

Name of Organization: Nevada Board of Agriculture  
Date and Time of Meeting: June 17, 2009 @ 8:30 am  
June 18, 2009 @ 8:30 am  
Place of Meeting: Nevada Farm Bureau  
2165 Green Vista Drive, Suite 205  
Sparks, NV 89431  
Phone: 1-800-992-1106 or (775) 674-4000

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### Minutes

June 17, 2009

It should be noted that during this meeting there were several technical problems regarding the video conferencing portion to Elko, Ely and Winnemucca. A large portion of the meeting for these areas was conducted using cell phones making recording of responses very difficult. A quorum was present in Reno for voting.

#### **1. Call to order by Chairman Alan Perazzo**

The meeting was called to order by Chairman Alan Perazzo. Chairman Perazzo requested a roll call.

#### Board Members Present:

Marta Agee  
Paul Anderson  
Dan Hetrick  
Jim Johnson  
Ramona Morrison  
Alan Perazzo  
Benny Romero  
Boyd Spratling  
Hank Vogler  
Dave Barton  
Dean Baker

#### Board Members Absent:

#### Staff Members Present:

Tony Lesperance  
Sandie Foley  
Katie Armstrong  
Chuck Moses  
Scott Marsh

#### Guests:

Nancy Lesperance, Liberty L & L  
Brent Eldridge, White Pine Co.  
Bruno Bowles, So. NV. Water Authority  
Fred Gillian  
Peter Krueger, Nevada, NPMA

Mark Jensen  
Bill Striejewski  
Dawn Rafferty  
Chris Mason  
Steve Marty  
Chris Collis  
Phil LaRussa  
Ed Foster

Roger Wright, Clark County  
Robert Tekniepe, Clark County  
Don Alt, NLA  
John Sande, Jones - Vargas  
Lorrie Foley, Aide  
Marty Owens, USDA, Statistics Service  
Connie Simpkins, Lincoln Co.  
Gilberta Hetrick  
Sam Gillum, Afton Corp

## **2. Board Business**

### **A. Approval of minutes from the March 25, 2009 and March 26, 2009 meetings.**

Dan Hetrick made a motion to approve the minutes as written. Ramona Morrison seconded the motion. Motion passed.

### **B. Presentation of Certificates of Appreciation to retiring Board Members Marta Agee, Jim Johnson, and Dan Hetrick.**

Chairman Perazzo presented the Certificates of Appreciation from the Governor to the retiring Board members. Chairman Perazzo read the certificates to the retiring Board members. "From the office of the Governor of the State of Nevada, a certificate of appreciation is presented to James Johnson, (Marta Agee, Dan Hetrick), Agriculture Board. With heartfelt gratitude, thank you for your dedication and devotion in serving the State of Nevada". James Johnson and Dan Hetrick served on the Board for 9 nine years; Marta Agee served for six years.

## **3. Director's Report**

### **A. Director's Report**

The Director said historically, the Department's budget has been fairly constant over the years in sources of funding: 50% from fees, 25% from grants and 25% from the general fund. The anticipated income from fees should remain constant from everything we have seen so far. It hasn't gone down although we anticipated it would, but that has not occurred.

Federal grants are going to be less and that will have some impact on Veterinary Services. As far a general funds go, that is where we took a big hit. We lost about half of our general funds in one form or another. The Director said he thinks that will cost the Department significantly down the road.

We won't get hurt too bad when the final budget comes out because as you recall, and I discussed this at the December meeting, that the Governor's budget was pretty well in place at that point in time and we had made the necessary cuts for the Governor's budget. The Legislature has finally approved it, the Governor vetoed it and they (legislature) had the votes to override the veto. We will actually get some things reinstated in that budget, although for the Department, it is fairly minor in the scheme of things.

The Director called the Board's attention to the fact that the use of general funds for a Department such as Agriculture is going to become limited in the coming years. We will have to become more dependent on fees for more functions. Grants are only as good as long as they are available. I think the intent, and I think it is shared by many in the Legislature as well as the Executive Branch, is that general funds of the State of Nevada is used primarily for administration in Departments such as the Department of Agriculture. I do think it is going to be a rough road in other the areas and we will have to look for alternate sources of funding to keep some programs going.

We do have certain problems in the Legislature. One you need to aware of, especially folks from Southern Nevada, and that is Assemblywoman McClain. I believe she has every intention of running for the Senate. And because of her popularity down there, in regards to many issues, she will actually get elected. She has no warmth in her heart for Agriculture. She consistently opposed everything that I brought forward and the fellow Assembly people from Clark County voted consistently with her. She and I had some interesting go rounds and she felt that we had too many veterinarians and in one particular session she looked me square in the face and told me "I'm going to teach you how to work with less veterinarians." It took a lot of argument, but we were able to defend our four veterinary positions and we didn't loose them. She definitely intends for us to loose one. So if she becomes a Senator, the problems will continue. She is very effective and well liked in Clark County. She works for a number of different agencies.

The Director said he has over the last many years, with the University and as well as being in business and a County Commissioner, attended many, many legislative sessions and testified in many of them. But I have never attended a legislative session like this last one. It was entirely different. I suspect because of term limits and many new faces coming on and with the tremendous domination of the city of Las Vegas and of Clark County, we will be dealing with a lot of people that just don't understand Nevada and don't have much appreciation for agriculture. I don't envision our roll in the legislative process getting any easier.

Because of the reduction of general funds, there is a particular area that I want to call your attention to that we will have to get funding for and that is for Steve Marty that works in the area of seed certification and organic farming. I know some of you are aware of that and attended the session. I will tell you briefly what happened in that session. I had worked pretty hard to get people there from the industry for support. I felt we had the industry support and the dedication from the industry to go ahead and

make the recommendation that the fee structure be changed so that Mr. Marty's position could be funded by fees. We had worked out a deal to protect Steve regardless. We were going to take two positions to protect Steve's position and that was done on the QT. And the State's Budget office was aware of that. It never occurred to me that they would discuss that in public. Right in the middle of the legislative session while I was trying to explain why it was so critical that we get industry support, an individual from the Governor's Budget Office walks up in the middle of my testimony and interrupted me and told the legislature that the problem had been taken care of. Chris Collis summarized it better than anyone else when he said "I sat there and watched \$80,000 of industry support walk out the door".

As soon as that comment was made, everyone who was there who wanted to talk about their desire to cover this with increased fees, got up and walked out. The problem doesn't go away. The general funds that support that position are in jeopardy and we will probably be facing additional cuts in this biennium and that will be one of the first ones on the cutting block. I have told Mr. Marty that and Plant Industry, that we definitely have to generate the funds to support that position.

We lost both of our receptionists, in Las Vegas and Reno. We were able to transfer a position from Agriculture to Weights and Measures to protect the receptionist in Las Vegas. We do not have a receptionist in Sparks and because of the configuration of our new building, it is absolutely critical that we have a receptionist. We are looking at various ways to cover that position in Reno with voluntary efforts. We are meeting with people to find some kind of program that will work.

The area that probably got hurt the worst was Resource Protection. We lost four positions. That is going to have a significant impact on the livestock industry in the coming years. I would like you all to realize that not everybody in Las Vegas dislikes agriculture. Assemblyman Clayborn was a tremendous help in this regard and unfortunately he is term limited out as well. But I think we developed a close working relationship with him. I am very grateful for all of his efforts because he really carried the ball for us on this matter and several others. His absence will be greatly missed.

Another area that endeared me this legislative session, was the fact that throughout this period of time, we were dealing with cuts, positions and money. Never once in any legislative action, of any kind, brought forth by anybody, was there any discussion of how you live with those cuts or what programs you eliminate. That was never discussed once, it was never a part of any bill, it was never brought up by anyone. So as these cuts went into place, which in our case was the loss of several million dollars of general funds and 24 of our 100 positions are no longer with us. We are expected to do exactly what we have been doing for the last period of time. I will guarantee to the Board, that the Department is doing everything it ever did before. We've made a lot of changes; structural changes and administrative. I want the Board to realize that whatever this Department was doing before, it is doing exactly the same today and I think in some areas, we are doing better. We are doing it with a 24% reduction of staff and a loss of 3.5 million dollars.

Regarding the new building, the Director said we had a lot of help from the Department, in particular Dawn Rafferty and Sandie Foley. They took on the job of doing all the fixtures, furniture, etc. which was a great relief to me because I certainly did not have the time to do it. I think they did a tremendous job and would want the Board to recognize the fact that along with everything else, they took on that assignment on and did a first class job.

We were very successful in negotiating with Public Works and that is the tying in of the new building in with the old building which was not part of the project to begin with. When I inherited this project, we realized we didn't have enough parking. I went to Mark Fraga of Public Works and told him this was impossible, that we needed over 100 hundred parking spaces. He worked with me and we were able to find the funding elsewhere to greatly facilitate the area between the new building and Weights and Measures and expand the parking area for the new building. We have close to 150 parking spaces at this time.

We also tied the two buildings together which was never part of the project. We are tied together by technology; we were able to get lines between the two buildings. We were able to get a fiber line for data transmission and a line for telephone transmission buried between the two buildings. Most of the area between the two buildings has been paved. You now get the impression when driving around the buildings that it is all one in the same. It is a first class facility. We are currently scheduled to move on the 13<sup>th</sup> of July.

Other activities that the Director said he was involved in; on April 22 & 23, I attended a two-day conference on range conversation which actually came from the Governor's proposal for the "War on Cheatgrass". It was attended by Agriculture Resource Service, Bureau of Indian Affairs, Bureau of Land Management, NRCS, Conservation and Natural Resources, Nevada Department of Wildlife, Nevada Department of Forestry, U. S. Fish and Wildlife Services, University of Nevada, Extension Service, United States Forest Service, United States Department of Agriculture, and the Nevada Department of Agriculture.

It was a kind of meeting where everyone kind of hugged and kissed and decided to make up. You might wonder how this happened and I am wondering how this happened too because my friend from Wildlife Services has never agreed on much of anything for the last 20 years. This was an attempt to come to grips, laying all their problems aside, and follow the design that's been implemented in Utah, which is very successful along these same lines. They are forming a corporation that comes in and we do the work. I gave my commitment to the group that I would work to the fullest of my ability to accomplish these goals. I will stick with this as long as it presents any possibility of actually getting reclamation going in the State of Nevada.

## **B. Written comments on the Martin Basin Rangeland Project**

During March and April, the Director said he was asked prepare a socio-economic evaluation of the Martin Basin Draft EIA. It is in your packet. My estimation of the economic input from the agriculture livestock use of Martin Basin, according to my figures is about 6.8 million dollars a year, which is vastly different from what the Forest Service had in their report which was 1.1 million dollars a year. I work with the Forest Service on an on-going basis and we'll continue to discuss this, but quite frankly I think their impact statement was out to lunch and I told them that in so many words.

The Director continued saying about a month ago, he had a request from a consulting firm that is doing an impact statement for the Walker River Project. For those of you who are not familiar with the Walker River Project - this is Senator Reid's project where he gave money to the University to purchase water from farms and Mason and Smith Valleys to be transferred to Walker Lake to save it. The Senator made the statement that this will be done with minimal economic impact.

The consulting firm is IFC Jones & Stokes and they asked me to help them with the socio-economic impact of that and I've done that. I have draft copies because it is not complete yet. My evaluation of the economic impact of the Walker River Project is somewhat different than Senator Reid's. It's going to take about 100,000 + acre feet of water annually to restore Walker Lake to the designated level which is 80% of the water that is available in the Mason and Smith Valleys. So my evaluation of the impact is that it will totally destroy the agriculture community associated with Mason and Smith Valley, parts of Wellington, Smith and Yerington. The impact it will have on the surrounding communities of Fallon, Sparks, and Reno amount to well over 100,000 million dollars a year.

So the total economic impact of restoring Walker Lake is about 1.6 billion dollars and will totally destroy the agricultural communities associated with Mason and Smith Valleys. I think this is very, very serious and everybody needs to be very aware of it.

I personally gave a copy of my evaluation to the Governor yesterday and he and I talked about it extensively. I am encouraging him to take a much more active role because of the fact that the University gets title to this water is a sham. They can sell this water at any point in time and undoubtedly it will get sold to the Bureau of Reclamation which means this water goes into Federal ownership. My best guess is that the Senator never intended this water to go to Walker Lake. If you look at the landscape, I could put Walker River water in the Los Angeles aqueduct system for somewhere less than half of the price of what it is taking the City of Las Vegas to get water out of eastern Nevada. It would be a very simple matter. And if the government owns that water, I am suspecting that is what they will do. If that water goes into the Los Angeles aqueduct system, it would be very simple for Las Vegas to work a trade with the State of California to get more water out of the Colorado River. You have about 150,000 acre feet of water that could leave the State of Nevada very easily.

Even if it goes to Walker Lake, I'm not sure that the reestablishment of the fishery at Walker Lake, justifies the destruction of Mason and Smith Valley, Yerington and surrounding communities.

Once the water is taken from the land, nothing grows without irrigation water. Therefore, the land basically reverts back to rangeland or probably a salt grass meadow because that is what it was way back when. The director said the concept of this is exceedingly important and he said he has written a letter to the Governor indicating that we have to get the management of water out on the table and in front of the public of the State of Nevada. It has to be something that we don't allow the legislature to mess with or environmental groups or whatever. We've got to get that out and everybody needs to understand how critical the management of Nevada's water is. And if all that is ever going to be devoted to, is never ending line of growth, I guess my question to the State of Nevada would be "what's your next trick after you've taken all the water out of Nevada?" At some point in time, we have to come grips with this. It's not something that can be allowed to go on forever.

You may be aware of this, a number of years ago, when a great deal of powdered milk was made available to the livestock industry in the Western United States. In the process of the powdered milk program, apparently a lot of money disappeared. There are a number of lawsuits, potentially coming up on this, some involved Nevada producers. I've been asked to work with a group in Utah to help them with their investigation. They want to know what happened with the Nevada Department of Agriculture because they were associated with it. I know that the Department of Agriculture's involvement in this was absolutely correct and that the Department did nothing wrong in this regard with the powdered milk issue. Much of our involvement with powdered milk apparently got reverted to NACO and Karen Grillo. I will assist them in any way possible to try to get to the bottom of this. I don't know what all is involved or what the final answer is, but we are working with them.

There is a very important item coming up on the State Environmental Commission this afternoon. A group out of Amargosa Valley is challenging the State on their interpretation that manure is no different than sewage and has to be handled accordingly. We are putting a lot of effort into this. Dr. Rink will be making a presentation this afternoon. I think this will be unanimously defeated. The group in Amargosa Valley is targeting the dairy there that is under the management and part ownership of Ed Goedhart, who is a state senator from there. That group includes one individual that has a lot of money and reminds me of a John Marvel. He is not going away.

One last project that the Director wanted to mention briefly; the Nevada Department of Wildlife and Wildlife Commissioners. As you are probably aware the Board and the Director of Wildlife are not always in full agreement. The Governor has asked me to work with Director Mayer and try to iron out some of these differences. He and I were both in the Governor's office yesterday discussing these issues. I will have Mr. Mayer

and various members of the Commission sit down in my office and try to resolve these differences. I don't know if they are resolvable.

### **C. Robert's Rules of Order**

The Director presented copies of the Robert's Rules of Order. He suggested to the Board that they read the book and become more familiar with procedural rules.

## **5. Plant Industry**

### **A. New Building Update**

Dawn Rafferty began her presentation on the new building. She said we were originally going to move this coming Monday, however, that is not going to happen and for some staff members that was a good thing. We were having some issues getting a date nailed down with the company that was going to move the specialty equipment for the labs. So the delay has helped.

A lot of offices are boxed already and some employees are working out of their packed boxes. We don't know yet when the moving date will be. The project manager with State Public Works will be back from his vacation on the following Monday and so we might have a better handle on when we will be moving.

The building is very nice and will be exciting when the Board can come and look at it. The people who have labs are just excited beyond belief. And for those of you who have seen where they are working now, you can understand why. We are excited, a little on edge, not knowing when we are going. I think the hardest part of that is communicating with our clients, where they need to come to be tested, where they need to send a registration, where we're going to be.

Plant Industry will not be able to keep up the same level of productivity that we had with so many of our employees gone. We will be enforcing regulations, we will be getting fines in, we will be doing the things that we have to do. We won't be doing some things in a timely manner. Many of us will be in the field much more than before covering for the people who are gone. We will not be doing the public outreach and education like we would like to. Between July 1 and two years from now, it will be very interesting to see how much we can restructure and how much we can still get done. We are struggling to do our day-to-day business.

We did get another round of the Specialty Crop Block Grant from the USDA Marketing Service. We have the applications on our website for 10,000 dollar grants. The deadline for submission is July 4, 2009.

### **B. EPA Quarterly Report**

Chuck Moses told the Board that his activity report is in the Board packet. It has a list of activities as far as inspections that the Department does and enforcement actions. One of the things that Chuck said he wanted to point out is they had a training program. EPA gave the Department extra money to do a training program in Las Vegas for inspectors from the western region. We went to a cucumber green house that was 1,500 acres under glass. We brought our people who were in training through the facility and the individuals who run the green house were very receptive to having us there.

We have put together some standard operating procedures to help coordinate and streamline activities between our field staff and the pesticide laboratory.

We did some inspection work that involved record monitoring. This past summer, we did a cut throat trout restoration project in the State of Oregon and the State of Nevada. Essentially what they did was poison the creek with a pesticide and are going to replant with cut throat trout. There was controversy if we were going to have a repeat of Davis Lake? Chuck said none of that occurred. We worked with Oregon on this to make sure that the applicator, which was the Oregon Department of Fish and Wildlife were certified, and knew what they were doing when they put chemicals in the creek. There were no adverse effects.

We have been doing certification training for restricted use pesticides applicators. We are doing training and certification as well throughout the state. Chuck said he wanted to give kudos to the Las Vegas staff. The people in that office are instrumental in the Department meeting our inspection numbers and helping with the training program.

Chuck said the Department looks at probably 50 different ground water wells throughout the State. We do take surface water samples as well. Some of the positive findings that we have been coming up with involve surface water for example. Our water system in Southern Nevada, Steamboat Springs here in Reno, seasonally when people are using weed and feed product, we do find pesticide samples there. And that is usually during the spring and summer. We are going to do the Walker River this year. We are finding product in the shallow wells. For the first time this year, we had some chemical in a domestic well, which is a shallow well in the Yerington area. We think the contamination was at the well head with the owner doing some weed control and because the casing was cracked, contamination got down into the well. The levels of contamination are not near health advisory levels.

### **C. Other program Updates**

Safety issues have been taking up a lot of our time. You might have heard that the Weights and Measures Division had an OSHA inspection and we did a lot of scrambling around to try to make sure that we come into compliance with OSHA regulations.

**D. Request to go to workshops and hearings to amend NAC 588, Standards for Heavy Metals in Fertilizers.**

Chris Mason said a few years ago, we adopted standards that were established nationally. Part of the adoption we adopted was by reference the “Statement of Uniform Interpretation and Policy No. 25” in the official publication of the Association of American Plant Food Control Officials of which Chris is the Nevada representative. Some research came to light that revealed that the level that had been set for Cobalt was probably about 10 times too high. They found information that Cobalt could be absorbed by plants and therefore end up in the diet. They established a new level which became official this year. According to NAC 588, we have to go to workshop and hearing, decide whether adopting that level is appropriate.

**Jim Johnson made a motion to go to workshops and hearings. Benny Romero seconded the motion. Motion passed.**

**E. Antifreeze sample update**

We had proposed a bill to legislative that would have stopped the Department from having to collect a gallon of antifreeze from the registrant every year. It takes up a lot of space and we have to dispose of the product at the end of the year. Unfortunately, that bill did not make it through legislature. So we asked for permission to change policy.

The Deputy Attorney General, Katie Armstrong, had questions about whether we need to collect a sample or not. She researched it and said that we couldn't not ask for the sample. The only thing we can do is reduce the size of the sample we ask for from our registrants.

**F. Request permission to go to workshops and hearings to develop a regulation that allows the Boards of County Commissioners to use the Account for control of Weeds to fund any abatements they may have to conduct in the enactment of the noxious weed law.**

Scott Marsh, Noxious Weed Coordinator, said in our noxious weed laws which are NRS 555.130 – 210, it states that all landowners are required to control their weeds on their property and if they do not control their weeds after a notice from the Department, then the counties have the authority to conduct an abatement on those lands to control the weeds for the landowner. Then after the control of the weed, they put the cost of the control as a lien on the property. Unfortunately, the laws did not provide any funds for the counties to conduct these abatements. In 2005, the 73<sup>rd</sup> legislature did create NRS 555.035 which created the Account for the Control of Weeds which gives the Department of Agriculture a 100,000 dollar revolving fund for conducting abatements. That still however, leaves the counties out in the cold as far a funding goes. NRS

555.035 does allow for the Director to adopt regulations for the administration of the account.

Scott said he would propose that we create an administrative code to allow the counties to use this revolving fund for conducting abatements. This would allow them to make those decisions at the county level where they are more familiar with the situation that we are at the state level. I have included in the packet the language that I am proposing for this regulation and I am asking permission to go to workshops and hearings to get this regulation included in the NAC.

**Boyd Spratling made a motion to go to workshops and hearings to modify NAC. Dan Hetrick seconded the motion. Motion passed.**

The Director advised the Board that Scott Marsh had recently secured a 5 million dollar grant for the Department.

Scott said the Department did receive 5.274 million dollars from the Forest Service State Private Forestry Program to be used for wild land fuels reduction and weed control projects. These have been broken into nine separate grants which will be administered by sub-grants. Some of the grants are to be administered in Washoe County, five of which are fire restoration projects. The other two are in an open space fuels reduction process and a stream bank restoration program. The other grant is based out of Carson City, but will include Douglas, Carson, Lyon and Churchill counties and will be stream bank restoration work along the Carson River. The other is a Tamarisk reduction in Clark County. Each of these grant programs have gotten various amounts of the 5 million dollar funding, from 250,000 dollars to just over 1 million dollars. We will be administering the grants out of the Noxious Weed Program, Department of Agriculture and doing oversight of the program.

**G. Request the approval to disburse \$12,500.00 to the National Alfalfa and Forage Alliance (NAFA).**

Ed Foster presented for Steve Marty. This is a request for the approval to disburse \$12,500 to the National Alfalfa and Forage Alliance.

There was a meeting on April 9, 2009 and the payment of \$12,500 to the National Alfalfa and Forage Alliance was approved by the Nevada Alfalfa Seed Advisory Board. NAFA's mission is to ensure the ability of all segments of the alfalfa and forage industry to compete effectively and profitably, domestically and abroad.

**Ramona Morrison made a motion that we approve the disbursal of \$12,500 to the National Alfalfa and Forage Alliance. Jim Johnson seconded the motion. Motion passed.**

**C. Background and questions pertaining to the Nevada Board of Agriculture's request for an Attorney General's opinion regarding the Nevada Department of**

**Wildlife's authority to divert and impound water for wildlife and interfere with the use of vested water rights.**

Ramona Morrison said that pursuant to the motion that we made and approved at the last Board meeting with regards to wildlife guzzlers, an issue that was brought forth by Hank Vogler and Dean Baker, we prepared a background and questions for the attorney general to go ahead and proceed with an official attorney general's opinion. You will see that in section 2.C in the Board packet. For the purpose of the attorney general's office and anyone else to familiarize themselves with this issue, one of the things I think is grossly misunderstood by a lot of people dealing with stock water in particular is the absolute vastness of stock water rights that cover virtually every bit of land managed by the Forest Service and Bureau of Land Management in the State of Nevada. I think it's an easy case to make that wherever the Nevada Department of Wildlife (NDOW) is putting a guzzler, they are probably impacting somebody's vested stock water rights. We did put a little bit of background information of the history of the development of those water rights. Most of them are pre-1913 water rights. Any rancher in the State of Nevada can document that in their chain of title and so what NDOW is doing is impacting vested water rights no matter where they are putting those guzzlers. So for the premise of the attorney general's office, we did a little bit of background information on that and provided some information specifically U. S. vs. New Mexico, which said there are no reserved water rights for wildlife and recreation within a forest reservation. That is from a case in 1978.

Ramona went on to say that Brent Eldridge brought to her attention the Blue Lake case out of Humboldt County. She said that was a fascinating diversion from the prior appropriation water law by the Nevada Supreme Court. Some of it has been fixed by legislature. They made a provision in 2003 that anybody who applied for water rights had to own livestock. In that decision, there is some language that is questionable pursuant to NRS 533.030 where you have a beneficial use for recreational water. The court in this case seems to interpret that as being wildlife as well. So that is something the attorney general's office will have to look at.

Nonetheless, the long and short of it is, NDOW is impounding water, diverting water, probably without ever applying for a water right for it. And it is not even certain that they have statutory authority for the development of guzzlers.

Katie Armstrong, Deputy Attorney General, said she received this formal request about two weeks ago. She said the request is given to the opinion secretary who gives it a number, puts it into a file and sends it for review and determine who will write the opinion. It is still in that process now. But when we go through a formal opinion process, it will take upwards of 6 months because we have 5 – 6 attorneys that review it and it goes through a very lengthy editing process. It will take a while to get a formal opinion out of our office.

The Director said I think you are getting on a point that I would like to pursue in regards to Walker River and the University suddenly coming up with 160,000 acre feet

of water for Walker Lake. It's beyond my comprehension to understand how the University of Nevada can legally own this water and put it to beneficial use. I think this is a question that goes from a guzzler to Walker Lake which is quite a little difference in water volume. But the concept is the same. That is a question I have already raised. I noticed the State Engineer kind of looking at me like he wished I would disappear. But that question has to be answered. And I think that is exactly what you're talking about.

Ramona Morrison reiterated comments from Brent Eldridge from the Ely location for the members in the Reno meeting as transmission was difficult to hear and decipher what was said. Ramona said does NDOW actually have the authority to actually acquire water rights for these purposes?

Director said he wanted to reiterate what Brent Eldridge was saying. I have no knowledge that the State Engineer has the capacity or right to offer an exemption to anybody under any circumstances. I believe he does not have that right.

Ramona said the NDOW statute that you are aware of Brent, has authority for the NDOW to acquire water rights. But I think that falls under the line of purchasing water rights.

Marta Agee asked if there is an opportunity to freeze the development of these guzzlers by stating no funds should be applied to the development of these guzzlers until this issue is resolved? Do we have any approach by this Board to seek the freezing of NDOW funds for development of guzzlers?

Director Lesperance said he thinks this Board has every right to proceed to try to get an injunction. You have legal standing on all issues.

Marta said we should also be seeking that NDOW be required to notify anybody before they begin an operation of a guzzler.

Director Lesperance said he would suggest that working with the Attorney General's office, and that there is a great number of things involved here. Right now, you are just talking about water, but there is also an impact to the allotment and the distribution – especially now the “elk” type guzzler – originally it was chucker. I guess we all turned a blind eye to that. But all of a sudden when you see elk showing up in strange places because of guzzlers, this is impacting existing allotments. I believe that is the point a previous Board member, Dave Cassinelli, who is part of this process, questioned this, that was his concern –the redistribution of large animals. And that is probably as significant as the misuse of water from the State Engineer's standpoint. He said he suspects that State funds are being used in the development of guzzlers. He said he was sure of federal funds – only 3% of the budget of the Department of Wildlife comes from the State of Nevada. Most of the kinds of monies that they have been using on these guzzlers probably comes from support groups. But by the fact, that agency personnel are involved and monitor the guzzlers and may be involved in the

construction and probably frequently are, is going to be very difficult for them to say that State funds are not used.

Director Lesperance told the Board that we need to explain what we are going to ask the Attorney General to look at and I would suggest that the Board recommend that we take that action. I would also recommend to the Board that they encourage an individual, such as you Mr. Eldridge, to file for water rights on one of your guzzlers, that is one of the large guzzlers, one designed for elk. I would think if you filed for that water right it would raise some interesting discussions very rapidly. He said I am quite serious, if someone would come forward and file an application on an existing guzzler, especially one that is designed for elk where there is a significant amount of water, I would think probably we could bring this to a head real fast.

#### **D. Letter from White Pine County Board of County Commissioners regarding the Nevada Board of Agriculture's water policy.**

Chairman Perazzo called the Board's attention to a letter he received from the White Pine County Board of Commissioners. The letter stated that at their April 22, 2009 meeting, they unanimously voted to support the Water Policy Statement adopted by the Nevada Board of Agriculture.

### **6. Resource Protection Division**

#### **A. Program Update**

Mark Jensen said he is lost 4 of his 12 state positions. One of those positions is a biologist position in Las Vegas that has been vacant for awhile and said there are no plans to fill that position. Gary Garavanta, a long term state employee out of Eureka announced his retirement with 36 years of service at the end of June. We won't be able to fill those positions. Other positions that we are going to loose are positions in Austin and Caliente. Those are three current field positions that we will no longer have.

What that means to us operationally, is that we are going to have some fairly big holes in the map that have no employees. We are going to have to evaluate how we are going to do this. I will be working with the Board and working with the livestock industry and sheep producers to try come up with a plan on how we are going to cover this. The guys in the field are already working a lot of hours trying to cover the way it is.

Wildlife Services has been in the news this last week. Most of you have probably seen this in the Reno Gazette Journal. It's concerning a former employee that made some allegations against other employees that were allegedly shooting mountain lions from federal aircraft. I want to assure the Board that the USDA and the Department of Agriculture take all these reports of employee's conduct very seriously. This particular issue has been investigated by Wildlife Services at the local level. It also has been

investigated at the regional level and the APHIS level. It was investigated by NDOW. There is no evidence to support any of the allegations made by this former employee.

### **8. C Request to go to workshops and hearings to adopt as permanent, proposed changes to NAC 590.065**

Bill Striejewski said he is requesting to go to workshops and hearings to adopt as permanent proposed changes to NAC 590.065. The four different proposed changes that I am bringing to the Board in relation to this section of the NAC – at the March Board meeting, I made similar requests, but did not have draft language available at that time. The Board did not grant the request at that time and so I come before you again with essentially the same request, but with several differences, both in preparation and in context.

I included in your Board packet a copy of the draft language I prepared which I will submit to LCB on July 1 pending approval of this request by the Board. This draft incorporates all four of the changes that have been requested by other parties or have been deemed necessary by the Bureau. I would like to address these one by one.

#### 1. Formalizing language pertaining to gasoline-ethanol blends;

Originally this issue was brought forth by Vernon Miller so that language could be incorporated because of federally mandated use of gasoline-ethanol blends outside of Clark and Washoe counties and outside of the previously established wintertime seasons. At one time in 2008, we thought we had a resolution. Later I had concerns that LCB would not approve the changes that we had made to the language and I withdrew it. So we still don't have regulations on the NAC pertaining to gasoline-ethanol blends.

#### 2. A request by Clark County Department of Air Quality and Environmental Management to increase the wintertime RVP maximum;

We received the request to relax the wintertime vapor pressure from its present 9.0 psi to 13.5 psi. This is a step being taken as Clark County updates their carbon monoxide maintenance plan in conjunction with the EPA. Their hope and the EPA's hope is that an RVP change can be made by the coming wintertime season.

Note: Mr. Tekniepe remarks were made by cell phone from Las Vegas and the recording was not optimum and could not be transcribed.

#### 3. A request by Peter Kruger to remove the manganese prohibition;

The third request was made by Peter Kruger to remove the prohibition to manganese that is in subsection 4.C, NAC 590.065. His letter to Director Lesperance is also included in the Board packet.

Bill said that Peter Kruger, Afton Corporation, would like to address the Board and requested that Mr. Kruger be allowed to speak at this time.

Peter Kruger addressed the Board and said he represented the Afton Corporation. He introduced Mr. Grant Gillham from Sacramento who also represents the Afton Corporation. He said we are here to request that the Board also approve staff to go to workshops and hearings on our request on the removal (of manganese).

Mr. Kruger said this prohibition was put in Nevada statute in the early 1990's. It was at a time when the government was looking at a whole bunch of fuel standards and for a very short period of time the government did not permit manganese in fuel. That was changed within a year or two after our prohibition. This has never been addressed.

My client's reason is that manganese is a fuel additive. Very much like big oil companies use different products that you hear advertised; different packages that in their minds and others allow for cleaner burning and more efficient fuel and engine operation. Manganese with our client is a similar additive. I think the letter speaks for itself. We are simply asking to be included in the review of Chapter 590 that staff is already doing and that Board will allow staff to include our request as well.

Grant Gillum said it is a commonly used octane booster that is used around the country in certain markets where the larger producers of the Chevrons, Exxon Mobiles manufacture their own internally. This is a product that our client offers as a value added product to refiners who are smaller and not part of the large corporate gasoline producers. It is comparable to the products they use, it is just a different formula, a different substance that it is derived from. It is approved by the EPA. There is no prohibition against it anywhere else, except for some areas where there are arcane rules on the books that we are slowly trying to address for the client. So they can make this offer to the people who sell fuel in this part of the country. You guys are critical because you are sort of a central location in the Southwest and there are a lot of independent refiners out here. It is used all over the world.

#### 4. Correcting the allowed sulfur maximum

The fourth request is to correct the allowed sulfur maximum in gasoline and this is just a correction. Federal laws over the years have restricted the limits on sulfur and gasoline and as set forth in 590.065, now the posted limits are inadequate and outdated. Hopefully, while we are allowed to make these other changes, we can just bring it in line with current federal guides.

**Paul Anderson made a motion to go to workshops and hearings on NAC 590.065. Benny Romero seconded the motion. Motion passed.**

#### **8. A Update on LCB File No. T011-09.**

This was variance procedure which was approved by this Board in December as a temporary regulation and adopted by the Secretary of State in February. In March, you granted me the authority to go to workshops and hearings to make this a permanent regulation. On May 27, I received word from LCB, we could not proceed with the hearing as LCB had not reviewed a draft of the regulation.

As a result, I submitted File No. T011-09 as a draft. They were gracious enough to take it before the July 1<sup>st</sup> date and are reviewing it now. It has been assigned a file number R010-09. I have been assured by LCB that I will have it back in sufficient time to schedule a workshop and hearing and have it ready to bring to you in September.

### **8. B Update on hearing concerning 38<sup>th</sup> Parallel.**

As you recall at the March meeting, it was decided that this hearing would take place after the close of legislative session in June. I was working towards dates that were amenable to the stakeholders and we are close to a schedule for the early part of July, however, that is when I heard the issues with the variance procedure. I spoke with Paul (Anderson) and Director Lesperance and it was decided that the variance procedure is important enough to the full function of the hearing of the 38 Parallel, that we would hold off on that until at least the time that we see what LCB returns to us in terms of our variance.

I am again beginning to talk to various stakeholders; Mr. Krueger and Mr. Sande, etc. and I am getting a more agreeable date in the near future.

### **8. D Proposed changes to NAC 590.051**

At the March meeting, I had to relate that the LCB had rejected my bio-diesel regulation change because the final language had been so much different than draft language they had given to me. Our final language is now being handled as a draft and I spoke with a representative of LCB last week. She had one question and she said I should expect to get the file back this week.

### **8. E Update on labs in Reno and Las Vegas**

In terms of the labs in Reno and Las Vegas, the sample load of the labs is up significantly from the last fiscal year. I am anticipating that the fiscal year '09, we should be at about 3,500 samples, which would be 1,000 more than last year. Last year we had some staffing issues, but not only is it 1,000 over last fiscal year, but it will be approximately 250 more than fiscal '07.

I want to give thanks to Lon Beal, Administrator, and Dave Walch, Southern supervisor for Weights and Measures and of course to my chemists, Shannon Rudolph and Christy Lew.

### **7. A Animal Industry**

Dr. LaRussa said tuberculosis seems to be moving around a little more. We previously notified you that the four states, Michigan, Minnesota, New Mexico, and California had tuberculosis. Since that time, north central part of Nebraska in Rock County has found tuberculosis and west Texas has a dairy.

#### **A. Animal related legislative actions.**

This is a time to be concerned about the Humane Society of the United States (HSUS), the main society of the United States has so far attacked laws in 6 states, one of the latest being Maine. They have across the board stated their goal to get rid of animal agriculture. The last statements they had were associated with swine, and poultry and they felt there should be no cages or fencing around them because it upset the animal's psychological well being. It passed. Be aware, they attempted to bring several rules up, NRS, rules on dogs, leash laws, cage size. They wanted the Department of Agriculture to license every dog that bred.

We need to be prepared for the next legislative session. They are going to attack every state in the United States until they destroy animal agriculture.

Other legislative action – confidentiality of trichomonosis. The bill was signed by the Governor on May 19, 2009. Tomorrow, we are having a meeting of industry representatives to give us direction on the program from here on.

#### **B. Division structure**

The Division of Animal Industry has two laboratories and a total of six people that man those laboratories. Outside of that there are only two other individuals in the entire Division of Animal Industry – you're looking at one of them and Holly Pecetti dealing with our NAIS program. We lost the Virginia Range Program Officer so that we are not able to meet our responsibilities there. The Director in combination with Chris Collis has designated the Bureau of Animal Identification, Brand Inspections, to take over those responsibilities.

Regarding the Virginia Range, Chris Collis and I had a meeting yesterday with the VRWPA, Virginia Range Wildlife Protective Association. They are searching for volunteers and we believe we have people that are willing to perform a lot of the regulatory functions for us.

Dr. LaRussa said that the horses on the Virginia Range, year in and year out, we average 24 incidences where horses have contacted automobiles. And it is just a matter of time until its tragic.

Ramona Morrison said one of the things that is troubling to her about the way that statute was written is on the Virginia Range horses, the State has no liability. So if someone runs into a horse and is killed, we can mismanage those horses, and as far

as how many are up there, they are mismanaged. We can mismanage those horses, and we have no liability. And I think that is very troubling. I would like to see that changed. We are not held liable for anything technically.

## **9. Livestock Identification Division**

Chris Collis said he had personnel items he wanted to announce to the Board. We have two retirements; Diana Gonzales in Fallon, Dusty Craft in Sandy Valley, George Dorsa, Ag Enforcement (laid off 7/1/2009). He hired a 3 new deputy brand inspectors: Dee Keele, Boulder City, Larry Haviland, Sandy Valley, and Ray Dummar, Gabbs.

Livestock head tax: we mailed out 5, 664 declarations. Our second notice went out June 15<sup>th</sup> – we sent out 2,661. We received 3,003 declarations with a revenue of \$91,134.00. The majority of the declarations we received the first go around, the 5.00 variety from the horse owners. We had a very good response and we anticipating from the second mailing that we should receive a more lucrative head tax from the larger ranches.

Investigations: On June 8, I attended a meeting with concerned cattlemen from Nevada, Oregon and Idaho in McDermitt. Representatives from the brand departments also attended from, Oregon and Idaho and deputy sheriffs from various counties. There are a significant number of cattle missing along the Oregon-Idaho-Nevada border. I was requested by the cattlemen to send out a confidential questionnaire to all the permittees in the area soliciting information on missing cattle numbers. We scheduled another meeting for July 7<sup>th</sup>. The producers up there are pledging a reward of 25,000 to 50,000 dollars. The industry and law enforcement are committed to bring the perpetrators of these missing cattle to justice.

Road Interdiction Program: On May 17 & 18<sup>th</sup>, we participated in “Operation Hollister” at the point of entry, Hollister, Idaho. We participated with the USDA and the Idaho Brand Department. June 2 & 3<sup>rd</sup>, we participated with Federal DOT – 72 hour checksite at the Garson/Boomtown and Osino on I80.

### **A. Livestock Movement Permits**

The transition to the new movement permits is progressing just about as I expected. We only sent out applications to the producers that we had in our data base. This left a lot of producers off of our mailing list for a myriad of reasons, i. e never sent return cards in, or they depended on the trucking company to provide the movement permit. They weren't included in our mail out.

Dr. LaRussa and I went through the problems we were going to have with the big feedlots such as Lovelock and Smith Valley. We have come up with a solution for them and they seem to be satisfied with the solutions as are the producers who send their livestock up to Battle Mountain for summer grazing.

We are continuing to use the old livestock movement permit books that we are seeing coming into the Fallon auction. It was evident that we had not reached all the producers. I drafted a letter to the livestock associations and trade newspapers soliciting their assistance in getting the word out to the producers. Everyone was very responsive.

The girls in the office are very pleased with the computer program that Dr. LaRussa used to implement this program. The accountability and traceability issues we had with the other system no longer exists. To date, 96 producers have been issued these new livestock permits.

## **B. Fees regarding brand inspections**

Chris said he sent out a letter on May 20<sup>th</sup> in regards to brand inspection fees. It seems we are not all on the same page on what our deputy brand inspectors were charging. The correspondence is included in the Board packet.

On May 18<sup>th</sup> Dr. Lesperance, Dr. LaRussa, Dr. Rink and I met with representatives from the Nevada Cattlemen's Association. Ramona Morrison, Dean Baker and Boyd Spratling were also present. It was decided to have a task force meeting to address the new trich regulations along with other livestock issues that may arise from these changes. Correspondence in regards to this task force meeting are in the Board packet. The meeting is scheduled in Fallon, June 18<sup>th</sup> at 3:00 pm.

## **4. Division of Administration**

### **A. Fiscal Update**

Ed Foster told the Board that Maureen Groach, former ASO, retired from State service. Margi Scheid has been at the agency 17 years and has performed all fiscal aspects of the agency in those 17 years. She is a Management Analyst III. When Maureen left, Director Lesperance appointed Margi, Acting Administrative Services Officer.

Margi told the Board she was there to advise them of the Department's financial picture. She said it is not rosy, pretty, or good. You have heard staff today tell you about money cuts, staff cuts. I look at my division, I used to have 7 people, we are down to 4 people. We are working hard to keep our heads above water. I have a very talented, committed group of people that work for me. We will get the job done. We may be a little late. We will see ourselves through all of this.

We have no extra money for any frills and special things. We have basic – and that's the story. The makeup of my staff: I have an account clerk who does mostly my payables and receivables and deposits; and an accounting technician who catches everything for me and works a lot with me doing work programs and budget items. She worked closely with Maureen and right now she is advising me about the budgets, what we asked for and what we got.

## **10. Department employee comments and suggestions to the Board of Agriculture.**

No comments

## **11. Public comments**

Don Alt, Nevada Livestock Association, referenced Director Lesperance's earlier comments about volunteers and said he has a flatbed truck he can volunteer a few days a week. Also, if you have a barbecue, he volunteered his chuck wagon.

On the Walker River, you have taken on protecting agriculture and agriculture's water, I don't there has ever been anything done to measure the amount of forage upstream and the amount of water that is used. This is a Forest Service problem; they have been mandated to provide watershed. Watershed means let the water run off instead of retaining the water. If there is anywhere that an estimate could be made on the amount of trees, the encroachment, that I think you would find the missing water.

Connie Simpkins from Panaca, Nevada. I am an employee of the Lincoln County Commission and also an employee of the Grazing Board, but I specifically do not speak on behalf of them today.

I just wanted to go over the issues that my county and my grazing board have been most concerned about. Of course, on everybody's front burner is water and we are directly affected by the Southern Nevada Authority project. Another thing that is affecting us is the power transmission lines down through our valleys.

Something that we are working on is an assessment of the willows and juniper trees. We are looking to do something productive with this removable resource. Our grazing board and our county looks at these thick trees that have nothing growing underneath them as a renewable resource. We are looking at everything from fiber board to burning them for heating our stoves, hospitals and public buildings to creating power with them.

## **12. Travel Claims**

None

## **13. Date of next meeting**

**Ramona Morrison made a motion that we conduct our next Board meeting September 16<sup>th</sup> & 17<sup>th</sup>. It was seconded.**

**Ramona withdrew her motion.**

**Ramona Morrison made a motion to have the next Board meeting September 23 & 24<sup>th</sup>.**

**Ramona withdrew her motion.**

**Marta Agee made a motion to have the next Board meeting on September 29 and 30<sup>th</sup>, 2009. Benny Romero seconded the motion. Dan Hetrick voted no. Motion passed.**

#### **14. Adjournment**

**Benny Romero made a motion to adjourn. Jim Johnson seconded the motion. Motion passed.**