



# Elko County Natural Resource Management Advisory Commission

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## ELKO COUNTY NATURAL RESOURCE MANAGEMENT ADVISORY COMMISSION MINUTES

WEDNESDAY, MARCH 24, 2010

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### 6:00 P.M. CALL TO ORDER:

County Commissioner Russell called the regular meeting of the Elko County Natural Resource Management Advisory Commission to order at 6:03 P.M. on **March 24, 2010**, in Suite 102 of the Nannini Building, 540 Court Street, Elko, Nevada.

Members Present:            Craig Spratling  
                                     Doug Shippy  
                                     R. Jeff Williams  
                                     Ken Wellington  
                                     Orson Tingey  
                                     Thad Alger

Absent :                         Ted Wilton -Excused

Others Present:                Warren Russell, County Commissioner  
                                     Randy Brown, Natural Resource Manager  
                                     Kelly Watson, Planning & Zoning Administrator  
                                     Ken Miller, Elko BLM District Manager  
                                     Bryan Fuell, BLM Field Manager  
                                     Buster Hunsaker, representing himself

### I. PLEDGE OF ALLEGIANCE:

Allegiance Pledged.

### II. INTRODUCTION AND ELECTION OF OFFICERS:

County Commissioner Russell indicated that this first meeting was an organizational meeting. He explained the reasons behind the formation of the Natural Resource Advisory Commission and how it was to be the unity of different organizations. He introduced Randy Brown, Natural Resource Manager, as the member of Staff that will facilitate the board.

All members gave an overview of their background and their motivation for being on the Natural Resource Management Advisory Commission.

Mr. Brown gave an overview of his background and his availability to the board and the issues they are concerned about.

County Commissioner Russell introduced Kelly Watson, Planning & Zoning Administrator, who is a member of Staff under the direction of Randy Brown and available to the board as well.

Mr. Bryan Fuell, BLM Field Manager for the Wells Field Office, introduced himself and stated he is available to provide information to the board.

Mr. Ken Miller, Elko BLM District Manager, explained how the district is divided in Elko County and also gave an overview of his background. He said the BLM is committed to being at every meeting they are requested to be at and possibly more than that. He added they would provide any information needed by the board when they needed it because this board is important to the BLM. He also said they would keep the County in the loop.

County Commissioner Russell stated the content and discussion of the meeting would determine whether members of the federal agencies would be invited to attend.

#### A. Chairman

County Commissioner Russell asked for nominations for Chairman.

Commissioner Williams nominated Commissioner Spratling for Chairman.

There were no further nominations.

County Commissioner Russell asked for a motion to nominate Commissioner Spratling for Chairman.

**MOTION:** Commissioner Wellington moved to nominate Commissioner Spratling as Chairman. Commissioner Williams seconded the motion. Motion passed unanimously.

#### **VOTE:**

AYE:	Craig Spratling Doug Shippy R. Jeff Williams Ken Wellington Orson Tingey Thad Alger
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NAY:	None
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ABSENT:	Ted Wilton
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ABSTENTIONS: None

Chairman Spratling received the gavel from County Commissioner Russell and took the Chairman's seat.

B. Vice Chairman

Chairman Spratling asked for nominations for Vice Chairman.

Commissioner Tingey nominated Commissioner Shippy for Vice Chairman.

There were no further nominations.

Chairman Spratling asked for a motion to nominate Commissioner Shippy for Vice Chairman.

**MOTION:** Commissioner Wellington moved to nominate Commissioner Shippy for Vice Chairman. Commissioner Williams seconded the motion. Motion passed unanimously.

**VOTE:**

AYE: Craig Spratling  
Doug Shippy  
R. Jeff Williams  
Ken Wellington  
Orson Tingey  
Thad Alger

NAY: None

ABSENT: Ted Wilton

ABSTENTIONS: None

**III. COMMENTS BY THE GENERAL PUBLIC:**

Mr. Buster Hunsaker, consulting geologist in Elko, introduced himself and stated he didn't have any comment at this time.

**IV. REVIEW AND CONSIDERATION TO SET THE DAY, TIME AND FREQUENCY OF REGULAR NATURAL RESOURCE MANAGEMENT ADVISORY COMMISSION MEETINGS:**

Mr. Brown indicated we have found that dates at the end of the month are good for this board. Wednesdays are a better day for most of us. Tuesdays and Thursdays we could run into scheduling conflicts. PLUAC used to meet on the last Wednesday of the month. We are open except for days

of Planning Commission, Wildlife Board and other boards. County Commission meets the 1<sup>st</sup> and the 3<sup>rd</sup> Wednesday of the month. Their schedule is off this month because of prior commitments. We find this week is usually a good week for a meeting. It doesn't matter what day.

Commissioner Williams stated his concern for the County Commissioners and Staff that live in the outlying areas and the convenience of holding this meeting directly after the County Commission meeting.

Mr. Brown asked Commissioner Williams if he was suggesting the same day as the mid-month meeting.

Commissioner Williams stated that was what he was suggesting.

Mr. Brown said we were going to schedule at 5:30 but we may have to make sure it is at 6:00.

There was continued discussion regarding the day that would be best for the schedule of the meeting room and the members. They agreed to meet on the last Wednesday of the month at 6:00 p.m.

Mr. Brown said we can have one action item for the day, time and frequency. He suggested due to the number of issues, Staff would like to have the board meet monthly at a minimum at this time.

Chairman Spratling said until further notice we should set it every month, the last Wednesday of the month at 6:00 p.m. He asked if there was a motion for the scheduling.

Mr. Brown indicated there should be one action for all three items.

**\*\* CHAIRMAN SPRTLING ASKED IF EVERYONE WAS IN FAVOR OF THE SCHEDULING. ALL MEMBERS VOTED YES.\***

**V. REVIEW AND CONSIDERATION OF ISSUES AND ITEMS TO BE CONSIDERED ON FUTURE AGENDAS OF THE NATURAL RESOURCE MANAGEMENT ADVISORY COMMISSION:**

Mr. Brown said we are going to watch and present items to you for review. We will research those items and get the information to you. We would like you to provide topics to us that you feel are important to the County Commissioners and the people of the County. We don't expect you to take your time to research the topics unless you want to. We will research any topic you want us to. You may have more information than we find on it.

County Commissioner Russell indicated the County Commission may have particular areas of interest they may suggest to you for further research. There may be some areas that you research and study and you decide not to make an advisement to the County Commission for one reason or another.

Commissioner Williams stated that the items that are discussed have to be on the agenda. If we come up with items it is going to be important that we talk to the Chairman and have him get with Mr. Brown and discuss that issue to see if it is something that should be placed on the agenda.

Mr. Brown said you can contact us and we will contact the Chairman and discuss it.

Commissioner Williams said the County Commissioners are going to be more privy to important information that is present and timely that will need to be discussed by this Commission. We are going to be looking at getting information from the Commission on the items and priority they would like us to discuss. As County Commissioner Russell indicated we may be breaking down in to subcommittees and it might be possible we will be discussing several items simultaneously so we can get these things done timely. I think we are going to be looking for a lot of information and guidance from the County Commission.

Chairman Spratling asked how long before each meeting do we need to have the items for the agenda.

Mr. Brown said if we can have it the Wednesday before it would give us seven days. We post at least four working days prior to the meeting. If we have something that is new to us we will need more time. If it is something the County Commission has forwarded or something you have information on four days will work. We can put it in the packet to go out on Friday. The packet is the information we provide you for the meeting.

## **VI. REVIEW AND CONSIDERATION OF THE CREATION OF A MISSION STATEMENT FOR THE NATURAL RESOURCE MANAGEMENT ADVISORY COMMISSION:**

Chairman Spratling asked if we are looking for a short broad or a very detailed mission statement.

Mr. Brown said that is a good question. We want to be diverse but specific. Staff could provide a draft statement and bring it before you at the next meeting or you can provide drafts.

Commissioner Williams suggested the following mission statement: It shall be the mission of the Elko County Natural Resource Management Advisory Commission to at the invitation of the Elko County Commissioners study all natural resources and issues related to their use by the citizens and businesses of Elko County with findings and recommendations directed to the Elko County Commissioners as instructed.

Chairman Spratling said it sounds pretty good but I don't think that we are entirely getting direction from the Board. I think if there are some issues out there that we know we should be bringing up that the Commission hasn't picked up on yet should be reviewed.

Mr. Brown said under Title 12 they have given you a lot of leeway in providing information and accepting information, either taken from them or given to them on any circumstance. We intentionally did this so these wouldn't fall through the cracks. We want to make sure we had enough diversity on the board and within Title 12 allow you to provide information to them without them asking. The concern is that the statement may be a little too narrow.

Commissioner Williams said instead of just by the invitation of the County Commissioners you could add as well as the Natural Resource Management Advisory Commission.

Commissioner Tingey suggested before the next meeting we can each come up with a mission statement including what our goals are as Commission members and at the next meeting we could put them together.

There was continued discussion regarding the mission statement and what it should contain. It was agreed to table the issue until the next month's meeting. All members will e-mail their statements and comments to Staff to be distributed to the rest of the Commissioners for review.

## **VII. REVIEW, DISCUSSION AND ACTION REGARDING THE ELECTRONIC DELIVERY OF DOCUMENTS AND INFORMATION AS THE MEETING PACKETS:**

Mrs. Watson stated we brought up the issue of receiving information including packets by e-mail as a way of receiving it sooner than in the mail. We have to post the agenda four days prior to the meeting and trying to compile the packets at the same time which may cause a delay in delivery by mail.

Mr. Brown said we have the capability of displaying the same packet information on the monitors at the meeting. We will provide you with each other's e-mail so you can correspond with each other. He explained that the packet information would be displayed at the meeting on the monitors. We can provide a hard copy of the packet. What Mrs. Watson is talking about is receiving the information in a timely manner by e-mail. We can e-mail and provide a hard copy if you like.

There was further discussion regarding the preferences of each Commissioner. Each Commissioner was provided with an informational form for them to complete with their contact information and they were instructed to indicate how they would like to receive their information.

Mrs. Watson stated when the agenda is posted and distributed to parties that have requested it the Commissioners will receive a copy by e-mail and at that time if there is anything of concern let us know.

Commissioner Tingey asked if we come across an item we think the other Commissioners would be interested in, who should we send it to?

Mr. Brown said send it to me and I will distribute it outward. You will still have the ability to correspond to the other members as well.

Commissioner Williams asked how the Open Meeting Law affects this board.

Mr. Brown said next month I will have Kristin McQueary from the District Attorney's office come in and admonish you on the Open Meeting Law. This is a little more lenient as an advisory commission than a governing board but there still are some restrictions.

## **VIII. PRESENTATION AND DISCUSSION OF THE NATIONAL MONUMENT PROPOSAL:**

Mr. Brown indicated he received some e-mails regarding an interoffice memo that was intercepted and put out from some people in Congress in reference to the Antiquities Act. What was interesting was the Owyhee Canyonlands that is just north of Elko County and it included the Owyhee desert as well. There was some reaction to it on a political level that may have curtailed it but we need to keep track of it. The Antiquities Act allows the President of the United State to designate an area as an area that is controlled completely by the federal government. It can restrict activity in the area just by the stroke of a pen. I wanted to bring it to your attention. The County Commission has been paying attention to this as well. Senator Ensign presented a bill to legislation that would revisit the Antiquities Act to review the authority the President has to restrict areas by a stroke of a pen.

Commissioner Williams said when they sign the Antiquities Act of Monument status it doesn't right at the beginning exclude everyone from using four wheelers and hunting. It starts at a certain prescribed situation and then eventually they continue to exclude the uses until it is a wilderness area. It is a subtle situation that doesn't have to go through Congress. It can affect not only recreation but ranching and mining.

Mr. Brown said it would have direct impact on Elko County.

Commissioner Spratling said upon reviewing the information there are several government entities and other groups in Idaho opposing this. If it takes in part of Elko County, it is something the Commission needs to be acting on with the rest of these organizations.

County Commissioner Russell said the Commission has already sent correspondence to our Legislators regarding this. We have had some contact with Senator Reid who said he will oppose it as well as Senator Ensign. It is a Presidential choice not a congressional choice. I feel it is true that this designation already existed with President Clinton. At the end of his presidency while he was enacting pardons the next document was the Antiquities Act which would include the Monument designation and he was called away and never signed it.

Mr. Brown said that is why Senator Ensign introduced this bill to revise the Antiquities Act so the President wouldn't have so much authority. When you deal with public lands you have to deal with their way of doing things which includes public input from somewhere.

Commissioner Williams said the question of whether any of it was proposed in Elko County, there is a portion of the Owyhee desert in Nevada which is inside the Elko County boundary.

Mr. Brown said it incorporates a part of Oregon and a small part of northern Nevada.

Commissioner Tingey said Dean Heller also proposed a bill on that. I think that is something we need to keep an eye on.

Mr. Brown said we need to step up our correspondence. We need to make sure they know how we feel because this is the only input we have during the public input period. If we need to get more physical with it on this board then I think we should provide some recommendation to the County Commission.

Commissioner Tingey said Salazar has recommended generating another Omnibus Land Bill.

County Commissioner Russell said we were encouraged in Elko County to do a Lands Bill through our Congress. We saw the consequences of the Lands Bill in Lincoln County and some proposals for other areas and what ended up was an immense amount of land being designated as a wilderness. We decided it was not worth what we would gain by what we would lose if they designated areas as wilderness. They were going to take land that was wilderness study areas and turn it into wilderness permanently. That was part of the trade off and some of the benefits did not seem to add up for Elko County. We resisted it. That is not to persuade you not to suggest that we should do it.

Chairman Spratling said within this document it talks about getting on board with Owyhee County Board of Commissioners who sent an official resolution of opposition to the White House, Idaho Governor and Idaho Controller. You have talked about the County being involved in urging legislation through Heller and Ensign, but is this something that has been considered?

County Commissioner Russell said we have already sent some resolutions. Mr. Brown and I are looking at trying to get together with one of the Commissioners of Owyhee County and the Natural Resource Director to establish good communication. We haven't gotten a date and time arranged yet.

Mr. Brown said the County Commissioners felt it would be better for them to write our Congressmen and our legislators concerning the issue. We could oppose anything that happens but we felt it would be stronger if we sent it to our Congressmen and let them know we are concerned about the situation and what is happening in Idaho.

Commissioner Williams indicated in the letter that is being referred to there is a committee referred to as the Owyhee County Natural Resources Committee. They must have a committee there that is equal to what we have here studying these issues trying to make a determination of where to go. He asked if this is common in counties throughout Nevada and western states.

County Commissioner Russell said in Nevada there have been a lot of groups that were correspondent to PLUAC (Public Land Use Advisory Commission). The smaller counties have several separate boards. We are probably more on board with Owyhee County than we are with the rural counties.

Commissioner Williams said some other counties have been involved with these issues for quite some time and may have a lot of resources that we could use on this commission. If you are a coalition of many commissions it will give you a bigger voice. Coalitions represent thousands of people instead of just a small group. Can we find out how many of the counties have a commission such as this one that we can contact and possibly meet with to compare information? There are other people out there that we can get information from to be better prepared.

Chairman Spratling indicated that supporting the other groups in addition to urging our Congressmen to work on the issue is beneficial.

Mr. Brown stated the County Commissioner did go one step further and supported the White Pine County Commission in opposition to the National Monument designation.

Commissioner Alger asked if the Owyhee National Monument would affect Elko County at all.

Mr. Brown said land wise probably not but economically most likely. This was all speculation. This came off of an intercepted inter office memo. This was brought forth by a Congressman and put out to the public. These are things they were looking at down the road. It is something for us to watch.

There was discussion regarding protected areas and support of other states with these issues and it helping Nevada in the future.

County Commissioner Russell suggested that members are assigned or volunteer to be the person in charge of a certain issue. As issues come up look for individuals that have an interest to be responsible for the issue.

Commissioner Williams asked if the suggestion is as the head of a subcommittee for a certain issue.

Commissioner Russell indicated a subcommittee of one unless the issue warrants more.

There was continued discussion regarding having at least one representative of the Commission be assigned or volunteer for each issue and be responsible for tracking the issue. Commissioner Williams volunteered to be the person responsible for this issue.

## **IX. PRESENTATION AND DISCUSSION OF DECISIONS REGARDING THE SAGE-GROUSE:**

Mr. Brown referred the item to Mr. Miller of the BLM.

Mr. Miller stated the U.S. Fish and Wildlife Service issued a decision that sage grouse in our area is warranted for listing under the Endangered Species Act but precluded because there are a number of other species that have been in line longer to be considered for listing. The process is such that they have priority over sage grouse. Warranted but precluded means in a year the decision will be revisited and may be changed due to information obtained over the year. I will send a copy of the policy that the BLM director in Washington D.C. has provided us indicating how we are moving forward as it's warranted but precluded to Mr. Brown for distribution. We continue to work hard towards conservation of sage grouse habitat. That is not anything new to BLM in Elko County or Nevada. Known habitat for sage grouse has priority for protection over areas that do not when the fire crews go out. We work to do actions with the intent of caring for sage grouse habitat. We are all going to continue to work to keep sage grouse from having to be listed. He indicated it should be a concern and the best thing would be for it not to be listed because of the health of the species and it will make things challenging for any action or activity on public land where sage grouse is located. It is an issue you should care about.

Commissioner Wellington asked Mr. Miller who did the impact study on sage grouse in the State of Nevada.

Mr. Miller indicated BLM was providing information that they had assembled to U.S. Fish and

Wildlife Service.

Commissioner Wellington asked if there were copies of the study available. He was on a board dealing on an issue regarding an endangered species that NDOW was responsible for the study but they were unable to provide the information.

Mr. Miller stated NDOW is responsible for populations and species and BLM is responsible for habitat. BLM will be having sage grouse monitoring in the next several weeks and it would be easy to provide the commission results. BLM can provide historic information also but the monitoring that will be happening in the next couple of weeks will be more beneficial.

Commissioner Wellington indicated he had attended a wildlife meeting in Las Vegas and received some information regarding sage grouse in Elko County and was told that NDOW could provide the data. Upon requesting the information NDOW was unable to produce the data.

Mr. Miller said BLM could come up with something that would display that information. BLM will take that as a request and provide that since they have been focused on it in a big way over the last eighteen months.

Commissioner Williams asked if the status of sage grouse was changed from endangered to worse, how would it change the way the land is managed. There would have to be a reason why it would be changed.

Mr. Miller said it affects actions in a bigger way that could result in things like reduced AUMs on a permit. It could also impact the placement of transmission lines.

Commissioner Williams asked if it would affect existing roads and trails through the areas used for four wheeling and hunting.

Mr. Miller said when the issue is travel on existing roads and trails we are all going to come to an agreement more often than not. It could affect seasons of use. Most people support well thought out closures that are in the right place at the right time. It could impact those kinds of things and season use and construction.

Commissioner Tingey indicated at a conference he attended there was a representative from Nevada BLM that stated there are approximately eight (8) tiers or species that are ahead of sage grouse as far as priority that can be equated to eight (8) years before the sage grouse will be listed.

Mr. Miller said if my state director states that equates to about eight (8) years I would agree. He indicated it is hard to predict because it depends on the information that is gathered on sage grouse and the eight (8) species that are ahead of it.

Commissioner Tingey inquired about a lawsuit that was filed by Western Watershed requiring a designation within a certain time frame.

Mr. Miller said like all lawsuits for us we will be providing information. It will be U.S. Fish and Wildlife Service that will be more involved. We will be generating information for Fish and Wildlife Service. We don't know how long it will be in litigation.

Chairman Spratling asked Mr. Miller if he could put together some information for the Commission.

Mr. Miller said we have taken it as a request.

There was some discussion regarding upcoming workshops on sage grouse and the time and place of them.

## **X. PRESENTATION AND DISCUSSION OF THE STATE OF NEVADA MINING CLAIM FEES.**

Mr. Brown said this is informational at his point. It was one of those items that needed to be taken care of in a quick manner but we didn't have the time to do it. The date this bill came out I received many e-mails concerning this issue. It was one of those issues that fell through the cracks before we had a chance to say anything.

County Commissioner Russell said this was done very fast at the legislature. The only people that were actively involved were large mining companies. Small miners that would be impacted and exploratory geologists didn't have very much input into the development of the formula. There have been some objections to it. I understand someone has filed a lawsuit but I haven't seen any material on it. There are some individuals here that are part of the mining industry that are more familiar than I am with the whole process.

Commissioner Tingey said there was discontent between the exploration groups and Nevada Mining Association. The exploration groups felt the Association represented the big mining companies. There was a meeting last night in Reno with the Nevada Mining Association and individuals and exploration companies to discuss some of those issues. There is another meeting in Reno tonight among exploration companies and individuals to create a group to address this issue. It is a big impact to the mining industry. He gave an overview of the different costs and how it will interrupt the pipeline and development of projects. The exploration groups or smaller companies won't be able to hold the mining claims because of the cost to do so.

There was continued discussion on the increase in fees and the affect they will have on specific companies and the action the companies would need to take to continue to conduct business.

Mr. Hunsaker provided figures and explained how the fees will affect his companies. He indicated it will cut 90% of his profits. In the last 10 years in Elko County we have brought in about \$10 million of funds that was managed through the companies. It only gets seen in the tax base. It makes it difficult to compete in markets and attract dollars to come into town. If something like this can come out of our own legislators we need to be aware of it. It is an important part of the County especially since we have mining as an economic input. He further explained how the amount of claims filed was reduced the last time the fees were increased and how they would further be reduced by the recent increase.

Chairman Spratling said the State is scrambling for every method they can to raise revenue and that is the main reason they are proposing this.

Mr. Hunsaker indicated that the Nevada Mining Association was the company that presented the fees and they were reduced by opposition from mostly Elko County representatives.

Chairman Spratling asked how it compared to other states.

Mr. Hunsaker said it doesn't. The previous fees were divided among different areas and administration costs. None of the other states have these fees. We are a mining friendly jurisdiction.

Commissioner Williams indicated the effect is even worse than it sounds because as the fees continue to increase eventually you come to the point of diminishing returns to where it is cheaper for mining to go to another country or region.

Mr. Hunsaker indicated exploration people thrive under adversity. You find ways to accommodate it but it is a poor use of natural resources. You have to find a natural resource that is of such value that you can accommodate the cost. We have to look for higher grade or minerals that are easier to get to. There will be some political arguments that will say we are trying to protect the natural resource by keeping it from mining. We are producers and we are going to find it but now only mine small areas instead of utilize the natural resource and reconstruct the ground for other uses. That isn't even mentioning the economics of it.

**XI. REPORT ON CORRESPONDENCE:**

- A. BUREAU OF LAND MANAGEMENT
- B. UNITED STATES FOREST SERVICE

Mr. Brown indicated there is no correspondence but as we receive items they will be forwarded to the Commission and place it on the agenda.

**XII. STAFF AND COMMISSIONERS COMMENTS:**

Commissioner Tingey brought up the correspondence regarding SB 787.

Mr. Brown said SB 787 is under the Clean Water Act. They are attempting to revise to wording that may not be conducive to local government jurisdictions being the change of "navigable waters" to "all waters" in the United States. Anything that will hold surface water for any amount of time or it flows surface water the Corp of Engineers will have jurisdiction over. We have two applications for permits out right now that this applies to. The first one, it took the Corp of Engineers a year to determine that they even wanted jurisdiction on a seasonal creek and then at the very end they pulled jurisdiction after it had cost us a lot of money to build to their requirements. It would eliminate the question of what is navigable waters and puts it under "all waters of the United States". The United States also classifies that they own the water as the federal government for the people. Our state law says the water belongs to the State of Nevada for the people of the State of Nevada. It has been around for a few years and is being raised again. We will have more information on this next month.

Chairman Spratling said we need to keep up on this.

Mr. Brown said water in the west is more precious than gold. Just to think that anything that is going to involve surface water will have to be approved by the Corp of Engineers. They will have first jurisdiction over anything that is going to hold surface water. Regardless of what the State Engineer says the Corp of Engineers will have to say it is ok. We are very interested in what goes on with the water and water issues. This will be on the agenda with more information next month. Commissioner Tingey suggested we keep the Mining Law Reform and the Mining Law Ballot issue for the State of Nevada as items on the agenda if not just for an update. I have access to some of that information.

Chairman Spratling said we have so many individual issues that devastate this County.

Mr. Brown reminded the Commission to e-mail him information and he can research the issues.

Chairman Spratling commented that he likes to keep things moving and not stretch things out but make sure everything is covered.

### **XIII. ADJOURNMENT**

Chairman Spratling adjourned the meeting, as there was no further business.

Minutes Clerk, \_\_\_\_\_  
Kelly Watson

Date Approved, April 28, 2010