan is to cut off the source of water so we no longer have to keep constructing evaporation ponds. It is costing about \$500,000 each year for work ARCO is doing voluntarily on site. In order to avoid that becoming an ongoing problem, we need to do further remediation work.

The 10 percent cost Assemblywoman Titus is referring to would not come into effect until after the site is listed on the Environmental Protection Agency's (EPA) National Priority List. At that point, DEP would have to enter

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into a contract with EPA which spells out the State's obligations. Potentially that could happen much later this year. That is one option for handling this site.

Another option that is still under evaluation is a State-private funding agreement, which we are pursuing. We think there is a benefit for the State, both fiscally and managementwise. If we enter into a contract with EPA, we would be subject to federal procurement regulations, oversight and contracting procedures. This could add cost and complexity to the cleanup.

ASSEMBLYWOMAN TITUS:

My concern is what the State's ultimate exposure to the cleanup would be. It seems there would be no cap on an agreement which held the State responsible for 10 percent. We have dealt with this in our community since the mine shut down in the 1970s.

CHAIR PARKS:

Tell us more about this relatively new Abandoned Mines Land Program (AML).

MR. LOVATO:

We have had abandoned mines projects for a long time. The Rio Tinto Mine is one frequently referred to, where we are completing the oversight of a \$25 million remedy this year. These were formerly just part of the portfolio of projects we would oversee. Now we are assessing which projects are causing water quality concerns and can be addressed with mitigation.

In the past, we may have waited until concerns were raised by the community, but we have formed a program to actively assess, categorize and prioritize these sites. When funding becomes available from any source, we can pursue the projects. One example would be the Castleton Mine in Lincoln County, where \$6 million became available from a bankruptcy settlement and allowed our AML staff to oversee cleanup. In the next year or so, significant design and construction work on the Anaconda Mine Arimetco orphan share should be underway.

CHAIR PARKS:

It seems the AML is almost a budget unto itself.

MR. LOVATO:

We have other types of cleanup projects such as gas stations and dry cleaner sites. We are trying to put as much effort as possible up front into cutting off sources of contamination and exposure pathways. We believe that within our Corrective Actions unit we have the right individuals on staff. There are certain issues common to abandoned mines, and the AML staff specifically focuses on those.

CHAIR PARKS:

We will move on to B/A 101-3197, the Safe Drinking Water Regulatory Program. Our two concerns in this budget are the request for two new positions for the Drinking Water Program and the transfer of the Wellhead Protection Program from the DEP Water Pollution Control Budget.

DCNR - DEP Safe Drinking Water Regulatory Program — Budget Page
DCNR-207 (Volume III)
Budget Account 101-3197

MR. LOVATO:

Over the past 12 years, we have not funded any new positions in the Drinking Water Program (DWP). During this same period, we have had a number of revisions to federal regulations that are difficult to implement with our smaller systems. There are public water systems regulated under the Safe Drinking Water Act, which we implement on behalf of the EPA. Some of the new requirements demand additional attention to monitoring, treatment technologies and reporting which are labor intensive.

We have invested many of our resources over the past several years into compliance assistance for the smaller programs. With the upswing in the economy, many of the systems need subdivision map reviews and other reviews from our DWP. The positions we are requesting are to keep up with the increasing workload that is due to both the increase in federal requirements and the growth Nevada is experiencing.

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CHAIR PARKS:

We are all familiar with the crisis of lead contamination in the drinking water in Flint, Michigan. Am I correct that the DWP regulates some 600 public water supplies? Do we have anything in Nevada that would cause similar concerns?

MR. LOVATO:

You are correct that we regulate roughly 600 public water supplies. Fortunately, Nevada waters are not as corrosive as those in Flint are. Nevertheless, we are assessing some of the older systems for contaminant problems. One of the most vulnerable populations for lead exposure is young children. We received some grant funding this past year to test drinking water in elementary schools. We have done some outreach to the superintendents of the school systems and plan to reach out to principals. We do not expect any issues, but given the heightened concern, we wanted to offer that service as a resource. Arizona has a similar program underway.

SENATOR FORD:

I recently saw some headlines about drinking water in Nevada. Should we be made aware of any concerns?

MR. LOVATO:

Here in Nevada over 99 percent of the population and visitors using public water systems are drinking water that complies with all State and federal standards. There was some concern in the town of Goodsprings last year related to lead in drinking water. The Southern Nevada Health District investigated and I believe they resolved the issue. Because of the controversy in Flint, we have communicated with the EPA on the compliance status of all our public water systems and updated our Website. Any systems not in compliance are undergoing efforts to bring them up to standard.

SENATOR FORD:

I have found the article I was referencing, and it dates back about a year. It was about uranium contamination in the groundwater near Yerington.

MR. LOVATO:

The situation you are referring to is related to the Anaconda Copper Mine. The mine operated from the 1950s to the early 1970s. The technique they used to

process the ore leached out copper and along with it, naturally occurring uranium. The uranium migrated into the groundwater 30 or 40 feet below ground at the mine. There was also migration offsite to the north. The drinking water standard for uranium is 30 parts per billion over a lifetime. Some of the wells adjacent to the mine neared or exceeded that value. Most of the affected wells were domestic wells as opposed to public water system wells, which is the only kind DEP has regulatory authority over. Bottled water was and continues to be provided to residents whose wells exceed 25 parts per billion uranium. In the past several years, a settlement was reached between some of the private well owners and Atlantic Richfield Company (ARCO), the successor responsible party for the Anaconda Mine. The company has funded a \$20 million expansion of the City of Yerington drinking water system so private well owners have the option to sign up for the public water system. There were approximately 140 to 150 private well owners affected in the area, but the situation has been dealt with.

ASSEMBLYWOMAN TITUS:

I am aware residents were offered access to the city water system. Further north, the Indian reservation now has a water treatment system. Although there may be risk, there has been no documented health harm to any citizens from the drinking water.

ASSEMBLYMAN SPRINKLE:

If 99 percent of the State has access to drinking water which meets State and federal standards, why is DEP requesting two new full-time positions?

MR. LOVATO:

The Division has set up performance metrics, and one of them is what percentage of the public accessing public drinking water systems receives water which meets all State and federal drinking water standards. To meet the definition of compliance can be more difficult. A system may meet all the safety standards based on the analytical data and still not be compliant due to inadequate quality assurance or quality control measures.

The revisions to the Safe Drinking Water Act have increased the federal regulation and those rules come in phases. There are surface water treatment rules, a lead and copper rule, and reduction of lead rules, among others. They

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require DEP to assess the impact on each of the 600 systems we have discussed and work to bring the noncompliant systems into compliance. There has been a significant increase in rules and regulations and a resulting increase in our workload. I can get you more specific information as to each of the regulations and why they require more manpower.

CHAIR PARKS:

It is my understanding the majority of the funding for the two new positions will come from the federal Drinking Water State Revolving Fund Grant. Is that correct?

MR. LOVATO:

Yes, that is correct.

CHAIR PARKS:

Could you briefly discuss the DEP Vulnerability Assessment Program?

MR. LOVATO:

The Vulnerability Assessment Program was known as the Wellhead Protection Program and the Source Water Protection Program in the past. Its purpose is to provide assistance to public water systems in assessing and identifying potential future threats to their drinking water sources. It also provides information to local decision makers to aid them in land use regulation. It is a technical resource program, not a regulatory one. It had been housed in our Water Pollution Control Bureau for several years. Due to the high level of interaction with the local drinking water providers, DEP feels transferring it to the Safe Drinking Water Regulatory Program provides a better alignment of functions.

CHAIR PARKS:

My understanding is DEP currently has contract staff performing some of these duties. If we fund the professional engineer (PE) position, will the contract be terminated or allowed to expire?

MR. LOVATO:

In our vendor schedule, we have a reduction in the contract. We are preserving a holdback of approximately \$20,000 per fiscal year to allow for a transition if

needed. This would allow us some time to find the PE and transition them into the program.

CHAIR PARKS:

Would you please give us any additional details of interest on the transfer of the Wellhead Protection Program from B/A 101-3186 to B/A 101-3197?

MR. LOVATO:

We have discussed most of the important information. I would note the former head of the program moved into a management role in the Safe Drinking Water Regulatory Bureau, so his familiarity with the Wellhead Protection Program is another good reason for its transfer into this budget account.

CHAIR PARKS:

We will now move on to B/A 101-3175, the Industrial Site Cleanup. Please give us an overview.

DCNR - DEP Industrial Site Cleanup — Budget Page DCNR-216 (Volume III)
Budget Account 101-3175

MR. LOVATO:

The Industrial Site Cleanup Bureau was approved in the 2015 Legislative Session. It was originally created and funded due to a settlement to address the cleanup of perchlorate and other contaminants at one of the sites located in the Basic Magnesium Industrial Complex near Henderson. The site was then known as the Kerr-McGee Tronox site and is now known as the Nevada Environmental Response Trust (NERT) site. The contaminants had reached the Las Vegas Wash and Lake Mead, affecting water users in Nevada, Arizona and southern California. We have made quite a bit of progress on the cleanup but there are still a few thousand tons of perchlorate remaining in the ground, both at the site and off-site in the soil and groundwater.

The purpose of this Bureau is primarily to oversee the cleanups at NERT and the surrounding sites. We have made progress in cutting off groundwater contamination from leaving the sites by placing systems at the property boundaries. The focus now is on reducing the amount of perchlorate leaching into the Las Vegas Wash. We reduced it by about 90 percent in the first few

years, but as the level drops, it becomes more difficult to make progress. We have reduced it by an additional 10 percent in the last couple of years by installing pump stations, improving the system hydraulics and treatment capacity.

The primary funding for this budget comes from settlement agreements that we have reached with the various responsible parties. The settlements fund both the staff and the contract support for which we are requesting some enhancement.

CHAIR PARKS:

Our major concern is the increase in contract services. It looks like you are requesting \$100,000 in each fiscal year of the biennium. Will the funding come from the settlement income?

MR. LOVATO:

Yes, that is correct. We are asking for additional contract authority in both fiscal years to enable us to diagnose where perchlorate is entering the Las Vegas Wash from groundwater. We are trying to identify where best to invest cleanup money along a 3.5-mile stretch of the Wash. Faults and gravel beds high in perchlorate are areas we would target. We are requesting \$1.3 million in FY 2017-2018, and \$250,000 in FY 2018-2019, at which point we anticipate the diagnosis of the problem will be completed.

CHAIR PARKS:

Am I correct you are eliminating three positions from this budget?

MR. LOVATO:

When DEP created this budget in 2015, we did not have a performance history with NERT and we wanted to give the State the ability to directly oversee and implement some of the cleanup projects at the site. Since then, the Trust has been executing on a number of projects. At this point, we think it is more efficient and effective for the Trust to do the work rather than the State, and that is the reason DEP is requesting the elimination of the three positions.

ASSEMBLYMAN SPRINKLE:

How long is this project going to continue?

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MR. LOVATO:

The cleanup could take decades. Our short-term focus is diagnosing and designing the final remedy, which we believe is a five-year plan. We submit a semi-annual report to the Legislature and detail our progress. Currently the federal drinking water advisory level for perchlorate is 15 parts per billion. The standard is under evaluation, and new standards have been suggested as low as 1 part per billion. That would have a dramatic effect on length and extensiveness of the project. We are dealing with a 17-square-mile area feeding into the flow of the Las Vegas Wash. The standard from EPA is anticipated to be released in 2018. The ultimate goal is to restore the groundwater to drinking water standards. We are well above those standards now, which is why I say we are decades away from completion of the project. Our remedy milestone, in which DEP has a plan we think will operate long-term, is projected to be complete in 2021.

CHAIR PARKS:

It would appear you are dealing with over 6,000 acres of site, correct?

MR. LOVATO:

The perchlorate problem originated with two manufacturers: PEPCON, which became AMPAC, and Kerr-McGee. The area is surrounding Boulder Highway and Lake Mead Parkway, with a series of ditch systems that originally went from the plants to ponds and directly charged the groundwater. The contamination is not uniform over the entire area, but all of the area has concentrations well above the drinking water standard.

CHAIR PARKS:

With the new administration in Washington, D.C., is there concern some federal funding sources are vulnerable and may adversely affect the DEP budgets?

MR. LOVATO:

Federal budgets overall have been slowly declining for some years. We are assessing how that may affect us. I think there is an appreciation across the political spectrum for how much work is done on the ground by the states, and there is value in supporting state programs. Many environmental programs are statutory and lawsuit-driven which may attenuate any quick decline of funding. Industry also appreciates predictability as opposed to rapid changes. It is

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probably still to be determined what effect the new administration's priorities will have on Nevada. We participate in national work groups and receive updates from state partners in order to gain some insight on what may lie ahead.

MR. LAWRENCE:

Today the Committee heard a small part of our mission, the programs we have and the work we do for the State in conservation and protection.

CHAIR PARKS:

Is there anybody wishing to make public comment?

KEVIN J. ROUKEY (Nevada Association of Conservation Districts):

I am speaking today in support of Nevada's Conservation Districts. I have submitted my written testimony ([Exhibit H](#)) and a map of the Conservation Districts ([Exhibit I](#)).

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CHAIR PARKS:

Seeing no further comment, this meeting is adjourned at 10:19 a.m.

RESPECTFULLY SUBMITTED:

Barbara Williams,
Committee Secretary

APPROVED BY:

Senator David R. Parks, Chair

DATE: _____

Assemblyman Michael C. Sprinkle, Vice Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	2		Agenda
	B	1		Attendance Roster
	C	9	Jayne Harkins, Colorado River Commission of Nevada	Budget Hearing February 17, 2017 Testimony
	D	4	Gail Benton, Colorado River Commission of Nevada	Budget Hearing February 17, 2017 Testimony
	E	18	James R. Lawrence, Department of Conservation and Natural Resources (DCNR)	DCNR Administrative Budget Hearing-BA 4150
	F	9	James R. Lawrence	Conservation Districts Program Budget Hearing –BA 4151
	G	24	Greg Lovato, Division of Environmental Protection, DCNR	Division of Environmental Protection Budget Hearing
	H	2	Kevin J. Roukey, Nevada Association of Conservation Districts	Support Conservation District Program Budget Testimony
	I	2	Kevin J. Roukey, Nevada Association of Conservation Districts	2017 Nevada Conservation Districts Nevada's Best Kept Secret