

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON NATURAL RESOURCES**

**Eighty-First Session  
February 22, 2021**

The Committee on Natural Resources was called to order by Chair Howard Watts at 4:03 p.m. on Monday, February 22, 2021, Online. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/App/NELIS/REL/81st2021](http://www.leg.state.nv.us/App/NELIS/REL/81st2021).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Howard Watts, Chair  
Assemblywoman Lesley E. Cohen, Vice Chair  
Assemblywoman Natha C. Anderson  
Assemblywoman Tracy Brown-May  
Assemblywoman Maggie Carlton  
Assemblyman John Ellison  
Assemblywoman Cecelia González  
Assemblywoman Alexis Hansen  
Assemblywoman Susie Martinez  
Assemblywoman Robin L. Titus  
Assemblyman Jim Wheeler

**COMMITTEE MEMBERS ABSENT:**

Assemblywoman Annie Black (excused)

**GUEST LEGISLATORS PRESENT:**

None

**STAFF MEMBERS PRESENT:**

Jann Stinnesbeck, Committee Policy Analyst  
Allan Amburn, Committee Counsel  
Devon Kajatt, Committee Manager  
Nancy Davis, Committee Secretary  
Trinity Thom, Committee Assistant



**OTHERS PRESENT:**

Ashley Jeppson, Administrator, Division of Plant Industry, State Department of Agriculture  
Bret Allen, Environmental Services Supervisor, Division of Plant Industry, State Department of Agriculture  
Jake Tibbitts, Natural Resources Manager, Department of Natural Resources, Eureka County  
Justin Harrison, Administrative Services, Clark County,

**Chair Watts:**

[Roll was called. Committee rules and protocol were reviewed.] Today we have three bill draft requests (BDRs) for introduction. The first one is BDR R-467.

**BDR R-467**—Urges Congress to designate certain land in Spring Valley as a National Heritage Area. (Later introduced as [Assembly Joint Resolution 4](#).)

ASSEMBLYWOMAN COHEN MOVED TO INTRODUCE BILL DRAFT REQUEST R-467.

ASSEMBLYWOMAN BROWN-MAY SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN HANSEN, TITUS, AND WHEELER VOTED NO. ASSEMBLYWOMAN BLACK WAS ABSENT FOR THE VOTE.)

Next we have BDR 47-468.

**BDR 47-468**—Establishes certain protections for certain swamp cedars. (Later introduced as [Assembly Bill 171](#).)

ASSEMBLYWOMAN COHEN MOVED TO INTRODUCE BILL DRAFT REQUEST 47-468.

ASSEMBLYWOMAN ANDERSON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN ELLISON DID NOT VOTE. ASSEMBLYWOMAN BLACK WAS ABSENT FOR THE VOTE.)

Now we have BDR R-470.

**BDR R-470**—Urges Congress to sell or transfer certain public lands to local governmental agencies and nonprofit organizations. (Later introduced as [Assembly Joint Resolution 5.](#))

ASSEMBLYWOMAN BROWN-MAY MOVED TO INTRODUCE BILL  
DRAFT REQUEST R-470

ASSEMBLYMAN WHEELER SECONDED THE MOTION.

**Chair Watts:**

Is there any discussion?

**Assemblywoman Titus:**

Will you read the title of the BDR again?

**Chair Watts:**

Bill Draft Request R-470 urges Congress to sell or transfer certain public lands to local governmental agencies and nonprofit organizations.

**Assemblywoman Titus:**

For clarification, do we know what public lands this is referring to?

**Chair Watts:**

This BDR was brought forth by the Legislative Committee on Public Lands. This is to introduce the bill so that we can get the text out to the public and any interested parties. It urges Congress to sell or transfer certain public lands to local governmental agencies and nonprofit organizations.

**Assemblywoman Titus:**

Will the specific land be listed when this becomes a bill?

**Chair Watts:**

Once the bill is introduced, during the next floor session, the exact text will be available to every member as well as the public.

THE MOTION PASSED. (ASSEMBLYMEN ELLISON AND TITUS  
VOTED NO. ASSEMBLYWOMAN BLACK WAS ABSENT FOR THE  
VOTE.)

Next on our agenda is [Assembly Bill 34](#). This bill revises provisions governing the control of pests, noxious weeds, and pesticides.

**Assembly Bill 34: Revises provisions governing the control of pests, noxious weeds and pesticides. (BDR 49-272)**

**Ashley Jeppson, Administrator, Division of Plant Industry, State Department of Agriculture:**

Assembly Bill 34 prioritizes in three different areas. *Nevada Revised Statutes* (NRS) Chapter 555 governs our noxious weeds program, the nursery program, and the pesticides compliance and enforcement program. Each of those have some changes predominantly pertaining to the pesticides compliance and enforcement program.

Sections 1 through 4 involve some definition changes to the noxious weeds program. That is specific to including the term "propagative part."

Section 5 pertains to adding some minor language to our nursery program so that there is an exemption for those not just selling through a catalog, but also selling via the Internet. There is some clarification to modernize that.

Sections 6 through 26 pertain to updating our pesticide control compliance program to reflect federal regulation changes. We are also trying to clean up the language, so it is easier to understand and navigate. There are a lot of moving pieces to our pesticide compliance program.

Sections 1 through 4 provide clarification in terms of "propagative parts." Section 1, subsection 1 states that "control" means to cut, destroy, or eradicate noxious weed populations. We felt the need to ensure that was clear as to the expectations of controlling noxious weeds which are obviously problematic to our public lands. A very important aspect here is that the type of control is reflective of the species and how it tends to reproduce. This is allowing the State Department of Agriculture (NDA) to clarify that language and also make it clear that the intent of these noxious weeds populations is to work towards eradication. I would like to stress that we are continuing to work with folks who are diligent about their control. This is a significant issue, and this allows us to lay out the expectations specific to the species of concern.

As I mentioned, we defined "propagative part," meaning any seed or cutting that has potential for reproducing.

The other piece within our noxious weeds program that we are refining is including guidelines established by the North American Invasive Species Management Association. That is specific to our weed-free certification program, which is voluntary. This organization sets the standards, and we work under a memorandum of understanding to provide service for minimizing noxious weed populations. We want to clarify those are the guidelines that we operate under.

Section 5 has one revision to our nursery program, which pertains to exemptions for folks who are selling or distributing nursery products through catalogs. If it is solely through

catalog sales, they are exempt, but as we know, most of those sales occur online so we are adding the provision that if the sale is done through an online source, they would comply with that as well.

Moving on to the bulk of the changes in A.B. 34, sections 6 through 26 pertain to the pesticides compliance program. I would like to give a little context. The intent of this program is to provide tests to pest control operators and companies in general to ensure that they have knowledge of the competency standards that are expected by federal law, and that ultimately they are applying pesticides in a way that is safe to themselves, the public, and of course, the environment. This governs that piece and how an operator is certified, how he is licensed, and to ensure he is meeting those expectations.

We work under a cooperative agreement with the Environmental Protection Agency (EPA). Many of these changes pertain to things that have changed on the federal level. With that context in mind, we reference the *Code of Federal Regulations* (CFR) in here in terms of the competency standards that are expected to be met. Again, these standards are very specific: how pesticides are applied, environmental conditions, and safety standards. We are also trying to clean up the language and streamline the process, through three types of operators: private applicators, nonprivate applicators, and commercial applicators. In the past, it has been a little confusing to navigate, and this is how we feel it will be best structured to make it clearer. For clarification, a nonprivate applicator would be a government employee. For those of you who may have been involved in 2017 legislation, Assembly Bill 32 of the 79th Session was to govern government applicators—that is not going away. We have heard some concern on that. It is actually being folded under nonprivate application. Anyone using restricted-use pesticides or general-use pesticides is governed in some capacity and this is clarifying that. We have it clarified that a commercial applicator is someone who is for hire—for-profit versus a private applicator who might be someone who is a landowner or is employing someone on his land for agriculture purposes to do pest control. There are provisions for them and also for folks who are doing it as part of their government employment. That is how we separate it, and we have also tried to fold in those CFRs that we have to demonstrate compliance as part of our cooperative agreement.

**Assemblywoman Anderson:**

Looking at section 3 where "electronic mail" is being added, I greatly appreciate that. It is time for us to start moving into some more electronic options. With the electronic mail, how do we verify that someone has, in fact, received that information? Also, who makes the decision as to whether it is done with certified mail or electronic mail?

**Ashley Jeppson:**

We try to communicate as many ways as possible. In our industry there are varying levels of needs. Oftentimes, we will send out certified mail in addition to electronic mail. With the email the operator is providing on file as part of his licensure, the expectation is that he is providing an accurate, easy means of communication. Our program managers work directly with our deputy attorney general when certain issues are being dealt with, such as a compliance issue, which is typically sent out in multiple manners to ensure the

communication is received. For licensing, we tend to issue initially through email, and if there are issues with that, we will try other means of communication.

**Assemblywoman Anderson:**

I appreciate the fact that there are multiple means of communicating. I was a little concerned about email being able to be upheld in law.

**Assemblywoman Titus:**

Section 12 lists the purpose of what the NRS says in regard to "restricted-use pesticide." Can private citizens apply a restricted-use pesticide if they have the right federal credentials? Are we expanding what someone has to do now, that a certification from the state will be needed? I see an expansion here of requirements and applications, and now the private rancher using this on his farm can somehow get and use restricted-use pesticides. Is this correct?

**Ashley Jeppson:**

There is a federal standard; we are there to help enforce it and streamline the process on a state level. In the past if someone wanted to apply restricted-use pesticides, he had to be certified. That is still occurring, just under what we are calling a "private applicator." If there is a landowner or even if it is an agriculture producer working together with his neighbor, as long as it is not for commercial use, he can apply as a private applicator which allows him to use the restricted-use pesticides, which are of bigger concern.

**Assemblywoman Titus:**

The private rancher cannot use his restricted-use pesticides now?

**Ashley Jeppson:**

They cannot without the certification.

**Assemblywoman Titus:**

Currently, a private citizen cannot get a federal certification and use the restricted-use pesticide. This is broadening who can have access to these restricted pesticides, is that what I am hearing?

**Ashley Jeppson:**

The private citizen had to be certified with us before; this is just a language clarification. The private citizens have always had to be certified to apply restricted-use pesticides.

**Assemblywoman Titus:**

A private citizen can get certified, take a test or whatever the certification process is, and study the safety of these pesticides. I am not clear what the additional benefit of this bill is, if he can already do this through the certification process. Is there an additional fee? If a private citizen is already able to apply restricted-use pesticides with a certification, this sounds like maybe just another fee they have to pay.

**Ashley Jeppson:**

You will see listed in the bill, whether private, nonprivate, or commercially certified, they have to abide by the updated CFRs. What is happening here is with the written exam and the competency standards that they comply with. The purpose of this bill is to update that CFR. As we are submitting that, we are also trying to clean up the language, so it is easier for someone to find out which category he falls under. In the past, the way it was defined was not very clear for anyone to figure out what he needed to apply for. We are trying to clean up that piece while also adding that as he is testing, complying, and registering, he is also meeting the CFRs from that exam.

**Assemblywoman Titus:**

Is there a different fee structure in the different license categories? If this will save ranchers money, I am for it. I just need clarification on the fee structures. If they need to know where they fall, is there an advantage to being a private landowner during the certification process?

**Ashley Jeppson:**

I would like Bret Allen, my subject matter expert, to answer that question.

**Bret Allen, Environmental Services Supervisor, Division of Plant Industry, State Department of Agriculture:**

The fees will remain the same. This is not a fee in addition to, we are making this adjustment to meet EPA's new competency standards. That is it. There is not an additional test or an additional fee.

**Assemblywoman Cohen:**

There is a lot of reference to powers that the Director of the NDA has and whether a person has demonstrated something to the Director's satisfaction. The Director has the ability to deny, to suspend, or to have different inquiries. Will you give us a general idea about what is appealable and where does a person go if he does not like a decision that the Director made?

**Ashley Jeppson:**

We try to work with the federal minimum requirements unless we see something that is an immediate concern. The process, if we did find that there is a violation to the statute or to the code, is we would notify the person of the specific violation, and he would be notified with the opportunity for what is called a "notice of hearing." If he wanted to contest it, that is his opportunity to present why he does not feel he is in violation or why he does feel he is meeting requirements. It would go before a hearing officer, and if the violator is able to demonstrate his case, then the conclusion is made based on that process. The person can also appeal after the hearing.

**Assemblywoman Cohen:**

If he is still not satisfied—and you said he has a right to appeal—does he then go to district court?

**Ashley Jeppson:**

If he is not in favor of the hearing officer's conclusion, he can appeal it.

**Assemblyman Wheeler:**

When you were talking about fees with Assemblywoman Titus, I am not sure exactly what you meant by the fees will not be changed. Section 2, subsection 2 says, "The Director may establish and collect reasonable fees for such a program." To me that means that reasonable fees are not included now. What is going to change, and what is the limit on the fees that the Director may put in? This looks to me like you can raise the fees any time now, and there is no limit.

**Ashley Jeppson:**

In reference to section 2, there is an addition that says the Director may establish and collect reasonable fees. That is pertaining to our weed-free certification programs. I want to mention that we currently have the authority to charge a fee under NRS Chapter 587. However, we are trying to fold it under here because this is where we regulate that weed-free program as it stands. It is just cleaner for the viewer to see everything in one spot. This is a cleanup attempt, but it is not a new fee; it is in current regulation and we are trying to consolidate it. I apologize for not being clearer on that.

**Assemblyman Wheeler:**

Is there a cap to it, or is it just whatever the Director decides is reasonable?

**Ashley Jeppson:**

It has to be established in regulation. It would be adopted in our code and have to go through a public process.

**Chair Watts:**

Are there any other questions? Hearing none, I will move on to testimony from those in support of A.B. 34. Hearing none, I will move to testimony in opposition. Hearing none, I will hear those neutral to A.B. 34.

**Jake Tibbitts, Natural Resources Manager, Department of Natural Resources, Eureka County:**

I listened to the presentation to try to get a better understanding of the intent of the bill and some of the justification for it. I have some concerns moving forward. I understand the intent of aligning with the CFRs. I would like to bring a few things to the attention of the Committee and NDA. I heard in the presentation very little described about some of the changes to the government applicators, now calling them "nonprivate applicators." I point out to the Committee that if you look at the end of the bill, there is a list of the leadlines of repealed sections. Nearly all of those have to do with government applicators. In the 2017 session these changes related to government applicators were put into the statute [Assembly Bill 32 of the 79th Session]. I was part of that process along with many others, also representing the Eureka Conservation District as the county-appointed supervisor. There



were a lot of discussions before the language went into A.B. 32 of the 79th Session. We have not seen that with this current effort.

We run a very organized and active weed control effort here. We have one of the few organized weed districts in the state. We think there are some potential implications on those government applicators. One thing that is a bit concerning is in section 15, dealing with the licenses that would be required that would seem to lump in the government entities. It says there are two different licenses that would be required, but one of them is actually a business license. Additionally, it does say "for hire or for profit" without a definition of "for hire." A quick search of a legal dictionary online will show that "for hire" is letting out goods or services for money consideration. Many counties, weed districts, and conservation districts receive grant funding to do weed control. Sometimes it even covers some overhead for staff to do that. I think it could be lumped in here. That is "for hire" even though it is more of a reimbursement it would require a business license since it is the letting out of services for a money consideration; it could be locked in to make counties, weed districts, and conservation districts apply for business licenses. We would like to work on these issues and help find a way that is clearer for the government applicators.

**Chair Watts:**

I will move on to the next caller in neutral on A.B. 34.

**Justin Harrison, Administrative Services, Clark County:**

I would like to thank Ms. Jeppson for her presentation and her willingness to meet with Clark County on some of the initial concerns we had upon first review. During the meeting with Ms. Jeppson and members of the NDA, we were able to clear up those concerns. The Clark County Vector Control within the Public Works Department works to control weed population, particularly in our right-of-ways in urban Clark County and more so in the rural areas of the county. Again, thanks to the Department for clearing up any questions we had.

**Chair Watts:**

I will move onto the next caller in neutral. Hearing none, we do have a couple of questions before you make your closing remarks.

**Assemblywoman Carlton:**

The language that is being referred to as the reasonable fee language on page 4, line 11, is language that already exists in another area. You are just trying to clean it up. This is not a new fee, it is just going to have a different place to live. Even if this was amended out of this bill, the fee would still exist, correct?

**Ashley Jeppson:**

Yes, you are correct. We currently have the authority to charge a fee.

**Assemblywoman Titus:**

I need some clarification. I am concerned that folks have to get a business license. We need to get a business license for any businesses, but does this require an additional business

license that was not required before? One to be issued by the NDA under section 15, subsection 2? Does the Director already require and have the authority to issue a business license under this section? Or is this a new ability of the Director?

**Ashley Jeppson:**

Currently, we do have the authority to require the for-profit to have a business license. It is defined in our current statute for for-profit or for hire. It is just reorganizing.

**Bret Allen:**

This is not an additional business license. We do currently have "business license" defined in NRS, which is the only business license for commercial pest control industry or what we would be calling commercial applicators.

**Assemblywoman Titus:**

Are we requiring the private person to be certified and to now have a business license?

**Bret Allen:**

No, the private applicator has to take a competency exam, meet the federal requirements, show that he is eligible in the standards, and then get the certificate. This applies to private citizens who are applying the restricted-use chemicals on their own property.

**Assemblywoman Titus:**

You use the term "certificate," that the private citizens take a test and are then certified. Then you use the term "issuing a business license." Those are two separate things, correct? A private citizen is already required to get a business license, and in order to get the business license, he has to be certified?

**Ashley Jeppson:**

For anyone who is doing this for commercial hire and for-profit, as part of his credentials, he needs a business license. A private applicator, which is someone who owns property or has his own staff for his property, would not need a license, nor would the nonprivate government applicators. The business license is for someone who is advertising and doing pest control services.

**Assemblywoman Titus:**

They already need that business license, correct?

**Ashley Jeppson:**

Yes.

**Assemblywoman Titus:**

Thank you for the clarification.

**Allan Amburn, Committee Counsel:**

I would like to provide additional clarification. I do want to point out that this will actually limit who has to get a business license under section 15, subsection 1, by specifying that the natural person who will be doing these activities for hire or profit; however, that language is not in statute. The way I read existing statute is that any natural person who wants to engage in any of those activities of pest control has to be licensed. You can make an argument that a private applicator currently could be a part of that, but adding the "for hire or for profit," we are limiting who now has to get a license to these commercial applicators, business entities. In subsection 2, it explicitly shows who should get a business license: natural persons or business entities who seek to operate, again for hire or for profit, a pest control business. This is talking about the licensure for pest control. There is a separate issue which is dealing with the certification for restricted-use pesticides. The certification for restricted-use pesticides is where we are talking about the private applicators, nonprivate applicators, and commercial applicators. That is where the adjustments are being made on this bill, which requires them to comply with the federal regulations. That is the main change that is happening with the private applicator. A nonprivate applicator is that they have to comply with the federal standards.

**Assemblyman Wheeler:**

When Ms. Jeppson spoke about section 2, subsection 2, that really confused me. If we are already charging for this and there is no revenue enhancement, why does this bill require a two-thirds majority vote? Or is this a new fee?

**Allan Amburn:**

I can research specific regulations and statutes dealing with the specific fee. Regarding the two-thirds vote, generally when we are drafting bills and we give an agency or an officer the authority to establish and collect fees, regardless if it is happening or not and is just placing it in statute, we put that in to bring it to the awareness of the body. That way, if there is a situation in which new fees are being collected, the Legislature as a whole has to pass it by two-thirds majority. As to whether this specific fee currently exists, I will defer to Ms. Jeppson on that. I will also research that after this hearing.

**Chair Watts:**

If, after a consultation with the agency, it is determined, as has been indicated, that it is revenue neutral because the fee is already authorized within *Nevada Administrative Code* or another portion of statute, then the two-thirds requirement can be removed. Is that correct?

**Allan Amburn:**

I am not sure. That would be a decision by the Legislative Counsel within the Legislative Counsel Bureau in consultation with the Department of Agriculture.

**Chair Watts:**

Does the presenter have any closing remarks? [The presenter had none.] Please follow up with the staff to provide information on the current fee structure that exists. I will distribute that to the Committee members.

I will now close the hearing on Assembly Bill 34 and open the hearing on Assembly Bill 74.

**Assembly Bill 74: Revises provisions relating to pesticides. (BDR 51-265)**

**Ashley Jeppson, Administrator, Division of Plant Industry, State Department of Agriculture:**

I would like to give a little background to this program. It involves the registration and distribution of pesticides, with an emphasis on restricted-use pesticides, which are a bigger concern to the public and environment. The only change here is updating our statute to reflect changes in federal requirements. That pertains to recordkeeping for those who are selling restricted-use pesticides. It specifies that each sale and distribution of restricted-use pesticides needs to be recorded. One thing I would like to provide for clarification is that in the *Code of Federal Regulations* (CFR), the intent is to the user in 40 CFR § 171.303. If a distributor is selling to a wholesaler or a retailer, he is not having to track it. Once it is being sold to a potential end user is where those changes are. I will also mention that the reason for the stricken areas is that all of those are referenced in that CFR and the requirements for what the record must entail, which is why we are referencing CFR in case they add anything additional.

**Chair Watts:**

Are there any questions on Assembly Bill 74? [There were none.] Just to be clear, the requirements that are being stricken from statute are incorporated within Title 40 of the CFR, which is referenced in the new language. Do you know if there are any additional requirements currently that would be added by adoption of this language?

**Ashley Jeppson:**

It is all very similar: the place of business, what the restricted-use pesticide is, and the type of applicator. I am not seeing anything that really stands out. I will note that it does require that the product name and the Environmental Protection Agency registration number be included.

**Chair Watts:**

I wanted to get it on the record that there are no major changes.

**Allan Amburn, Committee Counsel:**

Currently, in section 1, subsection 5, paragraph (b), language asking for the name and address of the person to whom sold or delivered is being deleted. Federal regulations provide the name and address of the residence of each certified applicator to whom the restricted-use pesticide was distributed or sold or, if applicable, the name and address of the residence or principal place of business of each noncertified person to whom the restricted-use pesticide is distributed or sold. An argument could be made that existing statute is essentially that you have to provide the name and address of any person, and the federal regulation states you must provide that name and address of a certified applicator and any other noncertified person, if that information is provided.

**Assemblywoman Hansen:**

In my former life, I was an editor, so when I see eight or nine lines of text being eliminated for two lines, yet it accomplishes the same purpose and aligns with the federal regulations, this is a win.

**Ashley Jeppson:**

That is ultimately our goal, to keep things updated. We are trying to work in cooperation with the Department of Environmental Protection and update those standards as these things come in-line.

**Chair Watts:**

I appreciate that we are making sure our statutes can adjust as the other elements they are tied to grow and are modified.

**Assemblywoman Cohen:**

Regarding the reference in section 1 to the person registering, is this one of the situations in which we are using "person" but including corporations as well?

**Allan Amburn:**

We would defer, in this situation, to *Nevada Revised Statutes* 0.039, the Preliminary Chapter. There we provide that person means any natural person, any home or business, or social organization, or any other nongovernmental legal entity. That includes corporations, partnerships, associations, and other entities. We do specify that it does not include a government, governmental agency, or political subdivision of a government.

**Chair Watts:**

Are there any other questions? Hearing none, I will open testimony in support of Assembly Bill 74. Hearing none, I will hear testimony in opposition. Hearing none, I will hear testimony in neutral. Hearing none, are there any closing remarks?

**Ashley Jeppson:**

I appreciate your attention and time. We are making this process simpler, which is ultimately our goal. Thank you.

**Chair Watts:**

With that, I will close the hearing on Assembly Bill 74 and move to the last item on our agenda, which is public comment. Hearing none, our next meeting will be on Wednesday, February 24, 2021, at 4 p.m. This meeting is adjourned [at 5:03 p.m.].

RESPECTFULLY SUBMITTED:

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Nancy Davis  
Committee Secretary

APPROVED BY:

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Assemblyman Howard Watts, Chair

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

## **EXHIBITS**

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.