

Board of Agriculture Meeting  
May 26, 2006  
Reno, Nevada

TELECONFERENCE MEETING

Board Members Present:

Marta Agee  
Harvey Barnes  
George Botta  
David Cassinelli  
Dan Hetrick  
Susan Ray  
Benny Romero  
Deloyd Satterthwaite  
Lawrence Waugh

Board Members Absent:

Alan Perazzo  
Jim Johnson

**1. CALL TO ORDER**

Chairman Romero called the meeting to order at 9:08 am.

**2. ROLL CALL OF BOARD MEMBERS**

Roll call of Board Members by Sandie Foley.

**3. BOARD BUSINESS**

**A. Approval of minutes**

Harvey Barnes asked for a correction on the minutes; page 4, paragraph 3. Reference to the Humboldt National Forest on the western side of the State should be changed to the eastern part of the state.

**Harvey Barnes made a motion to accept the minutes with noted change. Dave Cassinelli seconded the motion. Motion carried.**

**B. Goals and Objectives**

Goals and Objectives are included in every meeting packet for reference for Board members. This is an informational item only.

**4. DIRECTOR'S REPORT**

A. Summary and overview of Department activities.

The Director advised Board members that items in the Board packet represented many projects that have been worked on by staff during the past several months. Workshops and hearings have been held, regulations drafted and prepared for submission to the Legislative Counsel Bureau (LCB) to meet legislative deadlines.

The Director reported that the Department prepared and submitted its first agency emergency operation plan per the Governor's request. He said this is a first generation plan and has some gaps in it. It needs further analysis and coordination within the Department. Dr. Poulos has been given the responsibility to revise, update, and expand the plan over the coming year so it will become a document the Department can rely on.

The Director advised that he and other agricultural organizations during the past several months have produced an independent third party master plan for the properties held by the Nevada Agricultural Experiment Station. The plan was requested by the Dean of the College of Agriculture, Biotechnology and Natural Resources. At the next Board meeting, he will explain what this planning process was all about and present a letter to the Board for consideration wherein the Board supports this planning effort and supports the retention of these agricultural experimental stations and their missions.

Another major event within the Department was the hiring of a new State Veterinarian, Dr. Michael Poulos who started on May 15. We look forward to working with him. The Director thanked Dr. Anette Rink and her staff for the great job that they did during this period of transition. Everything ran smoothly with no interruption of service to the public.

Jim Connelley, assisted by Steve Grabski, has been involved with the remodeling of the new field office in Elko. The construction contract to remodel the facility and to build the animal disease lab has been approved. Phase I includes retrofitting the building with sprinklers and preparing the office space. Phase II is the construction of the animal disease lab which is expected to be completed by November.

Various staff members have been involved with the successful conclusion of the Nevada Junior Livestock Show which was held in Reno. Staff has also participated in several of the city farm festivals held in western Nevada.

The Department has developed and submitted a corrective action plan that describes the Department's plan to address the procedural deficiencies identified in the recently completed audit by the Legislative Counsel Bureau (LCB). The Director said this audit and the resulting correction plan will be presented in more detail at the next Board meeting.

The Plant Industry staff is fully engaged in cricket management at this time. We are also moving ahead on the weed abatement program.

On June 6, 2006, the Director advised that he is scheduled to meet with Governor Guinn to discuss the Department's priorities in the upcoming biennial budget. He said he will present the Department's highest priorities to the Governor as follows:

**Top Priority:** The appropriation of funding to construct a new Department headquarters and laboratory complex adjacent to the Division of Weights and Measures facility in Sparks. The Director said he attended a meeting on that project the day before with the Department of Human Health Services. He said we are working through site issues. One of our main concerns is that the Department's proposed facility does not impact Human Health Service's future growth needs. Both Departments are working together to resolve any issues there might be. He said we should be able to resolve the site issue and move ahead with the Department's request for funding in this upcoming legislature.

Henderson said his second priority is the creation and general funding for an Information Technology (IT) position.

The third priority is to increase the operational funding to obtain secure funds for a modest Agricultural Enforcement Unit. At present, the only funding the Department receives for the Agricultural Enforcement Unit is for 3.5 full time equivalent (FTE) positions. We receive no operational funding.

The fourth priority is enhanced funding for the Virginia Range Estray Horse program. He said it is a program that is struggling. The Department has found that BLM is getting serious about adopting out horses. They have a program in place now that if a horse is not adopted out after three times, they will pay an individual party \$100 to take the horse. The Department is now unable to move our horses. We met with the Governor's office and they are open to the idea of the Department developing a program where we can offer incentives for people to take our horses.

The Director said the final priority is funding for a public information officer's position for the Department. We are finding that with the current animal disease issues that are arising, such as Avian Influenza, West Nile Disease, Newcastle Disease, BSE, etc., that the Department really needs and can justify a full-time a public affairs position.

The floor was opened for questions. Dave Cassinelli asked the Director about the incentive the Department is offering for taking a horse. Director Henderson responded that the Department has a policy for holding these horses for sixty days for adoption. The cost to the Department is \$2.50 per day per horse; a 60-day period costs the Department \$150.00. Therefore, the incentive would be \$150.00 for a person to take a horse. The incentive would be the same even if the horse had been maintained by the Department for sixty days.

Doug Busselman, Nevada Farm Bureau, asked the Director if the Department of Agriculture moves forward with this type of program, would we reach the appropriate management levels on the Virginia Range or are you going to continue to run more horses than what you're supposed to have there?

The Director said the Department's goal is to get down to 500 to 600 head and then look and see how close they match the available habitat and how that reduces the human/horse conflicts. The proposal is not only for placing horses; it includes funding for gathers and positions that are needed to run the program. Doug asked what numbers does the Department have now? The Director said the last census completed in April was 1005 horses. It has been as high as 1200. Since 2002, the Department has captured and placed about 900 horses. With that level of activity, the Director said in his opinion we are just maintaining the original base population. To date, the program has not been successful in reducing herd numbers.

The Director continued that the Department is working towards a sales concept similar to what is currently in place with cooperating horse advocacy organizations where we sold or gave horses to these cooperators and they would place the horses through the adoption process and arrange the financial part of the adoption with the adopter. We are moving towards that same concept; we now have a sales contract that goes along with these horses. If we pay someone to take a horse, they will sign a sales contract and the horses become their property. The adopter also signs a clause stating they will not send the horse to slaughter and will take good care of the horse. The Director said preference will still be given to advocacy groups to the extent we can to move these horses. Horse groups provide a layer of oversight over horse adoptions.

#### **5. PLANT INDUSTRY**

##### **A. Request permission to adopt as permanent, proposed changes to NAC Chapter 587.**

**Add language to NAC 587 to put Nevada in compliance with the U. S. Seed Potato Certification Program. (LCB File No. R031-06).**

John O'Brien advised the Board that workshops and hearings have been held. There were no attendees. Information was sent to seed growers in addition to the required postings.

The proposed changes will put our program in compliance with the U. S. Seed Potato program that is being implemented to facilitate trade between the United States and Canada. A potential future benefit to Nevada if we get into seed potato production will be the ability to export seed potato.

No public comments were made relative to Item 5 A.

**Dan Hetrick made a motion to adopt Item 5 A as presented. The motion was seconded by Harvey Barnes. Motion was passed.**

##### **B. Request permission to adopt as permanent, proposed changes to NAC Chapter 555.010.**

**Adding two species, *Arundo donax* and *Brassica tournefortii*, to the State noxious weed list. (LCB File No. R020-06).**

John O'Brien said this change is to add weeds to the noxious weed list. As a result of workshops and hearings, we are requesting that two of the species that were proposed to be added to the list not be added; the bull thistle and Oxeye daisy. John said both of those weeds are not invasive enough to be put on the list. The request then is to change the list by adding two species; giant reed would be placed on the "A" list and sahara mustard would be placed on the "B" list of the noxious weed list.

No public comments were made relative to Item 5.B.

**Harvey Barnes moved to adopt the two species, the giant reed and the sahara mustard, be added to the noxious weed list. Deloyd Satterthwaite seconded the motion. Motion was passed.**

**C. Request permission to adopt as permanent, proposed changes to NAC Chapters 554.110, 554.120, 554.130, 554.140, 554.150, and 554.160.**

**Repeal the quarantine of the Dutch Elm trees and update Japanese beetle quarantine to add New Mexico. (LCB File No. R053-06 Dutch Elm Disease), and (LCB File No. R054-06 Japanese beetle).**

John O'Brien said Item 5.C is a request to repeal the Dutch Elm disease quarantine and also update the Japanese beetle quarantine by adding New Mexico to the list of infested states. John said no one attended the workshops and hearings, however, the Department has received written comments supporting dropping the Dutch Elm disease quarantine. He said the rationale for regulation change is there are several disease resistant cultivars of elm available now so there is no need for the quarantine. Industry supports dropping the quarantine and written comments the Department received also support dropping the quarantine.

John said adding New Mexico to the Japanese beetle quarantine is somewhat of a housekeeping item. Parts of New Mexico have become infested and we need to update the quarantine to reflect that.

No public comments were received relative to Item 5.C.

**Dan Hetrick moved to adopt the proposed changes. Susan Ray seconded the motion. Motion passed.**

**D. Request permission to adopt as permanent, proposed changes to NAC Chapters 555.250, 555.270, 555.290, 555.320, 555.325, 555.340, 555.350, 555.360, 555.372, 555.374, 555.377, 555.385, 555.395, 555.410, 555.427, 555.530 and 555.617.**

**Amends pest control regulations to improve licensing, streamline continuing education requirements, amend record keeping requirements, and broaden regulatory ability. (LCB File No. R052-06).**

John O'Brien said Item 5.D represents many changes to our pest control licensing regulations. He said workshops and hearings were held. John said the changes would improve licensing opportunities. He said we have added an agent category which enables people to go out and solicit for pest control companies without meeting the former strenuous requirements to become an agent. These agents would not be actually be putting pesticides out. This is something that industry has requested.

We are streamlining our continuing education requirements which will help people taking the test and also help us manage the program. During workshops and hearings discussions, minor changes were brought to our attention and are listed on pages 58, 59, and 60 in the packet.

No public comments were received relative to Item 5.D.

**George Botta made a motion to adopt changes as presented. Harvey Barnes seconded the motion. Motion passed.**

**E. Request to go to workshop and hearings to adopt regulations in NAC Chapter 561 regarding Planting and Harvest Seasons in Nevada.**

**Enables agricultural exemption in 1995 National Highway System Act to be carried out.**

John O'Brien said a few years ago the Department was approached by industry to adopt planting and harvest seasons so a driving time exemption could be implemented through the National Highway System Act. John said the Department had a lot of interaction with the Department of Public Safety (DPS) and requested that they put the seasons in their regulations and they refused. At the September 8, 2004 meeting, the Board of Agriculture adopted a planting and harvest season policy which the Department of Public Safety (DPS) did not accept.

The Department approached LCB to develop wording for an agency regulation. We are requesting to go to workshop and hearing to adopt that language into the regulation so we can implement the exemption.

Lawrence Waugh made the comment that he did not oppose going to workshops and hearings, but would really like to ask staff to thoroughly address all of the safety issues and especially highway safety issues that may be implemented by this. He said two main concerns that everyone in the trucking industry has: 1) the primary one being fatigue and, 2) the use of illegal substances to prolong the person's stamina.

Deloyd Satterthwaite questioned John about the term “pertaining to drivers used” in the verbiage of the regulation. John answered that it pertains to drivers that are hauling agricultural commodities within a 100 mile radius and explained there is a section within the National Highway Act that gives an exemption for those drivers. It will enable drivers during the identified planting and harvest season to work a little longer than they would otherwise. To implement that exemption, there has to be a declaration of what the planting and harvest season is in the state and that is what this regulation is doing. The proposed regulation establishes a year-round season. We included language in the regulation referencing the National Highway System Act for clarification.

Don Henderson advised Board member Satterthwaite the term “drivers used by motor carriers” is the term used in the National Highway Act.

Deloyd asked whether the proposed regulation only exempts the requirement to fill out a log book within 100 miles or does it also effect other restrictions. John O’Brien explained the exemption only relates to the driving time and driving hours.

Don Henderson said when the industry approached the Department on this issue, their point was that this exemption was adopted by other states, but not Nevada and asked why they (the industry) were being unfairly treated with their competitors? Henderson said the federal act requires each state that implements the exemption adopt a planting and harvesting season to allow the Federal law to become operable within that state.

Lawrence Waugh said he has some safety concerns based upon his experience in the trucking industry. The prolonged driving hours and this is a 100 air mile radius which does not coincide with 100 driving miles. Driving miles are going to be in excess of that. The minimum national average is 113 driving miles. Fatigue is one of the primary reasons for accidents on the highway today. Lawrence said he has some concerns that he would like fully explored.

John said he will meet with DPS and discuss these issues with them.

**Deloyd Satterthwaite made a motion for this issue to go to workshops and hearings. Lawrence Waugh seconded the motion. Motion passed.**

Doug Busselman from the Nevada Bureau commented it was Farm Bureau members who came to the Department asking for this kind of consideration in light of the Federal regulation that’s available and that we couldn’t use because of the time frame. We’ve been working with John and would like to go on record in appreciation for him getting us to this point. The thing that needs to be recognized in the proposed changes is that it only applies to agricultural operations and their hauling their own materials whether it be for crops in terms of harvest or other stuff. It’s not a blanket exemption for any trucker; it only affects those that are hauling their own agricultural commodity.

## **6. DIVISION OF ANIMAL INDUSTRY**

**A. Request permission to adopt as permanent, proposed scrapie regulations to NAC Chapter 571. (LCB File No. R060-06).**

Dr. Keith Forbes began with a brief background on scrapie to help better understand some of the regulations that are proposed.

Dr. Forbes said scrapie is in a group of diseases known as transmissible spongiform encephalopathies which also include mad cow disease and chronic wasting disease in deer and elk. Scrapie affects sheep and goats. It is typically transmitted through placental fluids during lambing and most infections occur at that time. In 2002, the USDA initiated a scrapie eradication program. The main reason being that at this point the incidences of infection in goats are pretty low and in sheep less than 1%. This is a good time to eradicate this disease. Currently it is not thought that this disease can be transmitted to people, but it is definitely of some importance especially with other things occurring such as mad cow disease.

Dr. Forbes said Nevada is considered a consistent state which means we can move sheep across state lines with minimal requirements. Inconsistent states can move sheep across state lines, but are required to implement further measures in order for that to happen. There was deadline of September 30, 2006 to have in place other regulations within the states so states can maintain their consistent status. These are the regulations that are being proposed by Nevada to stay in compliance. Most of the regulations deal with the identification of breeding animal's change of ownership within the State of Nevada.

Dr. Forbes said two workshops and hearings were held. Letters were sent out to Nevada Woolgrowers Association and notices posted as usual in county libraries and other locales.

**Deloyd Satterthwaite moved to adopt the proposed regulations. Harvey Barnes second the motion. Motion was carried.**

**B. Request permission to conduct workshops and hearings to implement Trichomonosis/Trichomonioias regulations and make the regulations a part of NAC Chapter 571, Nevada Animal Import Health Requirements.**

Dr. Michael Poulos asked the Board for permission to go to workshop and hearings on Trichomonosis/Trichomonioias regulations. He explained that trichomonosis is a venereal disease of cattle causing abortion, i. e. lower calf crop. This has been a problem of interest in Nevada for the last 4 – 5 years with some early rancher opposition to any form of Trichomonosis regulations. We have recently received encouragement from the Farm Bureau and the Nevada Cattlemen's Health Committee to develop and adopt regulations.

He said Dr. Thain sent out a questionnaire to producers last year. Dr. Poulos highlighted some of the information received from this survey: 38% percent of the ranchers that responded to the questionnaire have experienced Trichomonosis (Trich) problems in their herds. Seventy-two percent of the cattlemen that responded are involved in public

grazing where there is co-mingling and where this disease tends to be a problem. Less than one-half of the producers in the state are testing for Trich and another big item that came from the questionnaire was the fact that 83% of the producers that responded would want some form of Trichomonosis regulations. Currently Nevada has none.

Dr. Poulos continued that there has been definite opposition to mandatory statewide testing so we are not going to go pursue testing all the bulls in Nevada. One of the big problems we found is in commuter herds and in some of these areas of co-mingling and grazing allotments is that we have bulls harboring the disease. The continued spread and reinfection is a big problem.

It is encouraging that some of our surrounding neighbors, California, Oregon, already have Trichomonosis regulations in place and seem to be doing a decent job of lowering the disease. One of the things we found is that at any of the programs we've looked at, none have eliminated the disease in the population, but certainly lowered the infection rate.

Dr. Poulos said that of out of 3,400 samples that were submitted to the animal lab, 80 were positive for the disease. Based on this level of incidence, potential bull loss would approach \$200,000 with a potential calf crop loss of \$600,000 - \$800,000. Those are estimated losses. If extrapolated to the total bull population of approximately 12,000 head, the calf crop loss becomes \$2,100,000 to \$2,800,000 and bull costs approaching \$1,260,000.

Dr. Poulos again stated his request to go to workshops and hearings and take these regulations out to the industry and see if we can get input from them as to what they want to do. If we can identify the hot spots in Nevada, hopefully we can eliminate the spread in the future. We want to ensure all interested parties are aware of the problem.

**Harvey Barnes moved that we give permission to conduct workshops and hearings on Trichomonosis regulations. Susan Ray seconded the motion.**

Chairman Romero asked for discussion.

Deloyd Satterthwaite referred to the eight items in bold on page 121 of the packet. Deloyd asked Dr. Poulos if these were items Dr. Poulos would be discussing at the workshop and hearing? Dr. Poulos responded yes and said it was an aggressive approach, more aggressive than some of our neighbors.

Deloyd questioned Item 3 – “positive tests are reportable to the owner and State Veterinarian”. Deloyd askd wouldn't the owner know you were testing bulls? Dr. Poulos responded that is probably directed to the veterinarian doing the test. The state will not be doing the test. It is reportable to the owner and the veterinarian doing the test is tasked with notifying the State Veterinarian within two days that he has a positive test.

Deloyd questioned Item 5 – “State Veterinarian will quarantine infected herds until negative tests clear infected bulls (3 negative tests) premises must complete all Trich testing within 12 months and/or sent to slaughter”. Deloyd asked if the State Veterinarian was the quarantine officer. Dr. Poulos responded no, the Director of Agriculture is, but I believe we have a good enough working relationship that issuing hold orders on these herds shouldn’t be a problem.

Marta Agee questioned Items 3, 4, and 6. Verbs such as are, will, shall are being used.

The implication of those different verbs are different strengths. Shall is an imperative verb and means “has to be done” and the verb will sounds like “maybe or maybe not”. She suggested that the verbs are selected carefully to ensure that the correct one is used for what is really intended. Dr. Poulos responded that these are just preliminary regulations and will go through some body to look at and clean up the language.

Director Henderson advised Marta that these draft regulations will be submitted to the Legislative Counsel Bureau. Their legal staff will go over the regulation and what comes back from them will be the item the Department will take to workshop and hearing. The regulation may change somewhat significantly from what you see today. This outlines the concept of the program and the actual wording will be presented in workshop and hearing and in the final regulation for your consideration.

**Question was asked. Motion passed.**

## **7. DIVISION OF LIVESTOCK IDENTIFICATION**

### **A. Request to adopt as permanent, proposed changes to NAC Chapter 565. (LCB File No. R213-05).**

**Defines agricultural enforcement officer II, III, brand inspector, deputy brand inspector, and enforcement officer. Increases fees for certain permits, brand inspections. Establishes fees for inventory inspections and repeals certain provisions governing district brand inspectors.**

Jim Connelley advised the Board that five workshops and hearings were held around the State. Information on these changes was sent to the Brands Advisory Board, Farm Bureau and Nevada Cattlemen’s Association.

Jim said a lot of changes have been proposed for NAC Chapter 565. Most of the changes are “housekeeping” changes as the regulation has not been changed for several years. Definitions for agricultural enforcement officer, deputy brand inspector, and enforcement officer are included for clarification.

The primary changes of interest are the fee structure. One of the proposed fee structure changes are that the basic livestock, cattle inspection fee be increased from .90 to \$1.00 a

head; the first head would be \$10.00 which would be a service charge for going out into the field. This brings the cattle fees in line with the horse fees.

The extraordinary permits are permits for livestock producers on the state line that move livestock back and forth across the state boundary as part of their normal operation. The fee has been changed; bulls and pairs from .25 cents to .40 cents; yearlings from .70 cents to .90 cents.

There is a labor increase change; from \$12.00 to \$16.00. There is a change on the inventory inspection (a required inspection by law) that if a person buys a ranch and buys the “iron” with it and the cows, we still have to have an inventory brand inspection by law. An inspector goes to the ranch and counts the assembled herd; that number is agreed upon by the real estate agent, the buyer and seller. Inspection fee is .40 cents a head and \$16.00 an hour for the inspector.

The horses were proposed at \$10.00 for the first horse and \$5.00 for each additional horse from a previous fee of \$2.00. During workshops and hearings, two commercial horse buyers put forth the argument that their services are needed by the industry to find a place for horses that are no longer needed and this \$5.00 fee for the second horse and thereafter would be an undue burden upon them. Jim said he agreed to drop the fee to \$3.00. Included in the commercial buyer’s arguments is the price of diesel fuel and the fact that they have to take these horses to Canada for slaughter.

Movement permit books, the so-called self-inspection that we have in place to move across district lines within the state. They have been \$1.00 per move for years since their inception in 1999. It costs the Department .97 cents just for the bar-coded return card postage in the movement book and that doesn’t take into consideration the labor to produce the books and having to input the information in the computer when the cards are returned. The proposal is to go to \$3.00.

Another change is to give the Director, who was given the authority to issue these special permits, the authority to remove or revoke these special permits should they be misused. There are certain criteria that the animals have to be branded here in the field – only your animals. They cannot be used for change of ownership. This is an opportunity to revoke those movement permit books if necessary and require the producer to do a full-blown brand inspection should they misuse the permits.

Don Henderson told the Board that the Department did an extensive public workshop and hearing effort in this regard. Most of the responses have been positive. There were requests from individuals, affiliates of the Nevada Livestock Association, for more time to review these proposals. They asked that the comment period be extended for 90 days. The Director said he wanted to disclose that information to the Board. The Director said that we do have an LCB number and we could extend the comment period if the Board feels it is necessary. After further discussion, the Board concluded there was no reason to extend the comment period and that adequate time had been given.

**Dave Cassinelli made a motion to adopt NAC Chapter 565, LCB File No. R213-05. Deloyd Satterthwaite seconded the motion. Motion carried.**

**B. Request to adopt as permanent, proposed changes to NAC Chapter 576. (LCB File No. R214-05)**

**Establishes a fee for the issuance or renewal of a license to operate a public livestock auction.**

Jim said this is a license fee for operators of a public livestock auction. This is for any public livestock auction whether it is an auction at the NFR or a purebred seed stock auction at John's Ascuaga's Nugget. The license fee has been \$100.00 a year for the operator and the operator is required to be bonded. The statute gives us the time frame to adopt a fee for this and I am proposing \$150.00 a year because the costs are nearly \$100.00 to process the paperwork. There is an exemption for 4-H, FFA and non-profit groups.

**Deloyd Satterthwaite made a motion for adoption. Dave Cassinelli seconded the motion. Motion carried.**

**C. Request to adopt as permanent, proposed changes to NAC Chapter 573. (LCB File NO. R215-05).**

**Requires an applicant for a license as a broker, dealer, commission merchant or agent to pay an annual license fee.**

Jim said the license fee has been \$40.00 a year for a very long time. This includes livestock dealers, hay dealers, any agricultural product dealers and buyers. The proposal is to raise it to \$100.00 for the broker, dealer or commission merchant and increase the agent fee from \$10.00 to \$25.00.

**Deloyd Satterthwaite made a motion to adopt the changes. George Botta seconded the motion. Motion carried.**

Harvey Barnes spoke to Jim about Deputy Brand Inspectors and suggested that the Board discuss the problems that seem to come from that group with Jim.

**Harvey Barnes made the motion to have the next Board meeting in Elko on August 25, 2006. Dave Cassinelli seconded the motion. Motion carried.**

Meeting adjourned at 11:10 am.