

Commissioner Williams presented the plaque to Jeanette Hammons.

Jeanette Hammons maintained it was not just her but it was the Library, the staff and the community members.

B. Report and review of Board of Trustees activities and minutes including issues related to the continuing operation of the County Library.

The Library Minutes and Law Library Minutes were submitted previously.

Jeanette Hammons notified the board of the winners of the Pets Caught Reading Photo Contest and displayed the photos to the board. She stated they had held the last Job Connects session for the year. Jeanette Hammons stated they had raised sufficient money at the Book Fair to get cash back instead of books in-kind so they would be receiving over \$600 for programming. Jeanette Hammons stated 242 attended their Halloween event and the Halloween Family Story Time on Saturday had over 100 attendees. She stated they were collecting food for fines and partnering with the community and schools. Jeanette Hammons stated the parking lot was sealed and striped. She stated the Library would be closed on December 24, 2011 and December 31, 2011. She stated the downloadable e-books were available from the website. Jeanette Hammons stated she, Melissa and Laura have installed the computers at all the branches which were received through a grant. She stated September was library sign up month and 280 new cards were issued. She stated they received ten new laptops from Newmont and they would be put out in the branches.

I. COMMENTS BY THE GENERAL PUBLIC (reopened):

Commissioner Russell read Article I, Section 2 of the Constitution of the United States into the record. He noted the similarity in choosing the Assemblyman and Senators, and the redistricting for the Commissioners.

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IV. ELKO COUNTY DISTRICT ATTORNEY'S OFFICE:

Discussion and consideration of approval of Resolution 17-2011 that requests assistance from the Nevada Attorney General's Office for criminal prosecution pursuant to NRS 228.130 due to conflict of interest in the District Attorney's Office.

District Attorney, Mark Torvinen, explained the conflict of interest in his office with the potentially accused through a written correspondence. He stated prosecutors could not be acquainted with the accused to remain objective.

MOTION: Commissioner Myers moved to adopt Resolution 17-2011 requesting assistance from the Nevada Attorney General's Office for criminal prosecution due to conflict of interest in District Attorney's Office. Commissioner Guttry seconded the motion. The motion passed unanimously.

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III. VETERANS SERVICES IN ELKO COUNTY:

A. Discussion and consideration of issues related to the Nevada Office of Veterans Services office in Elko including the status of future services and the expected client increase due to the announced December 2011 return of all US Military personnel from Iraq. Additionally, the Commission may invite the Nevada Office of Veterans Services Director to meet at a future Commission Meeting.

Gil Hernandez stated due to the lawsuit there was only one employee manning the Nevada Office of Veterans Service located on River Street. He voiced concern with return of soldiers from Iraq and Afghanistan the single employee trying to address all the claims and everyday office work. He noted sometimes there was a ten month delay for claim review. Gil Hernandez commented that previously the money was appropriated for three people employed at that office which had been reduced to one person. He had spoken to Mike Musgrove who sat upon the Commission and was told this issue was upon the December 8th meeting agenda. Gil Hernandez commented that the VFW Service Officer had been removed from this area but still went to Eureka, Ely, Battle Mountain, etc. Commissioner Dahl inquired why the VFW Officer no longer came to Elko. Gil Hernandez stated because they believed the office was manned so there was no sense in duplicating those services. Gil Hernandez understood that they were considering putting a contract worker in Elko for 25 to 30 hours per week. He recommended that they draft a letter to Caleb Cage voicing their concerns.

Commissioner Dahl questioned what happened to the previous funding for three employees. Commissioner Myers suggested they send a letter stating the necessity for the office being manned to sufficiently to address the influx they were anticipating from the existing Veterans and the Vets coming back from Iraq and Afghanistan. He suggested they send a letter to the meeting to be held in December and a copy to the Governor. Commissioner Myers suggested they invite Caleb asking him to come to a Commissioner's meeting in January to explain what was happening to the local office.

Commissioner Russell inquired if Gil Hernandez knew what the influx of soldiers from Afghanistan or Iraq would be in Elko County. Gil Hernandez stated he did not have an exact number but the young men and women whether they were in the National Guard or where deployed would need to file their claims once they were released. He stated any Veteran was eligible for free medical care for four years after they were released. He stated they would have to get into the system by seeing a representative to do the paperwork. Commissioner Russell inquired how they would determine the eligibility. He had visited the office several times and never seen a Veteran in the office so questioned if the

factual information supported the additional expenditures. Commissioner Myers stated Caleb would come in December so they would know the impacts before the December 8th meeting.

B. Discussion and consideration of a report by the Veterans of Foreign Wars (VFW) regarding ongoing issues and activities.

Gil Hernandez agreed with Commissioner Myers that a person should be cross trained to do the claims and submit the forms.

MOTION: Commissioner Myers moved to send a letter of invitation to the Nevada Office of Veterans Services requesting that their Director visit with the Elko County Commission at the first meeting in December and request that he bring the number of Veterans that have been served in that facility, and the projection based upon the closure of the Iraq War. Commissioner Russell seconded the motion. The motion passed unanimously.

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C. Discussion and consideration of the upcoming Veterans Day Parade sponsored by Elko County to be held on Friday, November 11, 2011 at 11:00 a.m.

Gil Hernandez stated Mike Musgrove would be the Grand Marshall and the winner of the Voice of Democracy speech contestant would read her speech in front of the Judges at the Courthouse. Commissioner Myers stated the County would have a float and invited Veterans to ride on the float. He stated they hoped to have a moment of silence at 9:11:11 a.m. and the flag would be across Idaho Street. He stated Delmo Andreozzi would sing the National Anthem.

Gil Hernandez commented upon how the soldiers should be considered true heroes and thanked the Commission for paying respect to the Veterans. Commissioner Russell commended Gil Hernandez for his service to the military and to the community supporting the Veterans Administration.

John Carpenter spoke upon the efforts in the Legislature to get an office in Elko and encouraged the County Commission to take a strong stand to retain that office.

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V. ELKO COUNTY CLERK'S OFFICE:

Elko County Commission District Boundaries:

Discussion and consideration of proposed adjustments (redistricting) to the Elko County Commission District Boundaries in which each Commission District will be approximately one-fifth of Elko County's population as determined by the 2010 Census. Every ten years the latest census population figures were used to adjust Commissioner Districts by precinct populations so that all five districts have approximately the same population. Reviewed proposed changes will be

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submitted to the Commission through an ordinance process at future meetings.

Carol Fosmo, Elko County Clerk, presented the proposed redistricting amendments, the population statistics and maps.

Commissioner Myers commented the representative for District 1 would cover a large amount of area.

Commissioner Williams stated he and Randy Brown had reviewed the map and believed it was difficult to redistrict.

Robert Stokes suggested one amendment of moving Precinct 28 Jack Creek which includes Tuscarora and Midas consisting of 243 people from District 1 to District 4 to break up rural portions of the County between the two districts. He stated District 1 would retain Mountain City, Owyhee and Jarbidge. He had spoken to the County Clerk and their intent was to make each district 1/5 of the population.

Carol Fosmo had reviewed the amended numbers and they were well within 10% of the population. She stated two districts which would be over the 10,000 population number. She did not object to the amendment to the proposal.

Commissioner Russell suggested Precinct 40 be moved to his District. Robert Stokes stated that would not fall within 1/5 of the population for that district.

Commissioner Williams inquired about Owyhee. Robert Stokes stated Owyhee would stay in District One.

Commissioner Myers inquired if it had to go to public comment. Robert Stokes stated it would have to go through an Ordinance process with the First Reading in December.

MOTION: Commissioner Myers moved that we accept the changes recommended by Rob (the County Manager), and set it for First Public Reading in December for the change in the district boundaries for the five districts. Commissioner Russell seconded the motion.

Robert Stokes noted Commissioners Guttry and Myers were truly city districts. He stated in Commissioner Guttry's district Mound Valley was moved to Spring Creek. Robert Stokes stated Precinct 41 a portion of Spring Creek was moved into District Four ten years ago. He stated now Precinct 40 was moved into District Four. He stated Pleasant Valley and the Spring Creek Mobile Home Section would continue to be in District Five.

Commissioner Guttry questioned why portions of his District (Precinct 13) were within Commissioner Myers' District. Carol Fosmo explained the precinct designations were different than Commissioner Districts.

Commissioner Williams inquired if this became effective after the first of the

year. Robert Stokes stated in January they would have the Second Reading.

The motion passed unanimously.

Carol Fosmo commended Chief Deputy Clerk, Kris Jakeman, and Jeff Secord, GIS/CAD Technician, for diligently working on the maps.

Commissioner Myers noted a discussion about senatorial seats was not on the agenda and recommended that the Chairman write a letter stating their views over the redistricting of Congressional and Senatorial boundaries.

Chairman Dahl relinquished control of the meeting to the Highway Chairman.

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VI. BOARD OF COUNTY HIGHWAY COMMISSIONERS:

Highway Chairman Russell called the Highway Board to order at 2:34 p.m.

A. Comments by the General Public:

No public comments were submitted.

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B. Metropolis Road:

Discussion and consideration of a status report and issues related to repair work on the Metropolis Road.

Otis Tipton had viewed the road and spoke to the contractor, NAVCO. He contacted Jack Prescott who stated Ruby Pipeline they had a contract with NAVCO which was explicit what work would be done. He stated the weather changed but the road did get asphalt and they worked on the gravel portion. He stated the contractor had moved to the Gamble Ranch Road to do repairs. He stated in looking at the cattle and hay loads you would not have a super road in Metropolis but it was in better condition.

Gary Botts, Metropolis resident, agreed the road was better than it had been. He voiced concern that they ran out of patch material and 3.2 miles were not patched. He stated the main issue was the amount of trucks passing each other and all the shoulders were gone. He stated there were wide cracks going the length of the road due to the heavy equipment upon the road. Gary Botts stated they may not be satisfied but they were content with it.

Commissioner Russell stated they could give directions to Otis Tipton to keep an eye on the road. Otis Tipton stated he would be looking to see if the gravel portion failed but with all the Barger Field hay trucks, corn trucks and the cattle trucks he did not feel they would get more out of Ruby Pipeline. Commissioner Russell stated the citizens could inform the Board at anytime if there were things they overlooked.

Commissioner Williams inquired about repair to the cattleguard. Gary Botts stated it was repaired. Otis Tipton stated the cattleguard was repaired right away and the other cattleguards were repaired with new rails. He stated some places

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may fail in the gravel portion but the weather may change it. Commissioner Williams inquired about the well drilling. Otis Tipton stated they will cut off before that on the ranch road. Commissioner Williams noted the cattleguard was a safety issue.

Gary Botts suggested they raise the budget for repairs to that road with the increased costs of oil, etc.

Commissioner Williams noted this was an ongoing situation and they need to discuss what their long range goal was on that road. Commissioner Myers suggested they let it go to gravel. Gary Botts stated the reason it was paved was because in the spring and fall it was non maintainable. Commissioner Myers inquired how many miles the road was. Gary Botts replied 10.5 miles within the County. Commissioner Myers stated it was 1 million dollars per mile for it to be paved. Gary Botts inquired about grinding and relaying. Otis Tipton stated a two lane road was 1 million dollars per mile. Gary Botts stated the citizens at Metropolis were upset because the Board allocated \$240,000 for a chip seal on a road that nobody lived on. Commissioner Russell explained it was a recreational road. Gary Botts noted the road was seasonal and only used $\frac{3}{4}$ of a year but the Metropolis Road was the only access in and out for as far up as hot creek. Commissioner Russell commented they have communities all over the County that feel their roads should be maintained.

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The FTR recorder had a minor interruption.

Otis Tipton stated 65% of Harrison Pass was paved by the Federal Highways and Elko County only paid 35% of that chip seal project.

Otis Tipton stated when he first came to the County he wanted to grind the Metropolis road but Commissioner Nannini requested they patch the asphalt and when the bill came back it was \$70,000 in-house. He stated the Commission then set a limit of \$25,000 per year for patching repairs. Otis Tipton stated they have put in over one-half a million dollars in patches in the road since he had been here and one day it will return to a gravel road. He stated they could not put an overlay on it before they grind it and use it as a base because there was no base. He stated they would need a cement treated base and overlay which would be a million dollars per mile

Commissioner Williams recommended that this item be sent to the Road Services Advisory Committee to study the road and bring back a recommendation to the Commission.

Kristin McQueary cautioned them to keep in mind that when they do big projects they have to pay prevailing wage and that adds 30% to the contract.

MOTION: Commissioner Myers moved to refer the Metropolis Road issue to the Road Services Advisory Committee for a long term study. Commissioner Williams seconded the motion. The motion was passed unanimously.

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C. Update report on Road Department activities.

Otis Tipton stated they were repairing flood damage and the Gamble Ranch was being repaired by Ruby Pipeline through their contractor, NAVCO.

Commissioner Myers asked about the Charleston Road. Otis Tipton stated after their Jarbidge meeting the Road Department had bladed the road.

Commissioner Dahl acknowledged that Ruby Pipeline fixed the Gamble Ranch Road and then came back and repaired it. Otis Tipton clarified that US Pipe had made it substandard and that was why they went back in.

Commissioner Williams stated at the Road Services Advisory Commission they discussed roads that could receive less maintenance. Commissioner Russell noted there was no report from the RSAC with any recommendations. Otis Tipton stated they needed the minutes approved and then he would bring those four roads to the Commission for decision. Commissioner Williams stated they could save money by dropping roads. Otis Tipton stated they had more demand upon the other roads and they may have to drop maintenance on other roads. Commissioner Russell stated there would be marginal savings but in the future the Commission may have to allocate more money to support the Road Department. He had been lobbied to add more roads or have more maintenance upon current roads but with the present budget that was not feasible.

Otis Tipton stated lots of the roads had qualified to be paved but there was no funding. He explained that when they pave a road they can apply more maintenance to other gravel roads. Commissioner Myers suggested they complete an inventory and look at roads that could lose maintenance and prioritize those roads for maintenance then the Commission could make a decision.

Commissioner Russell stated most of the examples they had looked at were roads they could reduce the blading to once or twice a year. He stated the reduced blading in the middle of the season resulted only in little savings. Commissioner Williams suggested they have the RSAC look at the road and make some recommendations. Otis Tipton stated when the Travel Management Plan was finalized then the Commission would have a tough decision because someone would say those roads were theirs and the County cannot put taxpayer dollars upon those roads.

Otis Tipton stated they could not prioritize the roads and address only those roads countywide because of emergencies that come up due to the weather.

Commissioner Russell suggested he, Commissioner Williams and Otis agenda a meeting to write up recommendations for the next Board of Highway Commissioners for action. Commissioner Russell explained they could take the material the RSAC had submitted and use it as a basis for making those determinations.

Otis Tipton stated the Road Services Advisory Board had decided upon four roads to bring for a Commissioner decision before they continued on their review.

Commissioner Russell asked this be put on the next agenda.

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ADJOURNMENT:

Highway Chairman Russell adjourned the Highway Board at 2:49 p.m.

[2:50:13 PM](#)

RECESS:

Chairman Dahl called a recess at 2:50 p.m.

[3:00:25 PM](#)

RECONVENE:

Chairman Dahl reconvened the meeting at 3:00 p.m.

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VII. ELKO COUNTY PUBLIC WORKS DEPARTMENT:

Engineering Design Proposals:

Discussion and consideration of acceptance of engineering design scope of work proposals for public works projects.

A. Montello Water System Tank Design and SCADA Controls

Lynn Forsberg reviewed the grant amounts, the scope of work, and recommended it for approval.

MOTION: Commissioner Myers moved to approve the Montello Water System Tank Design and SCADA Controls and the Mountain City Wastewater System Improvement Design Phase I. Commissioner Williams seconded the motion. The motion passed unanimously.

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B. Mountain City Wastewater System Improvement Design Phase I

Lynn Forsberg stated Day Engineering suggested the rates be \$50.00 per month based on 30 connections. He stated they only have 20 connections currently. He requested they approve the scope of the work and he could revisit

the preliminary engineering report to reduce the scope of project sufficiently to comply with NDEP.

Commissioner Williams stated they discussed this at the last meeting regarding the costs. He felt Day Engineering's estimate was very reasonable.

MOTION: Commissioner Myers moved to approve the Mountain City Wastewater System Improvement Design Phase I. Commissioner Guttry seconded the motion. The motion passed unanimously.

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VIII. US POSTAL SERVICE:

Mountain City Post Office Closure:

Discussion and consideration of a request to appeal the closure of the Mountain City, Nevada Post Office.

Robert Stokes had received a letter stated there was a posting that the Mountain City residents planned on appealing the decision. He stated the Commission could join or send a letter in opposition of the closure.

Commissioner Dahl stated they would run into this three other times due to the other post offices on the closure list.

Commissioner Williams commented that US Post Office had written in their report that the Elko City Police Department took care of law enforcement in Mountain City.

MOTION: Commissioner Myers moved to join the appeal of Mountain City residents to the closure and write a letter of appeal. Commissioner Williams seconded the motion. The motion passed unanimously.

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IX. ELKO COUNTY AMBULANCE SERVICE:

Discussion and consideration of approval of Resolution 18-2011 which increases Elko County Ambulance Service rates and charges.

Chris Sloman, Ambulance Director, had researched the rates and submitted his recommendations. He noted there was a transition from a volunteer staff service to a service that was augmented with full-time/part-time personnel. He stated over the last three years there had been revenue to expenditure disparity which was depleting the enterprise fund. He stated their call volume had increased by 10% and they have two units staffed 24/7 but they cannot meet all the demand. Chris Sloman stated the Elko City Fire Department transported 48 calls last year. He stated there was an increase in consumption of fuel, supplies, repairs, etc. He commented that the collection rate was declining and was at 63% due to lack of insurance coverage, more people on Medicare/Medicaid, etc. Chris Sloman spoke about the increase of regulations

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which required more costly class training. He stated they instituted an overtime disbursement policy using the most cost effective means and experimented with reducing unit hours but the call volume was unpredictable. Chris Sloman stated they had recruited more volunteers here and in Wells. He stated they were delaying the purchase of capital equipment and seeking the most cost effective source for supplies. Chris Sloman stated the Commission had requested he evaluate the rates and feasibility of a subscription program. He stated the subscription program was not a viable option at this time because of the number of enrollees required exceeds reasonable expectations with the current Medicare/Medicaid laws. Chris Sloman stated they did two rate comparisons, one regional vs. regulated States and one state-wide which included eighteen services mostly in Nevada. He stated they utilized those rates to conduct a revenue and expenditure analysis. Chris Sloman reviewed the proposed rates and recommended the Commission raise the rates based upon the Consumer Price Index for medical care services

Chris Sloman stated a Business Impact Statement was prepared and letters were sent to the Elko and Wells Chambers of Commerce, the Nevada Taxpayers' Association, The Elko Senior Citizens' Center, McMullen Insurance Agency. Chris Sloman stated on October 5th they did a press release. He did an interview of KENV on Channel 10 on the 18th of October but there was no feedback.

Commissioner Myers stated the rates had been low and they need to adopt the CPI rate increases for medical services. Chris Sloman explained there was a gap without a department head and the service had been strictly volunteer staffed services. He stated now they were paying for trained personnel which made a larger overhead. Chris Sloman noted the collection rate was in the 60% which was very good nationwide. He stated there was more training being done to reduce the number of audits. Commissioner Russell inquired about the collection rate for the hospital. Commissioner Myers stated it was lower than the County's Ambulance. He inquired what the impact would be upon them under the new healthcare bill. Chris Sloman stated studies were coming out that 33% of the small businesses would drop their health care coverage but he cannot predict the impact from the healthcare bill. Commissioner Guttry stated at the time he spoke to the collection person there was \$1.2 million dollars outstanding. He commented upon their diligent collection efforts to recover that money. Commissioner Dahl inquired about increasing the amount of volunteers. Chris Sloman stated they had recruited 37 new volunteers and the volunteers do 12 to 24 hour shifts. He stated they just recruited 9 people in Wells and they were

training toward EMT level. Chris Sloman stated this Resolution would become effective December 3, 2011.

MOTION: Commissioner Russell moved to approve Resolution No. 18-2011 which increases the Elko County Ambulance Service rates and charges and that it becomes effective December 3, 2011, in accordance with the presented fee schedule. Commissioner Myers seconded the motion. The motion passed unanimously.

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X. ELKO COUNTY EMPLOYEE REHIRE POLICY:

Discussion and consideration of a vacant position Rehire Policy for the process of filling vacant positions in County Departments while allowing for the recouping of accrued leave expenses paid to the exiting employee (i.e. accrued vacation and sick leave).

Commissioner Myers stated he would like to act upon it in December. He noted some department heads were not in favor of this and some were in favor. He stated the objective was to save costs because if they fill the vacancy too soon then they cannot recoup the costs for vacation and sick leave. Commissioner Williams stated if they went for a period of time the department would see if they could go without that person. Commissioner Myers requested they look at the Resolution. Commissioner Russell stated it would build flexibility into the budget process so they would not hurt the employees.

Debbie Armuth stated they would bring it back with some scenarios.

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XI. ELKO COUNTY CODE:

Discussion, consideration and **First Reading** of **Elko County Ordinance 2011-05, Bill No. E**, entitled, **AN ORDINANCE AMENDING TITLE 7, CHAPTER 10 ALLOWING THE USE OF FINGERPRINT CHECKS AND ARREST RECORDS FOR LICENSING AND EMPLOYMENT PURPOSES, PURSUANT TO NRS 239B.010, TO COMPLY WITH FEDERAL BUREAU OF INVESTIGATION AND NEVADA DEPARTMENT OF PUBLIC SAFETY REQUIREMENTS**, which complies with federal and state requirements on fingerprint checks.

Commissioner Myers inquired if there was an impact upon the bargaining units. Kristin McQueary explained the County's Ordinance was not within compliance with the FBI so it had to be amended in order to utilize the Federal Bureau of Investigation's NCIC data base. She stated it would not impact the bargaining units.

Commissioner Guttry questioned if the County was obligated to do anything. Kristin McQueary stated they had to be in compliance so they could utilize the data base for background checks on liquor licenses, and they require

fingerprints for concealed weapon permits, security guard work cards, etc.

The Board discussed when an FBI background check would be required of an individual.

Commissioner Russell believed it allowed the federal government to dictate who they could hire and how to administer their courts, law enforcement, etc.

Commissioner Dahl inquired what happened if the Board doesn't pass the Ordinance. Kristin McQueary stated they would be out of compliance and could not access the NCIC data base.

MOTION: Commissioner Guttry moved to approve the First Reading and set for Second Reading of Elko County Ordinance 2011-05, Bill No. E, entitled, AN ORDINANCE AMENDING TITLE 7, CHAPTER 10 ALLOWING THE USE OF FINGERPRINT CHECKS AND ARREST RECORDS FOR LICENSING AND EMPLOYMENT PURPOSES, PURSUANT TO NRS 239B.010, TO COMPLY WITH FEDERAL BUREAU OF INVESTIGATION AND NEVADA DEPARTMENT OF PUBLIC SAFETY REQUIREMENTS. Commissioner Myers seconded the motion. Commissioners Guttry, Myers, Williams and Dahl voted aye. Commissioner Russell voted nay. The motion passed by a 4-1 majority vote.

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XII. COMMISSION AND COMMITTEE REPORTS:

Reports from Commission members regarding various committee, liaison or agency issues.

Demar Dahl, District 1 Commissioner:

Commission Chair, Liquor Board Chair

Wells, West Wendover, Jackpot, Montello Liaison – He stated a Dollar Store was coming in Wells.

Humboldt River Basin Water Authority – He stated they met on Friday and discussed the purpose of the Authority. He stated a plan was presented to do the river which included the federal agencies, NDEP, etc. He stated they decided their goal was to protect the water rights along the Humboldt River.

Elko County Conservation Districts Liaison - He stated the application for the grant on noxious weeds was approved for approximately \$180,000.

Nevada Association of Counties (NACO) Board – He stated they interviewed lawyers for the wild horse lawsuit against the BLM.

Ruby Pipeline Project – Western Counties Coalition – He stated Jennifer Ellis testified on the Equal Access to Justice Act and there may be significant changes to that Act.

Charlie Myers, District 2 Commissioner:

Elko County Economic Diversification Authority (ECEDA) - He and Robert Stokes met with Pam Borda to discuss natural gas and Nevada Energy. He stated they hope to solve the issues at the railport. Commissioner Dahl noted there was a gas line from the Ruby Pipeline to the Newmont Mine

Nevada Commission on Economic Development – He stated NCED would no longer exist after June 30, 2011. Commissioner Myers stated the last meeting was confusing with the Interim Director and the appointed Director present and the Lt. Governor was running the meeting from a video conference. He stated next week Pam Borda would meet with the existing interim director in Las Vegas. He stated the new director coming on board of the Economic Development Commission would be in Elko on the 9th of November. Commissioner Myers would introduce him to the various businesses.

Wildlife Advisory Board / Wildlife Arbitration Board – He had attended the NRMAC meeting and heard the presentation from Joe Bennett and Pat Laughlin and hoped for a more in depth overview when it came to the County Commission. Commissioner Myers had suggested they send the presentation to the County Commission and the Wildlife Advisory Board. He recommended they schedule a meeting with the three entities but if that was not attainable then schedule a meeting with the Wildlife Advisory Board and the County Commission to receive the same presentation from Pat Laughlin and Joe Bennett. Commissioner Williams stated it was a brief presentation due to the political issues.

Glen Guttry, District 3 Commissioner:

Elko City Liaison – He gave updates to the City Council every month.

Elko Senior Activity Programs Board Liaison – He stated it was a good board with a good staff.

Nevada Fire Safe Council – Robert Stokes noted their meeting was at the same time as NACO. Commissioner Guttry had not received proper notification.

Fire Science Academy Liaison - He was not available for the conference.

Robert Stokes reviewed the Washington meeting. He stated they want a sit down meeting with the County, stockholders, clients and the UNR in December to look at other options. He noted Commissioner Guttry reported that the congressional delegation was supportive. He stated the Board of Regents would meet in December.

Hospital Board – He stated they held a retreat in Park City but there were insufficient board members for a quorum.

Humboldt River Basin Water Authority – He stated they talked to Nevada Energy about the issue with NOV and that issue seemed to be resolved with the upgrade. He stated they may be able to help NOV with the gas line issue.

R. Jeff Williams, District 4 Commissioners:

Commission Vice-Chair

Highway Board – He stated they need work on the Metropolis Road and there were several roads that need to be looked at for removal of maintenance to save funding.

Carlin, Mt. City, Midas, Owyhee, Jarbidge & Tuscarora Liaison – He stated Carlin was doing a good job but they had problems with the developer. He stated the Midas fence was a dilemma because a waterline and telephone line was at the location they were going to place a cattleguard.

Museum Board – He stated they just replaced the roof.

California Trails Center Board Liaison – He stated it was closed for the winter but there would be a board meeting next week.

BLM/USFS Liaison – Robert Stokes stated Commissioner Williams was the alternate.

There was a short discussion upon the recent changes to the Open Meeting Law and the impact upon the appointment of the liaisons.

Natural Resource Management Advisory Commission Liaison – He stated there was a meeting in October upon the importance of the sage hen to the community and public lands if it was listed. Commissioner Dahl noted the amount of time this had been going on and the tremendous impact upon the area if the sage grouse was listed. He felt there needed to be organization to oppose the listing. Commissioner Myers noted NENSG did a great study. Commissioner Dahl stated Congress needed to change the Endangered Species Act.

Northeastern Nevada Stewardship Group – He stated they just finished the Lamoille Trail.

Juvenile Department Liaison – He stated they meet tomorrow.

Sheriff Department Liaison – He stated the Sheriff was at the Sheriffs' Association meeting. Commissioner Dahl inquired if they found the guy on the Bruneau. Commissioner Williams replied in the negative. He stated there was an investigation in the Sheriff's Department. Kristin McQueary clarified it was a criminal investigation and the District Attorney would make a recommendation for criminal charges. She stated there was an investigator from out of town.

Library Board of Trustees Liaison – He stated Jeanette Hammons did a fantastic job.

CIS – Communities in Schools – He stated it was a good organization.

Warren Russell, District 5 Commissioner:

Commissioner Russell read a portion of a letter from the Public Utilities Commission of Nevada. He stated the PUC found that the Spring Creek Utilities Company had met all the requirements of the Commission's Order dated

September 28, 2011 and met all the requirements of NRS. The PUC commission granted the Spring Creek Utilities Company a permit to construct two (2) approximately 350 square foot structures to house arsenic treatment equipment, a 25,000 gallon backwash tank and sludge container, and approximately 150 feet of 8" piping with associated appendages to connect the treatment facility to existing water infrastructure to be located at well #3. The project would be constructed upon Spring Creek Utility Companies private property within the SE ¼ of the NE ¼ of Section 27, T34N, R56E of MDB&M in Elko County, Nevada. He stated the Director of the utility company was anxious to move the dirt. He had not had any contact with Wendy Barnett so he did not know if Spring Creek Utilities had started construction.

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XIII. COMMISSION MEETING CALENDAR:

December 7 & 8, 2011 -- Elko – Nannini Admin Bldg, Suite 102

January 4 & 5, 2012 -- Elko – Nannini Admin Bldg, Suite 102

January 18, 2012 -- Elko – Nannini Admin Bldg, Suite 102

MOTION: Commissioner Myers moved to approve the Commission Meeting Calendar. Commissioner Russell seconded the motion. The motion passed unanimously.

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XIV. CONSENT AGENDA:

A. Presentation and review of claims for approval

B. Approval of minutes: September 19, 2011 and October 5, 2011

MOTION: Commissioner Myers moved to approve the Consent Agenda. Commissioner Guttry seconded the motion. The motion passed unanimously.

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XV. COUNTY COMMISSIONERS AND COUNTY STAFF COMMENTS:

Commissioner Guttry stated he would not be present tomorrow due to family obligations. He had submitted a letter to the Chairman to be read into the record under the Travel Management Plan agenda item tomorrow.

Commissioner Myers commented upon the 10th Circuit Court decision which overturned the District Court upon non-defacto wilderness areas and roadless areas. Commissioner Williams noted it gave a good historical review.

Commissioner Myers would meet with John Carpenter on the Fire Summit next week. He would suggest a two day summit with a guest speaker in the morning and in the afternoon having the Fire Management Officers holding a round robin discussion with the Commissioners, mines, ranching community and all the users. He would recommend the second morning having a table discussion eliminating the governmental representation.

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Commissioner Myers voiced concern with the redistricting issue.

Commissioner Myers submitted the Budget Review Committee's Cost Saving Revenue Generating List to the Commission to be discussed in January.

Kristin McQueary stated the U.S. Attorney in the Jarbidge matter had scheduled a field trip for Michael Freeman, the Attorney for the Great Old Broads and the Wilderness Society, on the 30th of November. She stated they would meet in Rogerson at 8:00 a.m., Nevada time. Kristin McQueary stated on December 1st at 8:30 a.m. they would take the deposition of George Boucher and the briefing for the Motions was due within the first week in February. She stated yesterday the State of Nevada substituted in an attorney and they have done nothing on the case within 10 years. Kristin McQueary stated the Deputy AG had received e-mails from the attorney leaving their office. Kristin McQueary did not know if they would participate.

Commissioner Dahl stated six or eight counties did not like the redistrict lines and inquired if they could file a suit through the District Attorney's Office. Kristin McQueary suggested he speak with the District Attorney.

Commissioner Dahl stated tomorrow there would be a limited discussion regarding Travel Management because Eureka County was unable to be present. He stated they would schedule a date for a joint meeting.

Commissioner Williams commented there would be a Public Lands meeting this Friday and would attend. Robert Stokes stated it would be scheduled for quorum setting.

[4:26:25 PM](#)

XVI. COMMENTS BY THE GENERAL PUBLIC:

No public comments were submitted.

[4:26:49 PM](#)

XVII. ADJOURNMENT:

MOTION: Commissioner Guttry moved to adjourn the meeting. Commissioner Russell seconded the motion. The motion passed unanimously.

There being no further business to come before the Board, the meeting was adjourned at 4:26 p.m.

APPROVED,

DEMAR DAHL, Chair

ATTEST:

MARILYN TIPTON, Deputy Clerk



Elko County Board of Commissioners

Commissioners

Demar Dahl
Glen Guttry
Charlie Myers
Warren Russell
R. Jeff Williams

Elko County Manager

Robert K. Stokes

STATE OF NEVADA)
COUNTY OF ELKO) ss.

NOVEMBER 3, 2011

The Board of Elko County Commissioners met in regular session on Thursday, November 3, 2011, at 1:30 p.m., in Suite 102 of the Nannini Administrative Building at 540 Court Street, Elko, Nevada.

There were present:	County Commissioners	Demar Dahl, Chair
	ABSENT	Glen Guttry
		Charlie Myers
		Warren Russell
		Jeff Williams
	County Manager	Robert Stokes
	Deputy District Attorney	Kristin McQueary
	Deputy County Clerk	Marilyn Tipton
	Planning/Zoning/NRMAC	Randy Brown

Chairman Dahl called the meeting to order at 1:31 p.m.

Rob Stokes led the meeting participants in the Pledge of Allegiance.

[1:32:07 PM](#)

I. COMMENTS BY THE GENERAL PUBLIC:

No public comments were submitted.

[1:33:32 PM](#)

II. ELKO COUNTY NATURAL RESOURCES MANAGEMENT ADVISORY COMMISSION (NRMAC):

A. Discussion and consideration of a recommendation to the Elko County Board of Commissioners and the Elko County Advisory Board to Manage Wildlife to provide a letter of recommendation regarding the importance of predator control in Elko County to the sustainability of the multiple uses and diverse economic activities within the county and its important role in other habitat and wildlife management techniques including a meeting between

NRMAC, the Elko County Advisory Board to Manage Wildlife and the Elko County Commissioners be held to talk about predator control in general.

Randy Brown, NRMAC Director, stated at NRMAC there had been presentations from Pat Laughlin and Joe Bennett. He stated NRMAC supported predator control within Elko County and recommended a letter be sent the State Board and NDOW from this Commission.

Commissioner Williams expressed the importance of predator control specifically with regards to mule deer and sage grouse. He requested the presenters at NRMAC to give a detailed presentation for the County Commission.

Commissioner Myers commented upon the impacts to the County if the sage grouse was listed. He suggested a combined meeting be held and secondly, the Commission supports the efforts of predator control.

Commissioner Williams noted NRMAC discussed fire and loss of habitat that they could not address but they could proceed with predator control. Commissioner Myers noted ravens were protected under the ESA but sage grouse was threatened to be listed however the ravens were the main predator for sage grouse.

MOTION: Commissioner Williams moved that the County staff schedule a meeting date for the NRMAC committee, the Elko County Wildlife Advisory Board and the Elko County Commission to meet jointly; invite Joe Bennett and Pat Laughlin to give another presentation that was in depth concerning predator control and its effect on wildlife which ultimately has a great effect on the economy in Elko County. Commissioner Myers seconded the motion. The motion passed unanimously.

[1:39:48 PM](#)

B. Discussion and consideration of a recommendation to the Elko County Board of Commissioners that the Draft Agricultural Operations Ordinance Revision "V-B" as written be remanded to the Elko County Planning Commission for their consideration, revision, review and analysis.

Randy Brown asked that it be tabled for writers of the Ordinance to work out details with NRMAC.

[1:40:32 PM](#)

C. Discussion and consideration of issues reviewed by NRMAC at its last meeting.

Randy Brown stated there was a long meeting with Forest Service and BLM projects being discussed.

[1:40:57 PM](#)

III. USFS MOUNTAIN CITY, RUBY MOUNTAINS AND JARBIDGE DISTRICT

ELKO COUNTY COMMISSION

REGULAR SESSION

NOVEMBER 3, 2011

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TRAVEL MANAGEMENT PROJECT:

Discussion and consideration of issues regarding the Mountain City, Ruby Mountains and Jarbidge District Travel Management Project FEIS/ROD including a review of potential agenda items for a future facilitated meeting between the USFS and the County.

Commissioner Dahl stated Commissioner Guttry was absent due to a family health issue but asked that his written statement be read into the record. The statement was as follows:

“Since I will be out of town for Thursday’s meeting, I wanted to express my opinion on the discussion you will be having regarding the agenda upon the proposed meeting with the Forest Service on Travel Management. I still firmly believe that a public meeting with all the Commissioners is the only way that we can get all of our questions answered once and for all and allow the public to understand what the consequences are to Elko County and its residents should the Travel Management Plan be put in place as it now stands. It is particularly important to me since I have been involved in this process less than a year and still have many questions that no one seems to be able to answer. Those of you on the board who have been involved since the beginning seem to be struggling with the same questions. When our government agencies cannot or will not give the people they serve direct and complete answers to basic questions that have such a wide spread impact on our citizens then there is something drastically wrong. The agenda should include all of the items that we have brought forth at our last meeting on the 16th of October. I do not want to give the Forest Service the impression that I am in this dispute just to be contrary. I respect all the Forest Service people involved in the process and seek only to have all the information that we can get to insure that the citizens of Elko County are not damaged by this policy. This is our job and we must do it.”

Commissioner Dahl stated Max Peterson, Chief U.S. Forest Service, submitted a report to Congress in 1980, as follows:

“This assessment is the second comprehensive analysis of the renewable resources of forest and rangeland and associated waters prepared in response to provisions of the Forest and Rangeland Renewable Resource Planning Act of 1974 as amended by the National Forest Management Act of 1976. It shows that the nation’s demand for outdoor recreation, wildlife and fish, range, grazing, timber and water have been growing rapidly and will continue to rise in the decades ahead. There are many opportunities on the 1.7 billion acres of forest and rangeland and associated waters to extend and increase supplies of nearly all renewable resource products. For example, improving access through the construction of trails, boat landings, and other facilities, and spreading use to

underutilized areas can greatly expand recreational opportunities including those in Wilderness Areas. There is also a large potential for expanding timber supplies through improvement in utilization and increased efficiency in processing, manufacturing, and construction through reforestation, control of tree spacing and species composition, improving harvest practices and other management measures, timber supplies can, in time, be more than doubled. Under intensive management, forest and rangelands have the capability of supporting nearly three times the present volume of range grazing. In addition, they could support much larger numbers of most species of wildlife and increased water yields. The nation waters also have the potential to support larger fish and water fowl populations.”

Commissioner Dahl stated just recently the perspective of the Forest Service had changed from serving the citizens and the users of the natural resources whether for commercial, recreational or hunting purposes.

Commissioner Dahl stated the first letter received from District Ranger Gar Abbas on July 26th suggested a full day or two of focused discussions. He stated on the 24th of August he received another letter asking if the Commission would participate in a workshop that was proposed by the Forest Service and Gar Abbas believed they could cover the necessary material in a full eight hours but could see some value of having part of a second day set aside. He stated the County and the Forest Service first assumed it would be several days to get into the issues. Commissioner Dahl had explained to District Ranger Abbas at a County Commission meeting that the entire board should be involved and they have to agenda the meeting according to the Nevada Open Meeting Law. He later received a letter from Gar Abbas stating he understood at the Commissioner meeting that they cannot be in a room together unless it was an agendized and advertised public meeting. Commissioner Dahl stated Ranger Abbas' new proposal was for an informational presentation only with opportunity for questions and answers. Commissioner Dahl noted there would no longer be an opportunity for open discussion. He noted that Gar Abbas did not want any action items of any kind on the agenda because Mr. Abbas was not seeking a decision or position from the County. Commissioner Dahl stated in the next communication Gar Abbas stated he was sorry the workshop did not work out. Commissioner Dahl explained the Commission could not agenda the meeting on the 12th of September due to the lengthy notification process. He stated Gar Abbas stated in his letter that their intent was to inform the Commission in a simple and succinct way and he felt the Forest Service was well informed about the County's concerns. Commissioner Dahl commented the State Forester, Jeanne Higgins, came to a Commissioner meeting and agreed that they would

hold a workshop with the Forest Service. Commissioner Dahl stated they have a number of questions that were sent on the 10th of March to the Forest Service. He stated Elko County maintains that all roads within the Humboldt-Toiyabe National Forest should remain open for motorized vehicular traffic including all roads and trails not showing up on the TMP maps. The Commission had inquired exactly how many miles of roads were proposed for the closure. Commissioner Dahl stated a portion of the Forest Service's answer to that question was: *"It is difficult at best to have a meaningful discussion regarding specific route designations and non designations given that the County has been unwilling to engage in detailed site specific discussions."* Commissioner Dahl stated Randy Brown had drafted a chronology of all of the meetings, discussions, letters asking for questions, FOIA requests, meetings with the State people, with the Deputy Forester, with the State Forester, Ed Monnig, who was there before Jeanne Higgins. He stated there were 104 meetings and communications between January 8, 2009, when it was first presented to the Commission, and May 5, 2011. Commissioner Dahl stated that the County, since the beginning, has been very involved in this process.

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Terry St. Louis requested the Commission hold evening meetings so that more of the public can attend and submit comment. She had 164 signatures on a Petition for the Forest Service to hold evening meetings so that the public can attend the meetings. She had additional petitions throughout town at 15 businesses.

Gerald Temoke, Chairman of the Elko Band of the Te-Moak Tribe of Western Shoshone, stated they have a petition at the Smoke Shop that had a page and one-half of signatures. Commissioner Dahl inquired if the Elko Band had discussed travel management. Gerald Temoke requested that the Band be involved in the Commissioner discussions. Commissioner Myers inquired about the planning process involvement between the Tribe and the Forest Service. Gerald Temoke was unaware of what the Tribe's involvement was. He stated the Elko Band had not held any formal conversations with the Forest Service. Commissioner Dahl inquired if the Forest Service had sent any request letters. Gerald Temoke stated there had not been anything specific about the roads. Commissioner Myers noted the Forest Service should hold discussions with Tribe.

Tom Ebert, Ruby Dome Ranch on Lamoille Canyon Road, objected to an element of the Travel Management Plan. He had written his objections to the Forest Service but felt it fell upon deaf ears. Tom Ebert had received a notice that the new Travel Management Plan had been published and was available for

comment. He had reviewed the plan maps and was relieved to see that the road located immediately behind property in Seitz Canyon was shown on the map as an open road. He then learned that the plan included language buried somewhere in the text and announced by Forest Service officials that essentially says that all Forest Service roads connecting to private property will be reviewed during the next few years and unless public access is granted across private lands leading to those roads, they would be closed. Tom Ebert stated he was misled, as would be anyone who looked at the map, to see what roads would remain open or be closed. Tom Ebert voiced strong objection to the national forest putting in a policy which they were deceptively attempting to put in place that the private property owner would not be allowed to cross their back property line to use that existing Forest Service road unless the owner was willing to allow the public to come down his driveway, go through his backyard onto the forest. He questioned if there was anybody here today that would like to open up their property for such use. He stated over the years he and their guests have enjoyed access to Seitz Canyon as well as others who have asked for permission to go up the road. He stated if the new policy was adopted the road would be closed and nobody will be using it. Tom Ebert stated this policy did not open access to the forest; it would actually close off access to the forest. He stated for property owners like him, who neighbor the forest, this thinking by those we have entrusted to govern us was sickening. He stated if they establish that they can do it for a road then why not a trail. He stated if the property owner did not allow the public to horseback through their property then maybe the property owner would not be able to horseback on the forest either. He noted it was the same logic. Tom Ebert asked if they could imagine a future rule that says you cannot enter the forest at all unless you pass through a designated point, none of which were across private property lines. He stated these kinds of ideas may seem outlandish and unthinkable. However, in this day and age, let's remember what seems to be unthinkable one day was what actually happened the next.

Commissioner Dahl inquired what would happen if he came to him and requested to go up Seitz Canyon and hunt. Tom Ebert stated it would depend upon the time of the year, what they were doing on the ranch and whoever else may be up there. He stated they do allow people to go up and hunt in that area. Commissioner Dahl stated if he promised to close the gates and not shoot cows what would the chance be of him getting through. Tom Ebert replied good. Commissioner Dahl inquired if there were four parties already up there what were his chances. Tom Ebert stated there was limited hunting on the ranch and they do little hunting. He stated they were very restrictive in Seitz Canyon. Tom Ebert

stated they have an ownership/partnership structure and they have an unwritten agreement that if they were going to hunt upon the property, they were there personally. Tom Ebert stated Seitz Canyon had been used by members of the public that he did not know. Commissioner Myers inquired if they owned Seitz Canyon. Tom Ebert stated their property line was into the canyon.

Harry Botsford had gone to the Forest Service and pulled maps for both districts the northern forest range and the Ruby Mountains. He stated legally Ruby Mountains only had three entry points under the proposal. He was interested in hunting, fishing, and recreation. He stated the public had crossed these ranches for access over the years and stressed protection of those roads for access. Harry Botsford commented the law said they were to document the roads and then each year we would plan with the local ranger to open or close it according to a development plan.

Commissioner Williams agreed with Mr. Ebert and Mr. Botsford and the letter they received from NDOW backed those statements up that the plan would close more roads than open. He stated the logic in the plan was the Forest Service would force the rancher to open the roads by making this type of ruling or law when in fact it backfires and they go in the other direction. Commissioner Williams stated this would end up congregating the users on a limited number of legal access roads to the forest. Commissioner Williams suggested the Forest Service negotiate on those roads that were necessary to get gain access to the specific spots to gain more access to the Rubies. He stated the ranchers had a major responsibility in this process as well. He stated over the years the ranchers have locked up roads or shut off, and rented or leased to hunting clubs throughout Elko County. He stated since that had been a problem this was the Forest Service's angle to correct the problem. He stated they all have to take part of the blame why this was happening. Commissioner Williams stated we, as sportsmen, had been negligent in making sure all sportsmen were doing what they should have done. He stated the ranchers and property owners have been somewhat negligent in giving access that would be proper to give in certain areas. Commissioner Williams stated Seitz Canyon was a perfect example when a rancher had determined there would be no hunting within the canyon but the canyon was upon Forest Service land so it was not his sole discretion to determine whether it was hunted or not.

Commissioner Myers stated he believed in private property rights and didn't believe anyone should be forced to do anything with their land. Secondly, he did not think the rancher should have the ability to determine a private hunting area just for their friends. He stated if it was public lands, then the public should have access to it. Commissioner Myers stated the issue was putting it on the rancher

that if they did not allow public access through private property then they would close the road. He stated under travel management they would not be able to pioneer new roads so if that road was closed, there was no way to get into that canyon if the rancher did not allow it. He stated now a rancher had a private game reserve where he could invite his friends to go hunting but yet the public did not have access to that. Commissioner Myers voiced strong support of all the roads remaining open and had no issue with a rancher controlling the public access across his private property.

Harry Botsford stated he was born and raised in Elko County and then he went to the East Coast for forty years and came back. He stated when he was raised here all paths, trails, and roads were open by law for public access to anywhere in Nevada. Harry Botsford commented the public should respect and show proper treatment of the property that they cross.

Richard Redfern, President of the Mexivada Mining Corporation, commented he had worked and lived off and on in Nevada for over 40 years. He had seen the evolution of the process. He stated most people believed they should decide where they should be able to go in concert with the government but not having a lot of things totally dictated to them. Richard Redfern stated the fundamental thesis should be the government should not decide what should be open but the people should decide what should remain open and then let the government challenge it rather than the government closing everything off and telling the public they would think about opening it up. He stated once the roads and trails were closed by the government there was virtually no chance of them ever getting open up again. He stated they have seen this for over fifty years. Richard Redfern stated over the last 30 – 40 years the government had been doing Wilderness Study Programs where the first thing they do was establish roadless areas, lack of access and after a while they establish the region as a Wilderness Study Area. He stated in northern Nevada there had been no work done on Wilderness Study Areas for over twenty years. He stated once the government had controlled something for over twenty years they own it and can cut off the access to it. Richard Redfern stated they the government starts a de-facto Wilderness Areas and entirely blocks the public off. He noted Nevada's senior Senator fostered this action. He encouraged people to speak up about this and commented Elko County was one of the most forthright counties to speak up and take on the federal government. Richard Redfern stated he had worked with the Indian Tribes in the past and tried to be sensitive to their concerns. He felt the Indian Tribes would be the most hurt by this proposal because they would not have access to their honored sites across the country.

Richard Redfern reviewed several points:

1) Just because the Forest Service does not know of a road or trail as they have stated in recent documents does not mean that the road or trail did not exist and that it was not being used. He had marked roads and trails on the maps but they were not marked and presumably the FS could cut them off now because it did not have an "open" sign upon it. He believed the people should decide what was open and not the government.

2) He stated they had heard the controversy between the private owners and public users but there were many roads and trails that have been used for over 100 years by various parties so they should be considered public access.

3) He stated politics influence these decisions. He noted certain politicians want to put their names on Wilderness Areas and this has happened all over the western United States. He stated people like him need to have areas to work and look at whether it's mineral companies, timber, hunters, fishermen, etc., they need open access. He stated they were getting less accessible.

4) He stated there were ulterior motives by governments and various ego groups for establishing and expanding Wilderness Areas. He had worked on projects in the Mountain City area and now they seem to be blocking off access all around this area south of Owyhee. He stated eventually they will say it is a roadless area and they would turn it into a Wilderness Study Area. He stated the same was happening down where he was working in the Round Mountain area. Richard Redfern stated in the Jarbidge area they have blocked a lot off and they could declare it Wilderness Study Areas.

5) Richard Redfern reviewed the impacts as follows: limit timber harvesting, limit hunting and fishing, limit elderly participation in recreation, limit Native Americans to sacred sites; and it was designed to keep out exploration and mining companies. He stated examples were Owyhee, Round Mountain, in Nevada, and Black Hills in South Dakota.

6) Richard Redfern stated certain roads that cross private lands were over 100 years old. He stated they may not know this because it did not go through the legal access process. He stated the ranchers would lock them off but if that road was the only access they need to make sure that people have access across to major routes.

Richard Redfern concluded that the Travel Management Plan would lower the quality of life for Americans and businesses. He stated the roads should remain open until a consensus of all people, counties, cities and tribes decide otherwise that they should be closed.

Commissioner Dahl inquired if Richard Redfern used cross country travel for miner exploration. Richard Redfern stated they use ATVs to drive up dry washes. Commissioner Dahl inquired what the impact would be upon the

prospectors if there was no cross country travel. Richard Redfern stated eventually it would close the mining industry down.

Rich Sandoz stated he had brought up NRS 403 where all roads were county roads within the State Laws. He heard nothing back from the Forest Service whether the State had any rights. Rich Sandoz stated if this was an Executive Order; that was only the Executive Branch. He noted they have to go through the local and legislative branches. Rich Sandoz stated recently it came out that they had bypassed Congress through an Executive Order. He felt there should be a good discussion upon that. Rich Sandoz questioned with regards to the easement across private property would that be considered a "takings". He made reference to the Wayne Hage case.

Ralph Sacrison disclosed he was a member of NRMAC. He inquired if the County maintained records of the claims, filings and activities by the prospectors who have brought us the Carlin Trend, Long Canyon, etc. He stated this Travel Management Plan would impact mineral exploration and that should be reviewed prior to the meeting with the Forest Service. Commissioner Dahl clarified he was inquiring how many claims were filed by going across country. Ralph Sacrison stated it would impact their ability to access their claims and discourage the mining activities. Randy Brown stated lode or placer mining claims was a right to use the minerals but it did not imply the right of ownership. He stated patented mining claims did imply the right of ownership and they do know where all the patented mining claims were. He stated there were a lot of in-holding patented mining claims within the forest boundaries and they do know what roads lead to them. Randy Brown stated if they looked at all the lode and placer claims stated since the early 1900's until present every piece of the forest land would be covered by a claim. He stated the location of patented mining claims or in holding properties within the forest does give a legal precedent. Randy Brown stated they have been attempting to work with the Forest Service upon those issues.

Commissioner Dahl inquired if Ralph had a claim but could not access by motor vehicle what was the impact. Ralph Sacrison stated they have to do the assessment work on the claims so they would have to pack in, etc. He noted the impact to graduate students when they cannot get off the roads and perform their graduate seminars and their summer field camps.

Commissioner Williams inquired if there was a permitting process that would allow prospectors to go off road for the purpose of prospecting. Randy Brown replied no; there was a permitting process for mining and milling. Commissioner Williams inquired about ranching. Randy Brown stated they would be permitted under the same allotment process as before. Commissioner

Dahl stated the rancher would have the same problem as the firefighters, if the road was not used then it would disappear. Randy Brown stated the wood gathering process was the same and there were designated areas. Commissioner Dahl inquired if they could get a permit to go off road. Randy Brown understood that was allowed. He stated emergency services were covered under the Executive Order.

Harry Botsford stated he had hunted and fished for over 30 years and used the lands and inquired why he should not be able to use new inventions for access as he got older. He questioned why the public could not use the new tools that were invented to gain access as they get older. He noted most of the people responding to the plan were older people that needed the motorized access. He stated the younger people would be able to access and were not worried about protesting what the elderly were protesting. Harry Botsford stressed there were not many new roads since he was a kid but they have to keep the roads open to use or they would lose those roads to overgrowth. Commissioner Dahl stated he had seen that also. He stated the roads were not much different in that area because anyplace they could drive now, they could have drove back in the past. He stated there was this idea that there were so many off road vehicles now and they were so big and powerful that we were making roads everyplace. He did not see those new roads. Harry Botsford stated they do have dirt bikes so they can go where they used to have to go by horseback. He did not see many roads or trails being formed or property being torn up by them either.

Commissioner Dahl stated in Starr Valley the other night he could see the vehicles coming down or going to their hunting camps. He stated most ranchers would let public access if they were willing to speak to the rancher and ask for permission. Commissioner Williams suggested the County negotiate with the ranchers for legal public access roads in certain areas so there were not huge stretches of area blocked off to the public. He stated in Clover Valley there was only once access road. Commissioner Dahl stated they needed to ask property owners for access. Randy Brown noted roads in to the Rubies were historical and prior to the inception of the Forest Service boundary. He stated most of those ranching families used those roads before the Forest Service came in during the early 1900's so those roads were private and personal to those people.

Susan Elliott, US Forest Service, spoke to them as a Forest Service geologist, stated prospecting and staking claims did not require a notice or a plan of operations. She stated access under the 1872 Mining Law allows for reasonable access so if someone needs to use a road that might not be upon the

Travel Management Plan, if they work with the ranger then they would be able to access it. Randy Brown stated would they be allowed to go cross country. Susan Elliott stated with ATVs if they submit their activity to the ranger there. Randy Brown was told by Gar Abbas that would not be allowed. Susan Elliott understood they had the right to reasonable access as long as it was not an activity that would fall under a notice. Randy Brown inquired if they could go cross country. Susan Elliott stated if there were no existing roads to access it. Commissioner Dahl stated they were told by the Forest Supervisor that cross country travel was a non negotiable point and the Rangers did not get to decide upon cross country travel. He stated they were also told that the Rangers were who would make the exception for retrieving elk but they could not retrieve deer. He commented that if there was an exception for prospectors then could they also make exceptions for wood gathers, pine nut gathers, handicapped, etc. Susan Elliott stated she could only speak upon the mineral standpoint and not upon the other programs. She stated if there were permits for ranchers then that may allow access upon roads that were not covered under the Travel Management Plan. She stated for prospecting and mining claims there was a statutory right to provide reasonable access. Commissioner Dahl inquired who made the decision if it was reasonable access. Susan Elliott stated that was a right under the 1872 Mining Law. She stated the Rangers review the activities that occur on forest lands and decide what level that activity falls under. She commented that prospecting and staking claims did not fall under anything that would require a notice that the Ranger would acknowledge, or a plan of operation which was a permit that the Ranger would authorize. Commissioner Dahl inquired if the prospector could do cross country access. Susan Elliott stated if they went off road they would want to inform the ranger of their activity to make sure that their level of activity did not fall under a notice. She stated if there was a significant disturbance by that activity a notice may be required. She stated if there was a significant disturbance it did not necessarily have to be by mechanized equipment to require a notice.

Commissioner Williams stated according to the Mining Law the Ranger could not stop a prospector from going to where he needs to go to do his prospecting but the Ranger could tell the prospector what road he would use to get there. Susan Elliott stated they could work together so it would not create any significant disturbance. Commissioner Williams inquired if a prospector felt he was unduly treated was there an appeal process upon the decision by the District Ranger. Susan Elliott stated it would not be a decision by the Ranger to allow access unless the activity was going to create significant disturbance. Commissioner Dahl inquired where they could appeal it. Susan Elliott was not

sure because that issue had never come up.

Commissioner Russell understood the Forest Service was not allowed to deny the access because of the Mining Law. He stated the Ranger did want to consult with the people. He stated if the Forest Service could not deny it then you did not need to appeal it. Randy Brown did not believe that to be true. He stated today they can go anywhere on the public land but inquired if they implement this plan could he still go cross country with his ATV without a Forest Service permit. Susan Elliott stated they would not give them permission because it was a right but they expect coordination to determine if that was the activity. Randy Brown stated that there was not a permitting process for prospecting within the FEIS. He did not believe they could go cross country after the plan was implemented without their permission. He stated if a prospector went in and talked to the Ranger, the Ranger could give him permission to travel cross country. Randy Brown had been told previously that all cross country would be prohibited. Commissioner Dahl stated this was one of the issues that the Commission should get an answer upon at their joint meeting. Commissioner Williams believed they would have access through the 1872 Mining Law. Randy Brown stated what they were referring to was cross country travel. He understood after the record of decision was implemented a prospector could go in and explain his plan to the Ranger to cross country travel. Susan Elliott stated a prospector was not mandated to come in for prospecting. Randy Brown inquired if after the plan was implemented and a prospector was caught off the roads would he be penalized or cited by any law enforcement for being off road. Susan Elliott could not speak to that.

Commissioner Russell believed that the Mining Law had superiority over the administrative rules of the Forest Service.

Richard Redfern stated that only came into play once a mining claim was previously staked.

Ralph Sacrison gave an analogy that this would be similar to getting the permission of the US Patent Office before they begin work on your invention. He stated they were discussing prospecting not exploration. He stated if a prospector had to go to the federal government to get permission to begin the creative process how quickly would that information be out upon the street in which case the prospector would lose his livelihood.

Commissioner Dahl stated the County had been involved in a lot of research that made the connection between the natural resources and the health, welfare, and safety of the citizens of this County.

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Cliff Gardner stated the only viable way to protect their rights was through a

County planning process. He had spoken to Karen Budd-Falen who represents people throughout the western states upon public land issues. He questioned her if the other counties within the United States were having issues with the Forest Service as were the western counties and was informed the other counties had more success. Cliff Gardner stated if the County planning process was implemented it must be done pursuant to the use of scientific backing and not a political process. He had watched two counties in Texas become coordinating agencies to stave off the Mexican/Canada Corridor from going through. He stated they utilized endangered species and science to stop the project so he felt it was a valid process. Cliff Gardner noted the Forest Service sent a letter to them on July 26th proposing a joint meeting. He stated in reading the NEPA regulations he believed the Forest Service was required by Congressional mandate to sit down with the County before they make the final decision to resolve inconsistencies between their EIS and the County Plan. Cliff Gardner stated in developing all the science and having the letters in place was to prepare for that day. He stated representatives from the County could then sit down to discuss these issues with the Forest Service to keep them on track. Cliff Gardner stated they should pursue the Forest Service to resolve the inconsistencies under NEPA. He understood that the County, as a cooperating agency, could raise questions and open up processes again. Cliff Gardner stated in early law both the BLM and the Forest Service had laws on the books that bonafide citizens and residents must have free access to wood, stone, gravel and clay. He explained when their forefathers came west to settle there were no lumber mills so they had to use the materials upon public lands to build and cover their homes. Cliff Gardner stated in today's regulations both the CFR that govern the BLM and the Forest Service that exact same language was still upon the books. He stated they forfeited that a long time ago because they assumed those agencies had the authority so they were paying for what they were allowed to get for free. He noted that was no different than the road rights of way, ditch rights of way, the right to protect the public's health and safety. Cliff Gardner stated throughout the years most of the discussion within court decisions was the local government's responsibility to protect the economic well being and the public health and safety within the communities. Cliff Gardner reviewed the common statement that was recognized in most Courts that there was no federal common law. He stated the local government should be looking at those laws for public health and safety. He stated if a fire occurs they need to be out there to protect the people and they need to be involved in the planning process to remove that flash fuel. Cliff Gardner suggested they incorporate the free use of wood, stone, gravel and clay into the County's local plan. He stated

the Forest Service had admitted within their own Travel Management Plan EIS that they do not have solid science with regards to determining that they need to close two track roads crossing waterways because of sediment loads. He noted the Forest Service also said they do not have good science with regards to cross country travel. Cliff Gardner stated when the founders created this country one of the most important things they wanted to accomplish was justice. He stated their vision of justice could not occur unless there was due process. Cliff Gardner encouraged the Commission to incur the County process.

Commissioner Dahl requested him to address cross country travel and the damage of cross country travel. Cliff Gardner had submitted a FOIA requesting all the Forest Service documents supporting their actions that they had proposed. Cliff Gardner stated the Forest Service had to include the Endangered Species Act and the primary mandates through that Act was the base for all their actions on the best scientific and commercial data. He stated the Forest Service has already admitted in their documents they lacked data to show that there was damage from cross country travel. Cliff Gardner stated the ranchers had testified that in their experience when they put livestock out there and the brush was broke back, within two years they had wildlife coming in, more growth in vegetation and more insect production. He stated that testimony was commercial data as required under the Endangered Species Act. Cliff Gardner stated the Forest Service admitted in their letters to him that they had not addressed the findings of fact documents sent to them. He encouraged the County to develop a plan and base it upon better science then compare it to the Forest Service's science.

[3:09:55 PM](#)

RECESS:

Chairman Dahl called a recess at 3:09 p.m.

[3:22:02 PM](#)

RECONVENE:

Chairman Dahl reconvened the meeting at 3:22 p.m.

Commissioner Dahl stated they would take more public comments and then set tentative dates to schedule meetings to discuss the issues and some dates to give to the Forest Service. He stated Eureka County could not participate today and should be included in scheduling the dates with the Forest Service.

Commissioner Russell understood the Travel Management Plan came out of a national decision by the Forest Service to start limiting access to public lands by the public with the objective to protect natural resources. He questioned if there was sufficient data on the Humboldt-Toiyabe National Forest that the current use was destroying natural resources. He stated if there was no

destruction of natural resources then it was bogus claim to make a change in what exists now. Commissioner Russell stated if there was no scientific evidence then it becomes a political basis for making decisions on the Humboldt Toiyabe by the Forest Service. He stated if there was no scientific evidence that there was natural resource damage or there was use by people going cross country doing something bad, then there was no basis for discussion. Commissioner Russell stated the Forest Service had several options: 1) Choose a no action alternative if there was no natural resource damage; 2) Close motorized access to the public which would close it to the elderly, handicapped, etc. He noted the Forest Service was also choosing to close public access were it adjoins to private lands. Commissioner Russell stated this was a plan by the Forest Service to eliminate public access to natural resources except for athletic people with no substantial scientific evidence to back up their decisions.

Commissioner Myers stated the process was dissentious because of all the alternatives “no action” was the first alternative but it was never selected. He had researched numerous Travel Management Plans throughout Colorado, New Mexico, California and the “no action” alternative was never selected as the preferred alternative. He had spent his entire life traveling Elko County in the forest and upon BLM and had seen some minor damage but never seen major damage which would be cause to close a road. Commissioner Myers questioned how the Forest Service could make a blanket declaration that they would close so many roads without going through the NEPA process on every single road. He proposed the following agenda items: 1) A stated overview and the purpose of the meeting; 2) Dispersed camping – an explanation from the Forest Service of what they anticipate what disbursed camping was and what the County thought dispersed camping was. Would they be noted on a map? Were there any restrictions? He stated if you look at the different Travel Management Plans throughout the United States, they were not consistent on dispersed camping. He stated within some plans they can travel 50 feet off of a main road on an ATV and set up a campground. He believed there should be a standard throughout the forests. He questioned if new campsites could be develop. 3) Dispersed parking. Was there any explanation? Where can they disperse park? For how long? What was the length of the dispersed parking off the main roads or off the trails? 4) Game Retrieval. What was covered by “big game”? He stated when reviewing the other Travel Management Plans the average “big game” was deer, elk, pigs, bear, cats, and sheep. He questioned how far they could go into the forest for retrieval? He stated in the Humboldt-Toiyabe it stated ½ mile and that was consistent in the other plans researched. He questioned about handicapped or wounded warrior access, could there be a special permit issued? 5) RS 2477

Trails and Roads. How would they be identified? Who identifies them? Were there any RS 2477s that were being looked at to be closed that the County had not been informed about? How do you close a road without doing a NEPA process? 6) Evaluation Process. He inquired once this process was put into place and the Record of Decision was signed what was the schedule/process to add trails and roads to be opened. He stated the neighboring counties had been promised the same thing that there would be a meeting once a year or every other year wherein the County could go in and submit roads for consideration to be opened. He stated the Forest Service has not met with any county in Nevada to reconsider any road openings. 7) Data Used to Close the Roads – the NEPA Process. What was the environmental damage? Was it documented? Can they produce it? Were they using sound science to close roads that they were looking to close right now? If they were, then why was it not available for the County to review it? 8) In-holding, Permittees, Access to the Forest Service roads on the other side of private property; 9) Fuel and Fire Reduction. What were the restrictions for firefighting? What were the restrictions for going in to do fuel reduction? For a road behind a ranch that was closed, would they still allow cattle up in that area and would the rancher be able to access that to take care of the cattle? 10) Impacts to the Local Economy. He noted that interest in hunting was huge, prospecting was huge, and interest in exploration was huge in Elko County. 11) Enforcement. How was it going to be enforced? What was the time frame? When will the maps be out so the active users of the forest can know what the requirements were? When will signs be up stating roads will be “open” rather than “closed”? What happens if a “closed” road accesses onto a road that was “open” and you find yourself on that closed road? What was the enforcement policy for that? Clarification upon what was a temporary road and what was a temporary trail. An explanation for unclassified roads and unauthorized roads. Who determines the allowable access and the process as they go forward, specifically for reopening roads?

Commissioner Myers stated in a conversation with a Forest Service Supervisor the comment was made “that we were keeping these amounts of roads opened”. Commissioner Myers stated there were numerous roads that had not been captured on the map so the Forest Service went back and added them and there was about 137 miles of roads that would be closed. He stated in all this process there was about 300 or 400 miles of roads that was not even identified. He stated those roads, based on Travel Management process, would be closed as soon as the Record of Decision was issued. Commissioner Myers commented those roads would be closed without the NEPA process, without sound science and without proving environmental damage.

Commissioner Williams reviewed his letter of recommendations to the Commissioners previously submitted. He stated the County should deal with items they can win and not focus upon cross country travel at this time. 1) Recognize exemptions to certain people such as the Veterans who have been severely wounded in the service of their country to go off road to retrieve an elk or deer, or to camp as well the ADA compliant American citizens. He believed if there was an exemption for big game retrieval then there should be exemptions for the handicapped. 2) Forest Service should use sound science and reasoning when they determine that they were going to close any of these roads. He supported keeping all the roads open with the exception of the roads subject to the Commission control in determining whether that road should be closed based upon sound science. 3) Logically discuss and assess motorized big game retrieval for mule deer as well as elk. He stated they received a letter from NDOW supporting the County in this effort. He stated the Forest Service has shown that the numbers they were using were not logical and NDOW questioned where the Forest Service got those numbers. He questioned why mule deer should not be included under big game retrieval. 4) Discussion upon demands for dispersed camping. He noted NDOW also covered that in their letter. He believed the Forest Service should clarify what dispersed camping was and it should be understandable. 5) Discuss the impact upon public access. Should the Forest Service proceed with the proposed closure of Forest Service roads behind private property if the land owners refuse to grant a legal access road through their property within two years? He noted NDOW went through this in detail within their letter. Commissioner Williams noted this action would funnel all the people into the limited access roads so the distribution of hunters would be dense. 6) Open road designation rather than closed road designation. He stated the Forest Service had been stuck on this issue but it was illogical. He believed a lot of their citizens would be in federal court two or three times. He hoped they could show the Forest Service that they were making criminals out of people that haven't done anything seriously wrong other than not understanding what was going on. 7) The provisions for review of the Forest Service Travel Management Plan. He recommended that they review it yearly because some things were too important to wait two years for review. He stated it needed to be more than a promise from the Forest Service; it needed to be something in writing that guarantees it will happen and not overlooked. 8) Legal issues – Enforcement Issues. He inquired who would do the enforcement. He questioned how many people would be shot and how many people would be injured severely because of some of these situations before they finally realize that they were talking with people who have a great responsibility and a great opportunity to

access the Forest Service property. Commissioner Williams hoped the Forest Service people who would be at the meeting realize that he did not believe the people in Elko County or the County Commission want to be disruptive as far as the program was concerned. He stated they want to work with the Forest Service but he had seen the issues go contrary to making this work properly. He stated they want to be part of the process and intend on participating in a dignified way.

Commissioner Dahl stated his intent was to disrupt the Travel Management Plan from being implemented as it was being presented. He stated the plan encroaches upon their freedom; it encroaches upon their custom and their culture and was an affront to the citizens of the County. He stated they would not be rude in the process and had not been rude when they held their hearings. Commissioner Dahl stated they would speak plainly and clearly that they oppose this plan especially upon the point of doing away with cross country travel. He stated if the Forest Service could show good science that justifies closure of cross country travel in certain areas he would not object. Commissioner Dahl stated they just uncovered an area where there was confusion if cross country travel applied to a prospector. He stated if there were exceptions to the rule they need to know those exceptions.

Commissioner Dahl noted in Randy Brown's summary of the Final Environmental Impact Statement on page 6, Alternative 2 the action proposed closing approximately 129 miles of currently publicly access roads by motorized and other means as per the final FEIS. He further noted that Gar Abbas publicly stated there were approximately 170 miles of proposed closures. He believed that there were only 170 miles of roads being closed but in Chapter 1.3 of the FEIS on page 2 the Forest Service Transportation Atlas shows there were approximately 1,020 miles of National Forest Service Roads and trails that comprise on the Mountain City and Ruby Mountains and Jarbidge Districts. Commissioner Dahl stated on page 4 of the FEIS it stated unauthorized roads and motorized trails have been created over time through use in this area. The unauthorized roads and motorized trails were not maintained or managed or included on the FEIS. The FEIS stated that some routes were well situated, provide access to popular dispersed campsites informal trailheads and other features and have been in use for many years. Commissioner Dahl understood these roads were not on the system so they would be closed. He commented the FEIS stated that some unauthorized roads and trails have a long history as jeep trails; others were primarily non motorized trails. Based on inventories completed in 2003, there were approximately 1,151 miles of unauthorized roads and motorized trails on the district. He noted Gar Abbas said there was 170

miles of closed roads but based upon the 2003 inventories there were 1,151 miles of unauthorized roads and motorized trails on the district. He stated the FEIS also stated that 1,618 miles of 2,391 miles of roads were less than one-half of a mile in length. The FEIS stated some of these routes connect motorized trails but the majority was short spurs often leading to dispersed campsites and other dispersed recreation sites. Commissioner Dahl inquired where the figure of 2,391 miles of roads came from and why does it say there were 1,151 unauthorized but lower in the FEIS document it stated 1,618 miles were unauthorized. Randy Brown did not know where those figures came from. He assumed that it came down to what a Forest Service system road versus a non-system road. He questioned what roads were being left off the maps that actually exist. Commissioner Dahl noted that in 2003 their inventory stated 1,151 motorized roads and trails. He questioned the statement from Gar Abbas stating there were 170 miles proposed to be closed because there was a discrepancy. Randy Brown stated he did not find the 170 miles number in the FEIS but he did find the number of 129 miles proposed for closure. He stated that was from closure of current system roads which were mining roads or exploration roads that were under a reclamation act or bond. Randy Brown believed the additional roads proposed for closure could be roads that were not inventoried or made part of the system. He stated they had requested that those roads be brought into the system. Randy Brown did not know where the Forest Service numbers were coming from. Commissioner Myers believed the Forest Service planned on closing the non system roads plus the 170 miles of system roads without telling the public that was what they were doing. Commissioner Dahl stated they would be back to where they were when they first proposed this plan.

Commissioner Dahl stated on the changes from the DEIS to the FEIS it stated the District Ranger could decide to allow game retrieval of elk, mule deer or other species using an ATV or UTV. He understood that now they know another exception was for prospecting. He inquired if there were any other exceptions. Randy Brown stated the allotment holder was allowed to use the allotment the same as in the past. He did not know of any other exception. Commissioner Dahl inquired if the permittee would be able to go off road. Randy Brown stated they did not know if that was permitted.

Commissioner Dahl suggested the County get a position on each of these issues.

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Randy Brown had drafted a list of the issues they had questions upon.

Grant Gerber stated he was almost seventy years old and had been on the Forest Service lands for most of his life. He stated they ran a hunting camp for

forty years and currently was a partner in one now. He had ranched and hunted on the forest. Grant Gerber had gone on the field tours with the Forest Service and traveled with Tom Montoya up on the north field tour. He was shown a good road down to camp sites and the road proposed to be closed went up over a ridge. Grant Gerber went up the road as the others were preparing to leave. He stated one fork of the road to be closed went to campsites on the road and the other fork went down to a rancher's fence. He then joined Tom Montoya and asked if he had been all the way up the road and was told "no". Grant Gerber stated Tom Montoya had never been on the road that he was proposing to close. He noted that area was overgrown with vegetation and if lightning had struck that area would have been burned. He stated if the roads were closed then the ability to fight fire in that region would have been dramatically reduced. Grant Gerber stated Tom Montoya was raised in Elko County and was probably more familiar with the area than Gar Abbas so how can the Ranger decide to close all these roads if they have not been there or viewed them. He believed the Rangers were deciding from photographs or from maps. Grant Gerber stated in 1763 King George passed the first Wilderness Act in America and the people in the colony opposed the decision. King George drew a line down the Alleghany Mountains and said the people could not cross it. Grant Gerber stated George Washington had been promised some land in the Ohio Valley as a result of the war with the French that concluded in 1761 on the other side of the Allegheny's. He stated the prohibition of going across the Allegheny's angered George Washington and the other veterans of the war. Grant Gerber stated at the Battle of Saratoga in 1777, Morgan's rifleman, using guerilla tactics, were credited for winning the war. He stated that stopped the British attempt to split the colonies in two and was the reason why France entered the war against England. Grant Gerber stated the Wilderness Bill prompted Morgan and the others to enter and enlist in the war. He stated this Forest Service Travel Management Plan was a Wilderness Bill just as that imposed by King George and in the same way. He stated this plan was being imposed in opposition of the local citizens and their elected representatives. Grant Gerber stated one man was imposing this. He noted Tom Montoya recognized what was happening and left. He stated in 1215 a war was fought because King John was taking private property for his own use without paying for it. He stated at the conclusion of the war King John was forced to sign the Magna Charta that became a principle of the American Revolution. Grant Gerber stated the Fifth Amendment to the Constitution follows the Magna Charta. He stated Ranger Abbas attempt to bludgeon private property owners into giving the government easements across their private land was clearly a "taking" which was in violation of the Fifth Amendment. Grant

Gerber stated if a miner had a road crossing forest service land that originates upon his patented mining claim, it would be closed and the only way he can use it was if he obtained a permit. He stated they were being assaulted by Western Watersheds, the Sierra Club, and Great Basin Mine Watch, who watched for the permits. He stated the Forest Service did not like to approve the permits because they were sued or appealed. Grant Gerber stated the Forest Service was granting the opportunity for the environmentalists to appeal every decision. He was still representing John Carpenter in the South Canyon lawsuit and the Wilderness Society and the Great Old Broads for Wilderness had been appealing that decision for over twelve years. Grant Gerber stated the ranchers were made out to be evil people because they would not allow the public across their private property to access the forest through an easement granted to the federal government.

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Commissioner Williams stated the Commission was opposed to the “takings” of private property. Commissioner Russell stated he had suggested there was a legal way to proceed on this which would include compensation to the rancher. Commissioner Williams noted NDOW had also addressed this.

Grant Gerber stated if the Forest Service wanted the land across a mining claim, or private property or a recreational property then the Forest Service needed to appropriate funding to start eminent domain. Grant Gerber worried that hunters and mining people would browbeat the private property owners. Commissioner Williams stated when he sat upon the ranchers/sportsmen committee over forty years ago they studied this issue and the ranchers stated that it had to be negotiated with the Forest Service. Grant Gerber commented the Forest Service had this draconian approach hanging over the rancher’s heads saying if they did not negotiate and open this up they would close the road.

Grant Gerber stated if the roads were closed, they would not be fire roads in an emergency because they would be grown over, gone and nobody would know where they were. He commented they had over 500,000 acres burn in Nevada and over one million animals burned. He commented they have had bigger fire years such as the one that burned 1,670,000 acres.

Grant Gerber asked that they address citations and enforcement. He noted the Constitution authorized a jury trial. He noted their rights were taken away and they could no longer have a jury trial. Grant Gerber explained if someone goes out camping and when they come back there was a mud spot in the road so they swing out around it then a ranger could cite them for destroying the country. He stated the Ranger could take them to jail which puts pressure upon the local

Sheriff. He reminded them of the Eickhof case wherein they took their experts to Reno and won that case.

Grant Gerber agreed with Cliff Gardner that the Forest Service had not presented any science to establish that these roads have been damaged and no science was presented that cross country travel was damaging. He stated the Forest Service had received letters from this Commission requesting all scientific evidence that they have in establishing their plan. He believed because the Commission was following the NEPA process the Forest Service was attempting to convince the County to go along with them. He stated Congress was beginning to follow this and questioning whether the Forest Service had sufficient proof that they could close roads or stop cross country travel. Grant Gerber encouraged the Commission to keep seeking Alternative 1 until the Forest Service can prove there should be changes through scientific evidence that can be verified.

Commissioner Myers stated from the information he had received from sportsmen he questioned how they preclude a rancher or private property owner who borders the Forest Service to keep from having his individual private hunting reserve on the Forest Service that the general public cannot access. Grant Gerber stated that there wasn't a place on the forest that he could not go but it would be difficult without asking the rancher. He stated if the public wants that access enough they should go to Congress and request that they fund and file an eminent domain proceeding through the Justice Department. Commissioner Myers stated the Forest Service could pioneer a new road into those areas. Grant Gerber stated the Forest Service was unwilling to provide access that they could provide. He noted the Forest Service could do some spur roads off of these areas that they have but they won't do it. Grant Gerber stated in the Harrison Pass area a road could be put in toward Second or Third Boulder but they have not done it. He stated the Forest Service would complain about the rancher that won't provide access. Grant Gerber believed the Forest Service goal was to eliminate private property rights.

Commissioner Myers inquired what it cost him to fight the citation for Eickhof. Grant Gerber stated that it cost him \$40,000 for representation and the witnesses went in for free.

Commissioner Dahl stated this was a tough issue but the free enterprise system creates these situations. He stated everybody has the opportunity to buy property to block off a canyon. He commented that when he addressed the State of Nevada Cattlemen's Association they started the Alliance of Ranchers and Sportsmen. He stated if a hunter joined and had a card then the rancher who signed up would be assured that the hunter would close gates and clean up his

mess. He commented that there were ways they could address this issue without a heavy hand. Commissioner Williams stated the ranchers were not doing the abusing but it was a common situation that all parties have to get together to make this work. He stated years ago when the Alliance was formed they received the recommendations from the Farm Bureau who stated these were the things that needed to be addressed such as road maintenance, liability, fencing, installation of cattleguards, etc. Commissioner Williams stated they took those recommendations back to the Forest Service. He stated there was no funding to do that yet the FS wanted to have access but they wanted someone else to assume responsibility for the road, maintenance and someone else to assume the liability. Commissioner Williams stated in his recommendations the Forest Service was looking for the simplest approach to get it done without using the conventional ways of getting it done such as negotiation with the rancher upon the road maintenance, etc., in lieu and in favor of the sportsmen. He stressed they need to get together and negotiate but the Forest Service needed to come up with answers because they were trying to get something from private industry.

Grant Gerber stated if Article I, Section 8, Paragraph 17 of the Constitution of the United States had been followed the Forest Service and the BLM would not be here. He stated when the Supreme Court ruled that Congress could give away the legislative power, the executive power and the judicial power to one man, the Forest Service District Ranger; it brought them to this point. He hoped the County stayed the course.

Commissioner Dahl requested that all the commercial data gathered in their hearings be shared with Eureka County.

The Board members discussed a meeting date for their special meeting and it was tentatively scheduled upon Saturday, November 19th at 1:30 p.m. The Board discussed holding the joint meeting on November 28th or 29th at 5:30 p.m. in the evening.

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Commissioner Williams inquired if a representative from Eureka County would be in attendance. Commissioner Dahl was unsure who would attend.

Susan Elliott, Forest Service, inquired if Jeanne Higgins should attend on the 19th of November. Commissioner Dahl stated the joint meeting would be tentatively scheduled on the 28th and 29th of November. He noted that Gar Abbas had stated he would have his statewide support group at their joint meeting. Robert Stokes stated they could not hold those meetings here for video conferencing. Commissioner Williams stated Jeanne Higgins had wanted to attend the November 19th meeting and had an open invitation to attend.

Commissioner Dahl had told her that meeting would be equivalent to a meeting with her staff.

Susan Elliott stated Jeanne Higgins wanted to participate in drafting the agenda. Commissioner Dahl stated he would provide Jeanne a copy of their draft agenda. He explained they would review the issues on November 19th at a workshop setting and hoped to have the joint meeting with the Forest Service on the 28th and 29th of November.

Chairman Dahl called for public comment.

VII. COMMENTS BY THE GENERAL PUBLIC:

Terry Froley, of the Forest Service, inquired if they wanted Jeanne Higgins present on November 19th and would it be a public meeting. Commissioner Dahl stated it would be workshop and they would be taking information from the public. Terry Froley inquired if November 28th or 29th was the meeting dates for the County and Forest Service to engage. Commissioner Dahl replied yes, but they would not have it at all if it did not work for their schedule.

John Carpenter had heard there were problems with a couple burned out in Tuscarora and the BLM was trying to keep them off of their claim. He noted the people go up and work that claim every summer but the BLM was trying to keep them from living on the claim. He stated these were elderly people that want to do some prospecting. John Carpenter stated they need relief from the BLM regulations on mining claims. Commissioner Myers inquired how long they have been working the claim. John Carpenter replied seventeen years. Commissioner Myers suggested they be given a permit since they were grandfathered in. He recommended that NRMAC address this at their next meeting. John Carpenter commented this was not about harming the resource it was about controlling people.

Harry Botsford inquired if they had a National Guard Distance Learning Center System at their disposal. He stated they sent them from Washington to here to address oversized crowds. Robert Stokes would look into that.

Commissioner Dahl stated they would have more than Elko County representatives in attendance. Commissioner Myers suggested the meeting be held at the convention center. Robert Stokes stated the Forest Service wanted to bring in personnel through video conferencing. Commissioner Myers stated the Great Basin College Theater may be available which had audio/video capability. Robert Stokes commented they would have to speak with Danny Gonzales about video conferencing system at GBC.

[5:03:24 PM](#)

The FTR recorder was momentarily interrupted.

[5:03:51 PM](#)

IV. ELKO COUNTY WATER RESOURCE ISSUES:

Discussion and consideration of water resource management and water rights issues that may impact Elko County including possible discussion related to the Southern Nevada Water Authority pipeline project and the Central Nevada Regional Water Authority activities.

No comment was made.

[5:03:57 PM](#)

V EL PASO GAS CORPORATION/ RUBY PIPELINE PROJECT

Discussion and consideration of issues related to the Ruby Pipeline Project regarding the agreement to fund the removal of grazing leases, other public land issues.

No comment was made.

[5:04:13 PM](#)

VI. COUNTY COMMISSIONERS AND COUNTY STAFF COMMENTS:

Commissioner Williams had given written recommendations to the other board members as a format for their joint discussion with the Forest Service.

Commissioner Myers commended Randy Brown upon his work. Commissioner Dahl noted on March 5, 2010 the Commission sent questions to the Forest Service and just received a letter and the CD's on the 27th of October stating it was Jeanne Higgins' second and final response. He stated the first response was received in April 19, 2011.

Commissioner Russell stated there would be a workshop for the Board of Highway Commissioners within a week. He stated there would be no vote for decision. He stated they would look at roads regarding changes in maintenance levels and to discuss giving selected communities throughout Elko County a vote upon having a GID for improved road maintenance in their areas. He invited all Commission members to attend on November 10th at 9:00 a.m. but stated their recommendations would be brought back before the County Commission at a regular meeting. Robert Stokes stated it would be posted as a special meeting.

[5:08:41 PM](#)

VIII. ADJOURNMENT:

MOTION: Commissioner Williams moved to adjourn the meeting. Commissioner Russell seconded the motion. The motion passed unanimously.

There being no further business to come before the Board, the meeting was adjourned at 5:09 p.m.

APPROVED,

DEMAR DAHL, Chair

ATTEST:

MARILYN TIPTON, Deputy Clerk

ELKO COUNTY COMMISSION

REGULAR SESSION

NOVEMBER 3, 2011

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