

Name of Organization: Nevada Board of Agriculture
Date and Time of Meeting: September 29, 2009
September 30, 2009
Place of Meeting: Nevada Department of Agriculture
405 S. 21st Street
Sparks, NV 89431
Phone: (775) 353-3601

Minutes

September 30, 2009

1. Call to order by Chairman Alan Perazzo

A. Chairman Perazzo called for the Pledge of Allegiance.

B. The meeting was called to order by Chairman Alan Perazzo. Chairman Perazzo requested a roll call of Board members and guests.

Board Members Present:

Paul Anderson
Dean Baker
Ramona Morrison
Paul Noe
Alan Perazzo
Benny Romero
Jim Snyder
Hank Vogler

Board Members Absent:

Martin Plaskett (excused)
Boyd Spratling (excused)
Dave Barton

Staff Members Present:

Tony Lesperance
Sandie Foley
Katie Armstrong
Bill Striejewske
Lon Beal
Chris Collis
Phil LaRussa
Tina Mudd

Guests:

Lawrence Waugh, Western Energetix
John Sande, Jones Vargas
Peter Krueger, NPM
Don Alt, Nevada Livestock
Ken Spooner, Irrigation District
Maryanna Alt, public
Doug Busselman, Nevada Farm Bureau
Megan Brown, Nevada Cattlemen's
Dan Gralian, Nevada Cattlemen's Assn.

7. Measurement Standards

Lon Beal said he would be doing a quick update. We, like everyone in the State, has had some down time. Essentially, we have some protected revenue loss. I thought I would have some updated figures, however, the numbers really haven't change since I wrote the last report. We still have some figures coming in. We don't know what the DMV transfers are going to be, we don't know if they will be lower.

Our main concern is the loss of about 2.8 jobs and obviously that is a serious concern. We have a mandate, if we loose 2.8 jobs, I don't think we can meet the mandate. We're doing our best to do what we can. We've come up with a several things we think will help us. Some of these things such as going back to annual inspections. The previous administrator had gone to every other year on inspections. On a full inspection, for example, a gas station get a full inspection for one year, the next year we simply do a visual making sure the seals weren't tampered with. We are loosing revenue on that. Lon said we don't know who did what year by year. There wasn't any paperwork to verify the inspection, a full or a visual. We had no choice but to go back and start over. We should pick up some additional revenue on re-checks. We do an inspection, find a device out of calibration, can't certify it, and RSA comes in and it gets certified and we go back in. We check it again and charge a fee.

Shift changes – we are going to do 4 x 10's. That is something that works well for us. By the time you roll a truck, you might as well work 10 hours and get to the destination an do the work. We have the CDL requirements for inspections.

Comp time and flex time and furlough days are presenting scheduling difficulties. An employee cannot take comp time in the same pay period that he is taking a furlough day. This impacts our operation and affects the consumer as well. If we have someone in the field with a truck, he cannot go over his hours and get comp time if that is within the same pay period he is taking his furlough day. Nevada is a big state and typically when an inspector takes his truck out, he will stay out until he has completed his workload and that can be 12 – 14 hours days. We have a request in to exempt our employees from the furlough days and I don't know the outcome of that.

We have some people who are consistently delinquent. We have an inspector, Dave Armstrong, in Las Vegas who is extremely good at collecting those fees. He collected almost \$60,000 in fees.

7. Petroleum Technology Bureau

B. Request permission to adopt as permanent, Gasoline Supply Variance Procedure, LCB File No. R010.09, NAC 590.

**Paul Anderson made a motion to adopt as permanent.
Ramona Morrison seconded the motion. Motion passed**

C. Request permission to go to workshop and hearing to adopt as permanent, proposed changes to NAC 590.051, (biodiesel regulations), LCB File No. R209-08.

**Paul Anderson made a motion to go to workshop and hearing.
Hank Vogler second the motion. Motion passed.**

D. Update of workshop (s) concerning the 38th Parallel.

Following testimony and comments given in our March meeting, it was agreed that workshops and hearings would be held on the scientific data associated with the elimination of the 38th Parallel as a line of demarcation for the volatility schedule set for gasoline. We held one workshop on this issue in Reno on August 25th. Presentation was made by representative of WSPA in collaboration with ASTM and presented information for the reinstatement of the 38th parallel. I presented data that the petroleum lab has generated over the time period since the State went to a single volatile schedule and currently working on a date and location in Las Vegas for a second workshop to give folks in the southern part of state a clear opportunity to participate.

I am planning on this workshop being held later this month with a hearing to follow in November and I anticipate an action item on this topic to be before the Board in December.

E. Update on previously requested permission to adopt as permanent, proposed changes to NAC 590.065, LCB File No. R111-08.

In June, I asked permission to go to workshop and hearing on this issue and I presented at that time a calendar of events and timeline that would have me bring this issue before you for approval at this meeting. However, as of July 1, changes in meeting laws enacted in the last legislative session made that schedule impossible to follow. The biggest change was that no workshops or hearings could be scheduled for 30 days after a file had been returned from LCB and I did not receive this file until mid-August which then, with posting requirements for workshops and hearings, made it impossible to schedule a workshop before this date. At that time, I did not have a file back from LCB. I have included a copy of LCB File No. R111-08 in your Board packet. Currently, we have a workshop scheduled for October 13th and I anticipate a hearing in mid-November. I plan on bringing this before the Board as an action item in December.

F. Update on labs in Reno and Las Vegas

Finally, an update on the labs in Reno and Las Vegas. As you recall in June, I gave a optimistic estimate of the sample load for 2009 Fiscal Year which I didn't have a final number for, but anticipated to be in the range of 3,500 samples. I am even more pleased to say that the final official total was 3,625 which is significantly higher than both the estimate I gave, higher than 2008 and higher than any of the years since I've been with the State and keeping track.

8. Livestock Identification Division

A. Division Update:

- Lay offs - George Dorsa, Ag Enforcement Office on July 1st.
- New Hire: Ethan Homer in the Jackpot / O'Neil area.
- Received hire packets for Ron Stitzel in Elko to replace Richard Rutherford who resigned.
- Richard Allegre will be put on in the Fallon area.
- Resignation: Richard Rutherford.
- Livestock Head Tax – third notice was mailed out in September. We mailed out 1,350 declarations and received 200. Revenue as of September 1st was \$151,535.00 represents 4,522 declarations.
- Investigations – we have five active cases. Brand inspectors attended a meeting in McDeritt-Denio with the Task Force. There are quite a few cattle missing up in the area of Northern Nevada, Idaho, Oregon right along the border. I have included a hot sheet in your packet. Last week a group of these cattlemen who are missing livestock have come with a reward poster and the reward is up to \$47, 500.
- Abandoned horses – we seemed to be on the upswing again despite depressed hay prices. Chris said the general economy is part of this problem. We've lost the support of Clark County Animal Control due to their economic problems.
- Livestock Movement Permits – as of 9/1/2009, we have approximately 150 producers using the new LMP books and had a fairly good response on return cards. Included in your packet, you will be able to see the kind of accountability we have on these. The traceability is directly proportionate to the response we have on the return cards.
- Brand Division employees participated in a television documentary a few weeks ago. We had a freelance TV production outfit out of New York and Detroit that followed our inspectors around, got in on a Department investigation. The production chief thought it was a marketable program.
- Brand Inspection for Special Sales - I have included in your Board packet, a copy of NAC 565.230, the request form for all people that have special sales. This was an attempt to rectify some of the deficiencies in our agency and keep financially solvent. We were providing a great deal of brand inspections at the both Fallon auction yards. We weren't getting paid for that service as provided in NAC 565.230 and I spoke with the Director and the Deputy Attorney General and they said absolutely, we are entitled to bill for our services. This has been met with a lot of opposition, especially from the livestock yard and some of the producers that are sympathetic to the cause.

VRE Activities

- As of the July 1, the VRE program was moved from Animal Industry to Livestock Identification. Along with the transition came a very paltry dowry. We received paper, tires, panels and a horse trailer.

- The Director, myself and Daryl Peterson with the Brand Department who is heading up the VRE program for us met with representatives of the Storey County Sheriff's Office and Lyon County Commissioners in Virginia City and Yerington. A synopsis of the meeting is included in the Board packet.
- Dr. LaRussa and myself met with the Washoe County Animal Control and presented them with a cooperative agreement. They have verbally agreed to care for the orphan foals that are gathered off the VRE.
- Draft MOU and Policies and procedures with the Storey County Sheriff's office. We developed a draft MOU and Policies and Procedures. We are hoping this type of relationship with other counties and share our concerns over VRE.

Hank Vogler addressed comments to Chris Collis regarding a phone call he got from Jack Payne. He had concerns about the extra fees. Hank said it sounds like he has some legitimate concerns and I think we need to discuss it because it does involve the dwindling infrastructure that we all have to deal with and agriculture.

Letter from Jack Payne (in part) reads: the intentions of Nevada Livestock Marketing are to have a monthly special feeder sale. These feeder sales bring in lots of cattle from Nevada, Idaho, Oregon, Utah and California with the majority of the cattle coming from within the State of Nevada. Our goal in having these sales is to have large enough numbers of cattle to draw buyers from out of state. Numbers bring buyers and buyers bring numbers.

Our special feeder sales are held on Mondays. The question has been asked, "why don't you just sell all the cattle on Wednesday?". Well, Wednesday is the regular day of our sale, it is extremely difficult to have 2,000 – 3,000 head of feeders, plus the butcher cows and bulls selling on the same day. Mainly because of lack of room to hold and feed the cattle as well as time to properly sort and class them. Wednesday is also the same day as many of the larger sales in Idaho, Oregon, California. Potential buyers do not want to leave their home state to come to Nevada if they have a sale closer to them on the same day. There are very few cattle auctions on Mondays – California is the only one I am aware of. This gives a little information why we schedule our sales the way we do.

We feel that our consignors get considerably more money for their cattle than they would on regular Wednesday sales where we mainly sell butcher cows and bulls. We feel that it is unfair and unreasonable that the Nevada Department of Agriculture is billing our consignors \$1.00 per head and additionally billing Nevada Livestock Marketing for time and mileage. A 2,000 head sale at \$1.00 per head means Nevada Livestock Marketing deducts \$1.00 per head from our consignor's check and then in return cuts a check from our general account to the Nevada Department of Agriculture for \$2,000.....

Director Lesperance commented that he suggests that some day you might want to talk to the Director of the Department. Keep in mind there are two sale yards in Fallon – they both have sales. Essentially 100% of the complaints have been out of one sale yard

only, the other one never makes a complaint. So I guess we can't be doing too bad. Second point I want to make is Chris and I go over everything of this nature in detail. We collectively, he and I, make the decision on how to handle things. I rely on Chris very, very much, but I am the final authority. You people can make recommendations through the Executive Director, you can even haul the Director in if you want and shoot him out if you don't like him. But the function of the Department of Agriculture is the responsibility of the Director as long you keep him in place.

And I just want to say one thing, we are in deep financial trouble and Chris and I have done everything we can conceivably do to not allow the cost of brand inspections to go up. And I believe Chris has tried to tell you that for the last 15 minutes. Every time he's opened his mouth he's talked about them, trying to protect the producers. You're talking about giving them more money back. What do you think is going to happen if I have to raise the cost of brand inspections? I am going to take a whole lot more money out of your hands right then and there. And my bottom line is not to change the cost of brand inspections no matter what else. I understand the problems you people have and I do everything I can possibly do to keep those costs down. But if we comply to some of these wishes that people like that are bringing forward, all that is going to happen, is I am going to have to raise the cost of brand inspections. We are doing our level best to keep the cost down. I think Chris has done fantastic job in dealing with some people who are very difficult to deal with and I think the Board needs to recognize that.

G. Discussion and approval of Memorandum of Understanding and VRE Program Policies and Procedures.

Hank Vogler asked the Director to give some direction in the motion or do you feel this is adequate, do you feel this is something we do at this time with all the things going on with these horses?

Director Lesperance replied that he would urge the Board to approve this. Chris Collis and I along with a lot of other people have worked very hard to bring this about. I am in total support of it. The Virginia Range people, as far as I am concerned, are the only legitimate organization dealing with horses that I could deal with. They are very factual, very down to earth.

Ramona Morrison moved to adopt the Memorandum of Understanding between the State of Nevada, Department of Agriculture and the Storey County Sheriff's office relative to the Virginia Range horses and incorporate also by reference the Virginia Range Estray Program Policies and Procedures to go along with that MOU.

Hank Vogler seconded the motion. Motion passed.

3. C Request by Board member Benny Romero to the Board and the Department to establish a resolution on the Walker River irrigation issue.

Benny Romero said his request to bring this before the Board is because I think it is a very important issue. And the reason for that is water. Water in the Great Basin as well as water in Smith Valley and Yerington, the two most productive valleys in agriculture in our State. We are looking at these waters being taken away from the land. There are a lot of issues, a lot has happened. This acquisition of water has now extended into California as well. The reason I think it is so important is because all of our watershed originates in California and comes into the State of Nevada. Therefore, I have asked Ken Spooner to be present with us here today to give us a run down as to all the different issues that are going on.

Ken Spooner, Walker River Water Irrigation Agency. It's been many years since I have addressed this Board. He apologized for that and said we probably need better communications than that. My district, Walker Basin, has been involved in these water issues since early mid-nineties. There has been one lawsuit filed by the Walker Paiute Tribe seeking an additional portion of the water rights on the system. That litigation is still in place; it's been going on for 15 years.

Subsequent to that, 1994-95, environmental interests representing Walker Lake attempted to gain position in that suit also. There is another active suit going on, not for irrigation purposes, not for agricultural purposes, but for recreational purposes. That suit is going on also. My district has spent \$200,000 on legal fees in defense of this and this legal case has not even accelerated. We are in threshold issues and discovery right now.

About 2000-2001, Senator Reid and his congressional representation of our State, appropriated funds through energy and power whereby monies could be made available to purchase water rights and that was kind of a broad statement. It was \$200,000,000 That money kind of languished out there, nothing moved forward, no acquisitions were made. There was a lot of back and forth. Around 2004, of the \$200,000,000, that was put out there by Senator Reid, \$70,000,000 was directed into the coffers of the University of Nevada. That \$70,000,000 was for research within the Basin to support acquisitions and then \$56,000,000 for acquisitions. When that happened, it was kind of a slow moving process, there weren't money people that interested in the getting to the bottom of this. That money has been obligated, the \$56,000,000, meaning it is sitting there, hasn't been spent, there some option money spent on potential acquisitions.

Subsequent to that another \$175,000,000 came out of the 2006 energy and power appropriations. Again, aimed at acquisitions for water rights. In all of this process, my district, Walker River Irrigation District, was trying to come up with viable alternatives to the acquisition burden of removing water from agriculture. We, actively for 6 years, have had a leasing program whereby a farmer would have an option to lease a small percentage of his water right for a specific period of time to Walker Lake. We have to recognize the realities we have here; the tribal issue is something we can deal with in court; environmental issue and we live in an environmental time. We need to recognize that this is an issue that is not going to go away. We also have to recognize that the powers we are dealing with are not going away in the foreseeable future.

So, we've got this leasing concept; there was that the baseline water rights stays in Mason Valley, Snow Valley, Bridgeport, Antelope Valley, stays where it needs to stay. It keeps the integrity of the groundwater, keeps agriculture going, gives opportunities for agriculture producer. We had originally put this leasing program out for actual perpetual operation. We had penciled it out, we knew what we needed to fund it.

We were working with Reid's delegation. It's accelerated to the point where I think we just didn't go away and finally acknowledged that the fact leasing is going to be part of this picture. To that end, we have been working on, for the past year and a half, on legislation that is currently out of committee now in Washington and moving every so slowly, needs to be signed by the President. At the time it would fund \$25,000,000 to my irrigation district to run our leasing program for 3 years. It is a demonstration program where we demonstrate the effectiveness of water availability, the participation rate and getting water to the intended use for the environmental purposes of the lake.

We look at this as a real hang-up as an opposition piece to this acquisition. We don't see acquisitions happening even though there are options, we don't really see any real acquisitions coming from Washington for at least 12 – 18 months. If tomorrow, money changes hands, title changes on the water right, that is just the first step. Then you have to transfer the water right, now you got to get it to where it's got to go. That process is easily going to be 2 – 4 years, through the State Engineer, through the courts. So we are trying to show the effectiveness of the leasing program because we don't have those hurdles. We have the community support, where this acquisition program does not necessarily have that kind of support.

Another interesting issue, where the original allocation of funds for the acquisition and even as it relates to this leasing program that we have been working on, California was specifically excluded.

Benny Romero read the directive he is suggesting the Board adopt:

This directive produced by the body of the State of Nevada, Board of Agriculture maintains that any significant transfers of water from rural Nevada in a single project must have the approval of the Nevada State Board of Agriculture.

Hank Vogler commented he wanted more teeth in it. Are we not the coordinating body for the entire State of Nevada when it has to do with an agricultural issue? Whether it be federal, state, county or somebody wants to transfer a water right down the street. As long as we don't mention the water, shouldn't we have some control?

Chairman Romero was asked to read his directive again to the Board.

Benny said he would read what he wrote in its entirety.

The Board of Agriculture's mission is to protect agriculture in the State of Nevada. A directive should be the outcome to emphasize direction and the protection of agriculture

in our State. This meeting should generate some points that can be words meant to produce a strong directive.

This directive produced by this body of the Nevada State Board of Agriculture maintains that any significant transfers of waters from rural Nevada in single project must have the approval of the Nevada State Board of Agriculture.

Benny then said several bullets could be added to that and to why and what.

Ramona asked for the Director's input with regards to what Benny is saying.

The Director said he's not sure Benny is through talking yet and not sure I've heard everything he had to say. My concept is you have to protect every drop of water with the utmost ability you have, whether it's sold, leased, or otherwise. My fear is that when that water leaves that land, even if it's for a very short period of time, and your dealing with the Federal government in any way, shape, or form, you have probably lost the water. In your position, as the Board of Agriculture, my recommendation to you would be guard every drop of water with your very life. Because you will never get it back.

After the lunch break, Dean Baker read the new directive to the Board.

The Nevada State Board of Agriculture states that any transfer of water that negatively impacts agriculture must have the approval of the Nevada State Board of Agriculture.

Ramona said she wants the Director to draft a letter inquiring into the University's policies with regards to the money they received.

Benny Romero made a motion to accept the directive as written.

Dean Baker seconded the motion. Motion passed.

Hank Vogler made a motion to rescind the present vote and have the Board polled. Ramona seconded the motion. Motion passed.

Mr. Snyder how do you vote: I vote in favor of the motion.

Mr. Baker how do you vote: I vote in favor.

Mr. Vogler how do you vote: Mr. Chairman, I vote yes.

Mr. Romero how do you vote: Mr. Chairman, I vote affirmative.

Mr. Noe how do you vote: Mr. Chairman, I vote aye.

Mr. Anderson how do you vote: Mr. Chairman, I vote yes.

Mrs. Morrison how do you vote: I vote yes.

Mr. Barton: Absent

Mr. Perazzo: I vote yes

Mr. Spratling: Excused

The Director advised the Chairman that Martin Plaskett is unavailable to vote on this issue.

Polling results are: 8 in favor
3 absent

9. Plant Industry

Dawn gave a brief history on her budgets for the benefit of the new members. She said Plant Industry has 6 different account budgets totaling approximately 11.3 million dollars in spending authority.

The first thing I want to bring up is that Budget 4540 was shorted about \$50,000 of operating funds in the legislative session. That has since been restored by IFC. Part of that involves refilling a Winnemucca position. Ed Foster will give an update on that position.

As 4540 took a huge hit this session; about 25% of our people are gone. At least we can still operate, have gas and can actually travel and do the jobs with the people that are left.

Budget 4541 – Organic and Seed Grading Budget. They are doing fairly well. Steve Marty is on the agenda. He is out because he had to some surgery done. Ed Foster will take those items when we get to them. That budget is fairly solid.

Budget 4545 – Pesticide Control Operator and Nursery were moved into this account.

Budget 4552 is the fat account that now sits with about 6 million dollars. The reason it is so huge is because we were awarded 9 projects totaling 5.5 million dollars in restoration projects from the stimulus package. Tina Mudd has been hired by us again and she is overseeing those projects.

EPA quarterly report and other program updates are in the packet for your review.

D. Request permission and approval of an \$11,000 payment from the Garlic and Onion Research and Promotion Account (4544-09 GOPOROMO), to be made to Bill Chounet of Silverado Ranch Supply for conducting thrips research trials in Mason Valley.

Paul Anderson made a motion to approve the payment to Silverado Ranch and Supply.

Hank Vogler seconded the motion. Motion passed.

(It should be noted that Mr. Snyder excused himself from the vote as he is a member of the Garlic and Onion Board),

E. Request permission and approval of a \$2,158.17 payment from the Alfalfa Seed Research and Promotion Account (4544-10 ALFALFA), to be made to the National Alfalfa and Forage Alliance (NAFA) for membership valid through June, 2010.

**Benny Romero made a motion to move. Dean Baker seconded the motion.
Motion passed.**

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

None

11. Public Comments

None

12. Travel Claims

None

13. Date of next meeting

Ramona Morrison made a motion that we have the next Board meeting December 8 & 9, 2009. Paul Anderson seconded the motion. Motion passed.

14. Adjournment

**Benny Romero made a motion to adjourn. Hank Vogler second the motion.
Motion passed.**

Adjourned at 2:15 pm.